Commission Implementing Regulation (EU) 2015/2384 of 17 December 2015 imposing a definitive anti-dumping duty on imports of certain aluminium foils originating in the People's Republic of China and terminating the proceeding for imports of certain aluminium foils originating in Brazil following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2384

of 17 December 2015

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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,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) Following an anti-dumping investigation (‘the original investigation’), the Council imposed, by means of Regulation (EC) No 925/2009[(2)], a definitive anti-dumping duty on imports of certain aluminium foil originating in Armenia, Brazil and the People's Republic of China (‘the PRC’ or ‘China’).

(2) The measures took the form of an *ad valorem* duty established at 13,4 % on imports from Armenia, at 17,6 % on imports from Brazil and at 30 % on imports from the PRC, with the exception of Alcoa (Shanghai) Aluminium Products Co., Ltd (6,4 %), Alcoa (Bohai) Aluminium Industries Co., Ltd (6,4 %), Shandong Loften Aluminium Foil Co., Ltd (20,3 %) and Zhenjiang Dingsheng Aluminium Co., Ltd (24,2 %).

(3) An undertaking offered by one Brazilian exporting producer was accepted by the Commission by means of Commission Decision 2009/736/EC[(3)].

2. **Request for an expiry review**

(4) Following the publication of a notice of impending expiry[(4)] of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures against Brazil and the PRC pursuant to Article 11(2) of the basic Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/2384. (See end of Document for details)*

(5) The request was lodged by AFM Aluminiumfolie Merseburg GmbH, Alcomet AD, Eurofoil Luxembourg SA, Hydro Aluminium Rolled Products GmbH, Impol d.o.o. and Symetal SA, ('the applicants') on behalf of producers representing more than 25 % of the total Union production of certain aluminium foils.

(6) 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.

(7) The applicants did not request the initiation of an expiry review investigation of the anti-dumping measures against imports originating in Armenia. These measures therefore lapsed on 7 October 2014[5].

3. Initiation of an expiry review

(8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 4 October 2014, by a notice published in the *Official Journal of the European Union*[6] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. Parallel anti-dumping investigation

(9) In parallel, on 8 October 2014, the Commission announced the initiation of an anti-dumping investigation pursuant Article 5 of the basic Regulation with regard to imports into the Union of certain aluminium foils originating in Russia[7] (the 'parallel investigation').

(10) In that investigation, the Commission imposed in July 2015, by means of Regulation (EU) 2015/1081[8], a provisional anti-dumping duty on imports of certain aluminium foils originating in Russia. The provisional measures were imposed for a period of six months.

(11) On 17 December 2015, the Commission imposed, by means of Regulation (EU) No 2015/2385[9], a definitive anti-dumping duty on imports of certain aluminium foils originating in Russia.

(12) The two parallel investigations covered the same review investigation period and the same period considered as defined in recital 13.

5. Investigation

5.1. *Review investigation period and period considered*

(13) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2013 to 30 September 2014 (the 'review investigation period'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2011 to the end of the review investigation period (the 'period considered').

5.2. *Parties concerned by the investigation and sampling*

(14) The Commission officially advised the applicants, the other known Union producers, the exporting producers in Brazil and the PRC, the known importers, the users and traders known to be concerned, and the representatives of the exporting countries, of the initiation of the expiry review.

(15) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(16) In its Notice of Initiation, the Commission announced that it might sample the exporting producers in the PRC, Union producers and unrelated importers in accordance with Article 17 of the basic Regulation. No sampling was foreseen for exporting producers in Brazil.
Sampling of exporting producers in the PRC

(17) Out of 12 known Chinese producers, two submitted a reply to the sampling questionnaire. In view of the limited number of cooperating companies, no sampling was required.
Sampling of Union producers

(18) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production. The sample consisted of six Union producers and their related companies, as the internal structure of the groups was unclear at the beginning of the investigation as far as it concerns the functions of producing and reselling the product in question. The sampled Union producers accounted for over 70 % of total Union production. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample is considered representative of the Union industry.

(19) In March 2015, one of the sampled Union producers sold all its activity including equipment, rights permits, obligations concerning employees and its existing contracts to a new company. As this change took place after the investigation period, it is not relevant for the investigation under Article 6(1) of the basic Regulation.
Sampling of unrelated importers

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

(21) Fourteen known importers/users were contacted at the initiation stage and were invited to explain their activity and to fill in the sampling form attached to the Notice of Initiation, if applicable.

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(22) Five companies replied to the sampling form. Four of them were rewinders, i.e. industrial users which were importing the product concerned for further processing before re-selling it and one was a trader that did not, however, import the product concerned during the period considered. Due to the limited number of companies having responded to the sampling form, sampling was not warranted.

(23) Two other users came forward. A user's questionnaire was sent to them.

Questionnaires and cooperation

(24) The Commission sought and verified all the information deemed necessary for the purpose of a determination of dumping, resulting injury and Union interest.

(25) The Commission sent questionnaires to the six sampled Union producers and their related companies, two Brazilian exporting producers and two Chinese exporting producers, one trader and the above six users identified in the Union.

(26) Questionnaire replies were received from all sampled Union producers and from three users.

(27) Two Chinese exporting producers and one Brazilian producer replied to the questionnaire. A second Brazilian producer had initially indicated its interest to cooperate with the investigation, but did not reply to the questionnaire. Consequently, a letter was sent to this company informing it of the Commission's intension to apply Article 18 of the basic Regulation. The company responded that it would not fill in the questionnaire but that its views would be represented by the Brazilian Aluminium Association (Associação Brasileira do Aluminió, 'ABAL'). In addition, written submissions were received from ABAL.

Verification visits

(28) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers:

— Aluminiumfolie Merseburg GmbH, Merseburg, Germany

— Alcomet AD, Schumen, Bulgaria

— Eurofoil Luxembourg SA, Dudelange, Luxembourg and its related company Eurofoil France SAS, Rugles, France

— Hydro Aluminium Slim SpA, Cisterna di Latina, Italy

— Impol d.o.o., Maribor, Slovenia

— Symetal SA, Athens, Greece

Users:

— Cofresco Frischhalteprodukte GmbH & Co KG, Minden, Germany

— Sphere Group, Paris, France

Exporting producer in Brazil:

— Companhia Brasileira de Aluminio (CBA), São Paulo, Brazil

Exporting producers in the PRC:

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— Zhenjiang Dingsheng Aluminium Industries Joint-Stock Limited Company, Zhenjiang, PRC, and its related companies Hangzhou Five Star Aluminium Company, Hangzhou, PRC; Hangzhou Dinsheng Import & Export, Hangzhou, PRC; and Dingsheng Aluminium Industries (Hong Kong) Trading Co, Hong Kong.

— Nanshan Light Alloy co. Ltd, Yantai, PRC

Producers in the market economy country:

— Assan Alüminyum San. ve Tic. A.S, Istanbul, Turkey

— Panda Aluminium Inc. Co., Ankara, Turkey

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(29) The product concerned is aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm, not backed, not further worked than rolled, in rolls of a width not exceeding 650 mm and of a weight exceeding 10 kg ('jumbo rolls') originating in Brazil and the PRC, currently falling within CN code ex 7607 11 19 (TARIC code 7607 11 19 10) ('the product concerned'). The product concerned is commonly known as aluminium household foil ('AHF').

(30) AHF is manufactured on the basis of pure aluminium, which is firstly cast into thick strips (of a thickness of several mm, i.e. up to 1 000 times thicker than the product concerned) and subsequently rolled in different stages into the desired thickness. Once rolled, the foil is annealed by a thermal process and is finally presented on reels (rolls).

(31) These reels of AHF are further rewound into smaller rolls by downstream processors so-called rewinders. The obtained product (i.e. consumer rolls which is not product concerned) is used in multi-purpose short-life wrapping, mostly in households, catering, food and floristry retail business.

2. Like product

(32) The investigation showed that the product concerned, the product produced and sold on the Brazilian and Chinese domestic markets, the product produced and sold on the domestic market in Turkey, which served as an analogue country, and the product produced and sold in the Union by the Union industry have the same basic physical, chemical and technical characteristics as well as the same basic uses.

(33) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

(34) 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 Brazil and the PRC.

1. Brazil