Commission Implementing Regulation (EU) 2016/1346 of 8 August 2016 extending the definitive anti-dumping duty imposed by Council Implementing Regulation (EU) No 1008/2011, as amended by Council Implementing Regulation (EU) No 372/2013, on imports of hand pallet trucks and their essential parts originating in the People's Republic of China to imports of slightly modified hand pallet trucks originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1346

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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 to Articles 13(3) and 14(5)) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and existing measures

(1) In July 2005, by Regulation (EC) No 1174/2005[(2)] the Council imposed a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China ('the PRC'). The measures consisted of an *ad valorem* anti-dumping duty ranging between 7,6 % and 46,7 % ('the original anti-dumping measures').

(2) In July 2008, following an *ex officio* partial interim review under Article 11(3) of the basic Regulation, the Council clarified the scope of the measures and excluded certain products, high lifters, stackers, scissor lifts and weighing trucks, that were found to be distinct from hand pallet trucks due to their characteristics and specific functions and end-uses, from the original anti-dumping measures[(3)].

(3) In June 2009, by Regulation (EC) No 499/2009[(4)] the Council, following an anti-circumvention investigation under Article 13 of the basic Regulation, extended the definitive anti-dumping duty applicable to 'all other companies' imposed by Regulation (EC) No 1174/2005 to hand pallet trucks consigned from Thailand whether declared as originating in Thailand or not.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1346. (See end of Document for details)*

(4) In October 2011, by Council Implementing Regulation (EU) No 1008/2011[(5)], the Council imposed a definitive anti-dumping duty on imports of hand pallet trucks originating in the PRC following an expiry review pursuant to Article 11(2) of the basic Regulation.

(5) In April 2013, Council Implementing Regulation (EU) No 372/2013[(6)] amended Council Implementing Regulation (EU) No 1008/2011, following an interim review pursuant to Article 11(3) of the basic Regulation and imposed a duty rate of 70,8 % applicable to all imports into the Union of hand pallet trucks originating in the PRC.

(6) In September 2014, the Commission amended Implementing Regulation (EU) No 1008/2011 by Commission Implementing Regulation (EU) No 946/2014[(7)]. following a new exporter review pursuant to Article 11(4) of the basic Regulation, imposing an individual duty rate of 54,1 % on imports of hand pallet trucks from Ningbo Logitrans Handling Equipment Co.

(7) The measures in force are definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the PRC as described in recitals 5 and 6 above.

1.2. **Request**

(8) On 4 November 2015, the Commission received a request under Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the measures in force and to make imports of the product under investigation subject to registration.

(9) The request was lodged by BT Products AS, Lifter SRL and PR Industrial SRL, Union producers of hand pallet trucks.

1.3. **The product concerned and the product under investigation**

1.3.1. *Product concerned*

(10) The product concerned by the possible circumvention is hand pallet trucks and their essential parts, i.e. chassis and hydraulics, originating in the PRC, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00 (TARIC codes 8427 90 00 19 and 8431 20 00 19). Hand pallet trucks are trucks with wheels supporting lifting fork arms for handling pallets, designed to be manually pushed, pulled and steered, on smooth, level, hard surfaces, by a pedestrian operator using an articulated tiller. The hand pallet trucks are only designed to raise a load, by pumping the tiller, to a height sufficient for transporting and do not have any other additional functions or uses such as for example (i) to move and to lift the loads in order to place them higher or assist in storage of loads (high lifters); (ii) to stack one pallet above the other (stackers); (iii) to lift the load to a working level (scissor lifts); or (iv) to lift and to weigh the loads (weighing trucks).

1.3.2. *Product under investigation*

(11) The product under investigation is the same as that defined in the previous recital, but presented at import with a so-called 'weight indication system' consisting of a weighing mechanism not integrated in the chassis, currently falling within the same CN codes as the product concerned but falling within different TARIC codes (8427 90 00 30 and 8431 20 00 50) and originating in the PRC.

(12) At initiation stage a margin of error of the weighing indication system was defined as equal to or exceeding 1 % of the load. However, the investigation established that the accuracy of the weighing indication system is not an essential characteristic to distinguish the product under investigation from hand pallet trucks. More specifically, as analysed in recitals 54 to 59 below the weighing mechanism of the product under investigation does not change the essential characteristics of the product under investigation, such as structure and use, in order to make it different from the product concerned.

1.4. **The initiation**

(13) Having determined, after having informed the Member States, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission decided to investigate the possible circumvention of the measures in force and to make imports of the product under investigation subject to registration.

(14) The investigation was initiated by Commission Implementing Regulation (EU) 2015/2346 of 15 December 2015[8] ('the initiating Regulation').

1.5. **The investigation**

(15) The Commission officially advised the authorities of the PRC, the exporting producers in this country, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation.

(16) Questionnaires were sent to the exporting producers in the PRC and to the known importers in the Union.

(17) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being based on facts available.

(18) One exporting producer in the PRC came forward and provided comments but did not submit a reply to the questionnaire intended for exporting producers. It was subsequently found non-cooperating (recital 26 below).

(19) Three importers submitted a reply to the questionnaire to the Commission.

(20) One supplier of weighing indication systems established in the Union made a written submission of its view on the investigation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1346. (See end of Document for details)*

(21) The Commission carried out the verification visits at the premises of the following companies:

— Union producer: P.R. Industrial s.r.l., 53031 Casole d'Elsa, Siena, Italy,

— Importer in the Union: Hyster-Yale Nederland BV, 6541 CN Nijmegen, The Netherlands.

1.6. Investigation period and reporting period

(22) The investigation period covered the period from 1 January 2011 to 30 September 2015. Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade.

(23) More detailed data were collected for the reporting period from 1 October 2014 to 30 September 2015 in order to examine if imports were undermining the remedial effect of the anti-dumping measures in force and existence of dumping as alleged.

2. RESULTS OF THE INVESTIGATION

2.1. General consideration

(24) In accordance with Article 13(1) of the basic Regulation, the assessment of possible circumvention was made by analysing successively:

— whether there was a change in the pattern of trade between the PRC and the Union,

— if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the anti-dumping measures in force,

— if there was evidence of injury or the remedial effects of the anti-dumping measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and

— whether there was evidence of dumping in relation to the normal values previously established for the product concerned.

2.2. Cooperation

(25) None of the known exporting producers established in the PRC cooperated in the investigation and requested exemption from any possible extension of the measures in force by replying to the questionnaire sent.

(26) However, as explained in recital 18, Noblelift submitted comments following initiation but did not reply to the questionnaire and was found non-cooperating on the basis of Article 18 of the basic Regulation.

(27) Therefore, the Commission was not in a position to verify directly at the source the nature of the possible circumvention.

(28) Accordingly, findings in respect of the assessment of possible circumvention as detailed in recital 24 had to be made on the basis of the facts available in accordance with Article 18 of the basic Regulation.

(29) In that perspective, findings were made on the basis of information collected from cooperating importers, Eurostat statistics and the request. The comments submitted by the exporting producer that came forward were also considered, where appropriate.

2.3. **Change in the pattern of trade**

(30) Due to the non-cooperation of the exporting producers, import volumes were established on the basis of Eurostat statistics and information provided by the three cooperating importers and the applicants.

(31) Furthermore, data used for analysing the change in pattern of trade are based on imports of the complete trucks. The anti-dumping measures in force cover both hand pallet trucks and their essential parts (i.e. chassis and hydraulics). According to Eurostat, there are negligible or no imports of the so-called essential parts from the PRC to the Union.

(32) Last, the TARIC code, under which the product under investigation was imported, included also imports of other types of trucks, i.e. weighing trucks, high lifters, stackers and scissor lifts that are different than the product concerned.

(33) The table below shows import volumes of hand pallet trucks and 'other trucks', including the product under investigation, based on Eurostat during the investigation period.

Table 1

Imports to EU (Pcs)	**2011**	**2012**	**2013**	**2014**	**Reporting period**
Hand pallet trucks	573 400	575 607	236 340	113 753	96 115
Index	*100*	*100*	*41*	*20*	*17*
Other trucks	231 949	217 045	161 542	275 632	355 844
Index	*100*	*94*	*70*	*119*	*153*

Source: Eurostat

(34) On this basis, imports of hand pallet trucks have dropped by more than 80 % during the investigation period. The most significant decrease occurred between 2012 and 2013 (by 60 %). This trend continued in the following years, however at a less pronounced extent.