Changes to legislation: *Commission Implementing Regulation (EU) 2016/1328 is up to date with all changes known to be in force on or before 06 April 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating in the People's Republic of China and the Russian Federation

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1328

of 29 July 2016

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating in the People's Republic of China and the Russian Federation

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 9(4) thereof,

Whereas:

1. PROCEDURE

1.1. Provisional Measures

(1) On 12 February 2016 the European Commission ('the Commission') imposed a provisional anti-dumping duty on imports into the Union of certain flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced) ('cold-rolled flat steel products') originating in the People's Republic of China ('PRC') and the Russian Federation ('Russia') (together, referred to as 'the countries concerned') by Commission Implementing Regulation (EU) 2016/181[(2)] ('the provisional Regulation').

(2) The investigation was initiated on 14 May 2015[(3)] following a complaint lodged on 1 April 2015 by the European Steel Association ('Eurofer' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of certain cold-rolled flat steel products.

(3) As stated in recital 19 of the provisional Regulation the investigation of dumping and injury covered the period from 1 April 2014 to 31 March 2015 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period ('the period considered').

1.2. Registration

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(4) The Commission made imports of the product concerned originating in and consigned from the PRC and Russia subject to registration by Commission Implementing Regulation (EU) 2015/2325[4]. The registration of imports ceased with the imposition of provisional measures on 12 February 2016.

(5) The issue of registration and possible retroactive application of the anti-dumping duty in question and the comments received in relation to that are detailed in Commission Implementing Regulation (EU) 2016/1329[5]. This regulation only addresses the comments received pursuant to the provisional findings of dumping, injury, causation and Union interest and the Commission's definitive position on these matters.

1.3. **Subsequent procedure**

(6) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed (the provisional disclosure), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.

(7) A related steel service centre and trader requested the intervention by the Hearing Officer in trade proceedings (‘the Hearing Officer’) on the issue of refunds. The Hearing Officer examined the request and replied in writing. Furthermore, on 3 May 2016 a hearing with the Hearing Officer was held at the request of Eurofer.

(8) The Commission continued seeking and verifying all information it deemed necessary for its definitive findings. In order to have at its disposal more comprehensive information as regards profitability, the sampled Union producers were requested to provide 2005-2010 profitability data with regard to Union sales of the product under investigation. All sampled Union producers submitted the requested information.

(9) In order to verify the questionnaires replies mentioned in recital 8 above, on-the-spot verification visits were carried out of the data submitted by the following Union producers:

— ThyssenKrupp Germany, Duisburg, Germany

— ArcelorMittal Belgium NV, Ghent, Belgium

— ArcelorMittal Sagunto SL, Puerto de Sagunto, Spain

(10) The Commission informed all parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports into the Union of cold-rolled flat steel products originating in the PRC and Russia and definitively collect the amounts secured by way of provisional duty (the definitive disclosure). All parties were granted a period within which they could make comments on the final disclosure.

(11) The comments submitted by the interested parties were considered and taken into account where appropriate.

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1.4. **Claims regarding the additional information request, verification and use**

(12) Following the definitive disclosure, certain exporting producers provided comments with regard to the deadline given to Union producers to provide the requested information and questioned the accuracy of such data as well as its verification process. These parties inferred that the Union industry may not have reported correct figures and had benefitted from favourable treatment in breach of the rights of other parties to an objective, impartial and non-discriminatory investigation. This alleged favourable treatment to the Union industry would also be illustrated by the Commission's leniency towards them when failing to provide certain important information (the parties referred to missing invoices).

(13) As concerns the allegation of favourable treatment, the claim is rejected. The issue at stake concerns the wording in recital 59 of the provisional Regulation. In that recital it is explained that for internal transfers, no invoices are issued which is in line with acceptable accounting practises. There is no issue of the Union industry being allowed not to provide requested information.

(14) The same exporting producers claimed that by collecting and verifying additional data from the Union producers it had discriminated against the Russian exporting producers which had requested a second verification.

(15) First, it should be noted that the Commission, as an investigating authority, clearly has a right to request additional data when it is deemed necessary and appropriate for its analysis whether during the provisional stage or definitive stage of the investigation. In this case, as explained in recital 154, the Commission had good reasons to request these additional data and to verify it afterwards. The verifications concerned solely the additional data provided which were not requested before and ensured that the data on which the Commission eventually based its findings were reliable. Secondly, the Russian exporting producers' requests for a second verification actually related to the same data subject to the original verification whereas the second verification at the premises of certain Union producers was needed to verify the additional data referred to in recital 8 and to determine whether anti-dumping duties would be levied retroactively. The above claims were therefore rejected.

1.5. **Product concerned and like product**

(16) Recitals 21 and 22 of the provisional Regulation set out the provisional definition of the product concerned. No party made any submission as regards the definition therein.

(17) The product concerned is definitively defined as flat-rolled products of iron or non-alloy steel, or other alloy steel but excluding of stainless steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated and not further worked than cold-rolled (cold-reduced), currently falling within CN codes ex 7209 15 00, 7209 16 90, 7209 17 90, 7209 18 91, ex 7209 18 99, ex 7209 25 00, 7209 26 90, 7209 27 90, 7209 28 90, 7211 23 30, ex 7211 23 80, ex 7211 29 00, 7225 50 80, 7226 92 00 and originating in the PRC and Russia.

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The following product types are excluded from the definition of the product concerned:

— flat-rolled products of iron or non-alloy steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated, not further worked than cold-rolled, whether or not in coils, of all thickness, electrical,

— flat-rolled products of iron or non-alloy steel, of all widths, cold-rolled (cold-reduced), not clad, plated or coated, in coils, of a thickness of less than 0,35 mm, annealed (known as 'black plates'),

— flat-rolled products of other alloy steel, of all widths, of silicon-electrical steel, and

— flat-rolled products of alloy steel, not further worked than cold-rolled (cold-reduced), of high-speed steel.

(18) In the absence of any comments regarding the product concerned and the like product, the conclusions reached in recitals 22 to 24 of the provisional Regulation are confirmed.

2. DUMPING

2.1. The PRC

2.1.1. *Market economy treatment ('MET')*

(19) As explained in recital 34 of the provisional Regulation, none of the exporting producers concerned by this investigation claimed MET.

2.1.2. *Analogue country*

(20) In the provisional Regulation, the Commission selected Canada as the analogue country in accordance with Article 2(7) of the basic Regulation.

(21) One interested party claimed that the difference between the injury and dumping margins raised doubts as to the accuracy of the Commission's calculations. The same interested party also claimed that, if factually correct, such a difference should invalidate the choice of Canada as the analogue country given the level of prices of the product concerned in this country.

(22) The Commission confirms its calculations. Furthermore, the Commission recalls that the choice of the analogue country is made among countries where the price for the like product is formed in circumstances which are as similar as possible to those of the country of export. The level of prices as such is not a criterion in this selection.

(23) In view of the above, the claim that Canada is not an appropriate analogue country is rejected. The Commission confirms the reasoning outlined in recitals 27 to 34 of the provisional Regulation and the choice of Canada as the analogue country within the meaning of Article 2(7) of the basic Regulation.

2.1.3. *Normal value*

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(24) In the absence of comments regarding the determination of the normal value, recitals 35 to 45 of the provisional Regulation are confirmed.

2.1.4. *Export price*

(25) In its comments on the provisional Regulation, one group of companies noted an inconsistency between the injury and dumping calculations, which it claimed was due to a clerical error made by the Commission. However, the Commission established that the inconsistency was caused by a small clerical error made by this group of companies and which affected the export price. This clerical error was corrected by the Commission.

2.1.5. *Comparison*

(26) In the absence of any comments regarding the comparison between the normal value and the export price, recitals 49 and 50 of the provisional Regulation are confirmed.

2.1.6. *Dumping margins*

(27) Due to the change of export price mentioned in recital 25 above, the dumping margin of one group of companies was recalculated and led to its slight increase. This increase also changes the dumping margin of all other Chinese companies since this margin is based on this group of companies.

(28) The definitive dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Table 1

Dumping margins, the PRC

Company	**Definitive dumping margin (%)**
Angang Group	59,2
Shougang Group	52,7
Other cooperating companies	56,9
All other companies	59,2

2.2. **Russia**

2.2.1. *Introduction*

(29) After provisional disclosure, one Russian exporting producer contested the application of Article 18 of the basic Regulation. It submitted new data in order to contest the findings described in recital 60 of the provisional Regulation, where the Commission demonstrated that the exporting producer reported a higher quantity sold than what the production made physically possible.