Commission Implementing Regulation (EU) 2016/703 of 11 May 2016 imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2016/703

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 11(2) thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 119/97[(2)], the Council imposed a definitive anti-dumping duty ranging from 32,5 % to 39,4 % on imports of certain ring binder mechanisms ('RBMs') originating in the People's Republic of China (the 'PRC' or 'country concerned') and Malaysia. These duty rates were applicable to RBMs other than those with 17 or 23 rings, while RBMs with 17 and 23 rings were subject to a duty equal to the difference between the minimum import price (MIP of EUR 325 per 1 000 pieces) and the free-at-Community-frontier not cleared through customs price whenever the latter was lower than the MIP.

(2) By Regulation (EC) No 2100/2000[(3)], the Council amended and increased the above mentioned duties for certain RBMs other than those with 17 or 23 rings, following an anti-absorption investigation pursuant to Article 12 of the basic Regulation. The amended duties ranged from 51,2 % to 78,8 %.

(3) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Regulation (EC) No 1208/2004[(4)], the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Vietnam, whether declared as originating in Vietnam or not.

(4) Following a request by two Union producers an expiry review pursuant to Article 11(2) of the basic Regulation was initiated in January 2002[(5)] and, by Regulation

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(EC) No 2074/2004[6] the Council extended the definitive anti-dumping measures. No request for a review was received concerning the measures applicable to Malaysia, which consequently expired in January 2002.

(5) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Regulation (EC) No 33/2006[7], the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not.

(6) By Regulation (EC) No 818/2008[8], the Council extended the scope of the measures to certain slightly modified RBMs as a result of an anti-circumvention investigation.

(7) Following a request by one Union producer an expiry review pursuant to Article 11(2) of the basic Regulation was initiated in September 2008 and, by Implementing Regulation (EU) No 157/2010[9] the Council further extended the definitive anti-dumping measures for a period of 5 years (the 'measures in force').

(8) Moreover, following an anti-dumping investigation pursuant to Article 5 of the basic Regulation, a definitive anti-dumping duty on imports of certain ring binder mechanisms originating in Thailand was imposed by Council Implementing Regulation (EU) No 792/2011[10].

2. **Request for an expiry review**

(9) Following the publication of a notice of impending expiry[11] of the anti-dumping measures in force on imports of RBMs originating in the PRC and those consigned from Vietnam and from the Lao People's Democratic Republic whether declared as originating respectively in Vietnam and the Lao People's Democratic Republic or not, the Commission received on 26 November 2014 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of basic Regulation.

(10) The request was lodged by the Union producer Ring Alliance Ringbuchtechnik GmbH ('the applicant') representing more than 25 %[12] of the total Union production of RBMs. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.

3. **Initiation of an expiry review**

(11) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 25 February 2015, by a notice published in the *Official Journal of the European Union*[13] ('the Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Relevant periods covered by the expiry review investigation**

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(12) The investigation of likelihood of continuation or recurrence of dumping and injury covered the period from 1 January 2014 to 31 December 2014 ('the review investigation period' or 'RIP').

(13) The examination of trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2011 to the end of the review investigation period ('the period considered').

5. Parties concerned by the investigation

(14) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known exporting producers in the PRC and the PRC authorities, the known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(15) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(16) In the context of the initiation of the expiry review, none of the interested parties requested a hearing before the Commission services and/or with the Hearing Officer in trade proceedings.

6. Analogue country producers

(17) In the Notice of Initiation, the Commission informed interested parties that it envisaged India, Thailand and Cambodia as third market economy countries within the meaning of Article 2(7)(a) of the basic Regulation. Therefore, the Commission informed producers in India, Thailand and Cambodia about the initiation and invited them to participate.

7. Sampling

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

(a) *Sampling of Union importers*

(19) To decide whether sampling would be necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(20) Two unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary. Subsequently, one of the two importers stopped cooperating.

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(b) *Sampling of exporting producers in the PRC*

(21) To decide whether sampling would be necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC (i.e. 17 companies) to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(22) Only one Chinese exporting producer came initially forward by providing the information requested in the sampling form. Therefore, sampling was not required. Subsequently this exporting producer stopped cooperating.

8. **Questionnaire replies**

(23) The Commission sent questionnaires to the Union producers and to the unrelated importers, traders and users that had made themselves known within the time limits set out in the Notice of Initiation.

(24) One of the Union unrelated importers decided to withdraw its cooperation after initial reply to the questionnaire.

(25) The only Chinese exporting producer that made itself known to the Commission did reply to the questionnaire sent. The Chinese exporting producer subsequently informed the Commission of its decision to stop its cooperation within the investigation. The Commission informed the Chinese exporting producer and the Chinese authorities about its intention to apply Article 18 of the basic Regulation and to base its findings of the investigation on facts available.

9. **Verification visits**

(26) The Commission sought and verified all the information deemed necessary for determining the likelihood of continuation or recurrence of dumping and injury and for assessing whether the imposition of measures would be against the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

(a) *Union producers*

— Ring Alliance Ringbuchtechnik GmbH, Vienna, Austria and Oroszlany, Hungary,

— I.M.L. Industria Meccanica Lombarda S.r.l., Offanengo, Italy;

(b) *Related importer*

— Bensons International Systems B.V, Nijkerk, the Netherlands;

(c) *Analogue country producer*

— Sure Success, Sihnaoukville, Cambodia.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

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1. **Product concerned**

(27) The product concerned is certain ring binder mechanisms consisting of two steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel trigger mechanism fixed to the ring binder mechanism. The rings can have different shapes, the most common ones being round and D-shaped ('the product concerned'). RBMs are currently falling within CN code ex 8305 10 00. Lever-arch mechanisms ('LAM') classified within the same CN code are not included in the scope of the product concerned.

(28) RBMs are used to make paper, cardboard and plastic-coated office files, presentation and other bound files.

(29) A large number of different types of RBMs were sold in the Union during the RIP. The differences between these types were determined by the width of the base, the type of mechanism, the number of rings, the opening system, the nominal paper holding capacity, the ring diameter, the shape of the rings, the length and the ring spacing. Given the fact that all types have the same basic physical and technical characteristics and, within certain ranges, are interchangeable, it was established that all RBMs constitute one single product for the purpose of the present proceeding.

2. **Like product**

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

— the product concerned,

— the product produced and sold on the domestic market of the country concerned,

— the product produced and sold in the Union by the Union industry.

The Commission concluded that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

C. **LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING**

1. **Preliminary remarks**

(31) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from the country concerned.

(32) As mentioned in recital 25 above while a questionnaire was sent to the Chinese exporting producer that came forward during the sampling exercise, this exporting producer did subsequently disclose its decision to stop its cooperation with the on-going investigation. Consequently none of the Chinese exporting producers cooperated in the current investigation and therefore use had to be made of facts available in accordance with Article 18 of the basic Regulation.