Commission Implementing Regulation (EU) 2016/1777 of 6 October 2016 imposing a provisional anti-dumping duty on imports of certain heavy plate of non-alloy or other alloy steel originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1777

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imposing a provisional anti-dumping duty on imports of certain heavy plate of non-alloy or other alloy steel originating in the People's Republic of China

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)], and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 13 February 2016, the European Commission ('the Commission') initiated an anti-dumping investigation into imports into the European Union ('the Union') of flat products of non-alloy or alloy steel (excluding stainless steel, silicon-electrical steel, tool steel and high-speed steel), hot-rolled, not clad, plated or coated, not in coils, of a thickness exceeding 10 mm and of a width of 600 mm or more or of a thickness of 4,75 mm or more but not exceeding 10 mm and of a width of 2 050 mm or more ('heavy plate') originating in the People's Republic of China ('the PRC') on the basis of Article 5 of Council Regulation (EC) No 1225/2009[(2)] ('the basic Regulation').

(2) The Commission published a Notice of Initiation in the *Official Journal of the European Union*[(3)] ('the Notice of Initiation').

(3) The Commission initiated the investigation following a complaint lodged on 4 January 2016 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of heavy plate.

(4) The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

(5) Following a request by the complainant supported by the required evidence, the Commission published on 10 August 2016 Implementing Regulation (EU)

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2016/1357[4] making imports of heavy plate originating in the PRC subject to registration as of 11 August 2016 ('the registration Regulation').

1.3. **Interested parties**

(6) In the Notice of Initiation, the Commission invited interested parties to come forward in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers, the authorities of the PRC, known importers, suppliers and users, traders and associations known to be concerned about the initiation and invited them to participate.

(7) Interested parties were given the opportunity to make their views known in writing on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(8) The Commission also informed producers in Australia, Brazil, Canada, India, Japan, the Republic of Korea, Malaysia, Mexico, Russia, the Former Yugoslav Republic of Macedonia, Ukraine and the United States of America about the initiation and invited them to participate.

(9) In the Notice of Initiation, the Commission informed interested parties that it envisaged the use of the United States of America as the third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation.

(10) Interested parties had an opportunity to comment on the appropriateness of the choice of the analogue country and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.4. **Sampling**

(11) In the Notice of Initiation, the Commission stated that it might sample exporting producers, Union producers and unrelated importers in the Union in accordance with Article 17 of the basic Regulation.

1.4.1. *Sampling of Union producers*

(12) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission had selected the sample on the basis of the highest representative sales volumes of the like product in the investigation period whilst ensuring a geographical spread.

(13) This provisional sample consisted of three Union producers located in three different Member States and accounted for over 26 % of the total sales of heavy plate by the Union producers responding to the standing exercise. The Commission invited interested parties to comment on the provisional sample.

(14) The Complainant and the sampled company itself submitted that it was not appropriate that Metinvest Trametal Spa ('Trametal') be included in the sample as this

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company is not an integrated mill but rather a re-roller of purchased slab from a related company in Ukraine and therefore allegedly not representative of the Union industry.

(15) The Union industry consists of both integrated mills and re-rollers, and both types of Union producers are among the complainants. However, the vast majority of the heavy plates produced by the Union industry are produced by integrated mills.

(16) The Commission established in addition that Trametal obtains slabs, the main input material typically accounting for around 70 % of total costs, from their related company in Ukraine. Therefore, in particular indicators relating to costs and profitability are directly impacted by this relationship as well as the performance and the particular situation of the related Ukrainian company supplying the slabs.

(17) The Commission notes however that the situation of both types of the Union producers — integrated mills and re-rollers is fully reflected in the macroeconomic indicators described in recitals (105) to (124) below.

(18) For the reasons listed in recitals (14) to (16) above the Commission however provisionally considers that the particular situation of Trametal is not representative for the Union industry and that the microeconomic indicators described in recitals (125) to (138) below should not be affected by it.

(19) The Commission found this comment to be warranted and, after having considered the preliminary injury information at hand, it replaced Trametal in the sample by Ilsenburger Grobblech GmbH, the second biggest Union producer when ranked according to Union sales volume in the investigation period as defined in recital (28) below.

(20) On 7 March 2016 the Commission made available to interested parties a note explaining the reasons for changing the sample and listing the companies included in the revised sample. No interested parties commented on the final sample.

1.4.2. *Sampling of importers*

(21) The Commission requested unrelated importers to provide the information specified in the Notice of Initiation in order to decide whether sampling was necessary and, if so, to select a sample.

(22) Six importers provided the requested information and agreed to be included in the sample. Three of them were sampled.

1.4.3. *Sampling of exporting producers in the PRC*

(23) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact exporting producers that could be interested in participating in the investigation.

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(24) Fourteen exporting producers in the PRC provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three companies on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the PRC, were consulted on the selection of the sample. No comments were received and the sample was therefore confirmed.

1.5. **Individual examination**

(25) Seven exporting producers in the PRC indicated that they wished to request individual examination under Article 17(3) of the basic Regulation. However, none of them replied to the questionnaire and, thus, no requests for individual examinations were received.

1.6. **Replies to the questionnaire**

(26) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the Notice of Initiation. Questionnaire replies were received from three Union producers, six unrelated importers, ten users, a group of steel service centres, the three sampled exporting producers in the PRC, and two producers in different analogue countries.

1.7. **Verification visits**

(27) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits under Article 16 of the basic Regulation were carried out at the premises of the following parties:

— Association:
  — Eurofer, Brussels, Belgium;
— Union producers:
  — Aktiengesellschaft der Dillinger Hüttenwerke, Dillingen, Germany
  — Ilsenburger Grobblech GmbH, Ilsenburg, Germany
  — Tata Steel UK Ltd[(5)], Scunthorpe, UK
— Exporting producers in the PRC
  — Nanjing Iron and Steel Co., Ltd,
  — Minmetals Yingkou Medium Plate Co., Ltd,
  — Wuyang Iron and Steel Co., Ltd and Wuyang New Heavy & Wide Steel Plate Co., Ltd;
— Producer in the analogue country
  — Bluescope Steel Australia, Port Kembla, Australia.

1.8. **Investigation period and period considered**

(28) The investigation of dumping and injury covered the period from 1 January 2015 to 31 December 2015 ('the investigation period' or 'IP').

(29) The examination of trends relevant for the assessment of injury covered the period from 1 January 2012 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(30) The product concerned is flat products of non-alloy or alloy steel (excluding stainless steel, silicon-electrical steel, tool steel and high-speed steel), hot-rolled, not clad, plated or coated, not in coils, of a thickness exceeding 10 mm and of a width of 600 mm or more or of a thickness of 4,75 mm or more but not exceeding 10 mm and of a width of 2 050 mm or more currently falling within CN codes ex 7208 51 20, ex 7208 51 91, ex 7208 51 98, ex 7208 52 91, ex 7208 90 20, ex 7208 90 80, 7225 40 40, ex 7225 40 60 and ex 7225 99 00 ('heavy plate') and originating in the PRC.

(31) Heavy plate is used in the manufacture of construction, mining and logging equipment; pressure vessels; oil and gas pipelines; shipbuilding and bridges and buildings.

2.2. Like product

(32) The investigation showed that the following products have the same basic physical characteristics as well as the same basic uses:

(a) the product concerned;

(b) the product produced and sold on the domestic market of Australia;

(c) the product produced and sold in the Union by the Union industry.

(33) The Commission therefore has provisionally decided that these products are like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

(34) One interested party argued that the product scope is defined too widely. In particular, it argues that the product scope should be limited to so-called 'commodity heavy plates', while so-called 'special heavy plates' should be excluded from the product definition. In supporting its claim, it mainly relies on two arguments.

(35) Firstly, it argues that the information provided in the complaint mainly relates to 'commodity heavy plates', which account for the majority of exports from the PRC. Secondly, it argues that the product scope is wider than the definition of the like product in Article 1(4) of the basic Regulation.

(36) The Commission notes in this respect that at the complaint stage only sufficient evidence concerning dumping, injury and a causal link has to be provided.