Commission Implementing Regulation (EU) 2016/1357 of 9 August 2016 making imports of certain heavy plate of non-alloy or other alloy steel originating in the People's Republic of China subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1357

of 9 August 2016

making imports of certain heavy plate of non-alloy or other alloy steel originating in the People's Republic of China subject to registration

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)] ('the basic Regulation'), and in particular Article 14(5) thereof,

After informing the Member States,

Whereas:

(1) On 13 February 2016, the European Commission ('the Commission') initiated by a Notice of Initiation in the *Official Journal of the European Union*[(2)] an anti-dumping investigation into imports into 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 ('PRC').

1. PRODUCT CONCERNED

(2) The product subject to registration ('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. These CN codes are given for information only.

2. REQUEST

(3) The registration request pursuant to Article 14(5) of the basic Regulation was made by the complainant on 18 April 2016. It was supplemented by additional information on 7 July 2016. The complainant requested that imports of the product concerned are made subject to registration so that measures may subsequently be applied against those imports from the date of such registration.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1357. (See end of Document for details)*

3. GROUNDS FOR THE REGISTRATION

(4) According to Article 14(5) of the basic Regulation, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports. Imports may be made subject to registration following a request from the Union industry, which contains sufficient evidence to justify such action.

(5) The complainant claims that registration is justified as the product concerned continues to be dumped and that importers were well aware of dumping practices which stretched over an extended period of time and were causing injury to the Union industry. The complainant further claims that imports from the PRC are causing injury to the Union industry and that there was a substantial increase in the level of these imports, even following the investigation period, which would seriously undermine the remedial effect of the anti-dumping duty, if such a duty is to be applied.

3.1. Importers were or should have been aware of the dumping and injury alleged or found

(6) The Commission considers that the importers were aware, or should have been aware, of the exporting producers' dumping practices. Sufficient prima facie evidence in this regard was contained in the complaint and this was spelled out in the notice of initiation for this proceeding[3]. The non-confidential version of the complaint estimated dumping margins of 28 % to 73 % for imports from the PRC. The complainant provided in the complaint sufficient evidence in which the dumping practices by exporting producers from the PRC are described and which prima facie could and should not have been ignored by importers. In particular, the complainant provided in the complaint evidence on the comparison between a normal value determined on the basis of pricing information reported in the USITC Final Report (for the period July 2014 to June 2015) with the export price based on the quarterly average unit value for imports of heavy plate from the PRC for the applicable CN codes as derived from Eurostat data. Furthermore, the complainant also included prima facie evidence in the complaint on the decreasing trend of the import prices for the PRC. The average sales price of imports from the PRC to the Union decreased by 25 % between 2012 and the period October 2014-September 2015. In the request for registration, average import prices from the PRC for the investigation period (2015) were compared with prices for 2012, showing a decrease of around 30 %. Finally, in the complaint there is sufficient prima facie evidence that injury is being caused. Based on all these information contained in the non-confidential version of the complaint, but also given the extent of the dumping that may be occurring and that the information available to the complainants was publicly available, it is reasonable to conclude, based on prima facie evidence available to the Commission, that the importers were aware, or should have been aware, of the dumping and the injury alleged or found.

3.2. Further substantial rise in imports

(7) Since the initiation of the proceeding in February 2016, a further increase of approximately 15 % for the PRC is observed when comparing the import volumes during the investigation period (2015) with data available for the period following the initiation (March to May 2016). This shows that there was a further substantial rise in imports from the PRC of the product concerned in the first three months following the initiation of the present investigation.

3.3. Undermining of the remedial effect of the duty

(8) In the submissions made in the framework of the investigation, including the registration request, there is evidence that additional injury would be caused by a continued rise in these imports at further decreasing prices. As regards prices, the complainant included prima facie evidence in the request for registration on the decreasing trend of the import prices for the PRC. As for the evolution of import prices after the initiation of the case in February 2016, a further drop of around 30 % was observed for average import prices from the PRC when comparing prices of March-May 2016 with prices for the investigation period (2015). Further substantial rise in imports, for which there is sufficient prima facie evidence as referred to in recital 6, is likely, in light of its timing, the volume of the alleged dumped imports and other circumstances (such as the excess capacity in the PRC and pricing behaviour of Chinese exporting producers) to seriously undermine the remedial effect of any definitive duty, unless such duty would be applied retroactively.

(9) In addition, in view of the initiation of the current proceeding and taking into account the developments of imports from the PRC in terms of prices and volumes hitherto, it is reasonable to assume that the level of imports of the product concerned may further increase prior to the adoption of provisional measures, if any, and inventories may be rapidly built up by the importers.

4. PROCEDURE

(10) In view of the above, the Commission has concluded that the complainant provided sufficient prima facie evidence to justify making imports of the product concerned subject to registration in accordance with Article 14(5) of the basic Regulation.

(11) All interested parties are invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

5. REGISTRATION

(12) Pursuant to Article 14(5) of the basic Regulation imports of the product concerned should be made subject to registration for the purpose of ensuring that, should the investigation result in findings leading to the imposition of an anti-dumping duty, this duty can, if the necessary conditions are fulfilled, be levied retroactively on the registered imports in accordance with Article 10(4) of the basic Regulation.