Commission Implementing Regulation (EU) 2015/1081 of 3 July 2015 imposing a provisional anti-dumping duty on imports of certain aluminium foils originating in Russia

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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 7(4) thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 8 October 2014, the European Commission (‘the Commission’) initiated an anti-dumping investigation with regard to imports into the Union of certain aluminium foils originating in Russia (‘Russia’ or ‘the country concerned’). It published a Notice of Initiation in the *Official Journal of the European Union*[(2)] (‘the Notice of Initiation’).

(2) The proceeding was initiated following a complaint lodged on 25 August 2014 by AFM Aluminiumfolie Merseburg GmbH, Alcomet AD, Eurofoil Luxembourg SA, Hydro Aluminium Rolled Products GmbH and Impol d.o.o. (‘the complainants’) on behalf of producers representing more than 25 % of the total Union production of aluminium foils. The complaint contained prima facie evidence of dumping of the said product and of resulting material injury that was considered sufficient to justify the initiation of the investigation.

(3) On 4 October 2014, the Commission announced the initiation of an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (‘the basic Regulation’) concerning definitive anti-dumping measures in force on imports of certain aluminium foils originating in the People's Republic of China (‘China’) and Brazil, by a Notice published in the *Official Journal of the European Union*[(3)].

2. Interested parties

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1081. (See end of Document for details)*

(4) In the Notice of Initiation, the Commission invited all interested parties to contact it in order to participate in the investigation. In addition, the Commission officially advised the complainants, the known exporting producer and the Russian authorities, known importers, users and traders known to be concerned of the initiation of the investigation and invited them to participate.

(5) Interested parties were given 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.

(6) Interested parties were also given the opportunity to make their views known in writing and request a hearing within the time limit set in the Notice of Initiation. None of the interested parties requested a hearing before the Commission services and/or the Hearing Officer in trade proceedings.

3. Sampling

(7) In its Notice of Initiation, the Commission announced that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

Sampling of exporting producers in Russia

(8) Due to the fact that all the production of the product concerned in Russia is done by one group of companies, the Rusal group, no sampling was foreseen in the Notice of Initiation with regard to exporting producers.

Sampling of Union producers

(9) 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.

Sampling of unrelated importers

(10) 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.

(11) 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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(12) Three companies replied to the sampling form. They were, however, rewinders, i.e. industrial users which were importing the product concerned for further processing before re-selling it. No traders came forward. Therefore, sampling is not warranted.

(13) Four other companies came forward and declared that they either did not import the product concerned from Russia or they were rewinders. A users' questionnaire was sent to all seven companies that came forward.

Replies to the questionnaire and cooperation

(14) The Commission sent questionnaires to the six sampled Union producers and its related companies, one exporting producer group, and the seven users identified in the Union.

(15) Questionnaire replies were received from all sampled Union producers, from the exporting producer group (which consists of two exporting producers, four related traders and eight related raw material suppliers all located in Russia with the exception of two traders, registered in Jersey and Switzerland,) and from four users. Following the request of the Commission revised questionnaire tables from Rusal group were received at a later stage.

Verification visits

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

(17) As one of the sampled companies produced during the period considered small quantities solely destined for captive use no verification visit was deemed necessary.

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

Union producers

— AFM 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 S.p.a., Cisterna di Latina, Italy
— Impol d.o.o., Maribor, Slovenia
— Symetal S.A., Athens, Greece

Users

— Cofresco Frishhalteprodukte GmbH & Co KG, Minden, Germany
— CeDo Sp. z o.o., Kąty Wrocławskie, Poland
— Sphere Group, Paris, France

Exporting producer in Russia

— the ‘Rusal Group’ including:

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— Ural Foil OJSC ('Ural Foil'), Sverdlovsk region, Russia

— OJSC Rusal Sayanal ('Sayanal'), Khakassia region, Russia

together with the following related traders and suppliers of raw materials:

— Rusal Foil Ltd ('RF'), Moscow region, Russia

— United Company Rusal Trading House ('Trading House'), Moscow region, Russia

— Sayanogorsk Aluminium Smelter ('SAZ'), Khakassia region, Russia

— Novokuznetsk Aluminium Smelter (NKAZ), Kemerovo region, Russia.

4. Investigation period and period considered

(19) The investigation of dumping and injury covered the period from 1 October 2013 to 30 September 2014 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 2011 to the end of the investigation period ('the period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

5. Product concerned

(20) 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 Russia, 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').

(21) 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).

(22) 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.

6. Like product

(23) The investigation showed that the product concerned, the product produced and sold on the Russian domestic market 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.

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

7. Claims regarding the product scope

(25) An importer claimed that the product scope should include AHF weighing 10 kg or less (so called 'consumer rolls'). This importer claimed that there were no differences in the physical, chemical and technical characteristics between consumer rolls and jumbo rolls. The importer further claimed that if anti-dumping duties were imposed only on jumbo rolls, this could give rise to exports of consumer rolls without anti-dumping duties from Russia.

(26) The physical characteristic distinguishing the jumbo rolls on the one hand and consumer rolls on the other hand is the weight. In addition, this also corresponds to the CN code. Moreover, the Union industry as defined in recital 53 only produces jumbo rolls and does not produce consumer rolls. Jumbo rolls are bought and further processed into consumer rolls by rewinders that in turn resell the product to retailers and end users. Jumbo rolls and consumer rolls have therefore different physical characteristic, are not produced by the same producers, do not compete with each other and are not traded on the same market.

(27) Therefore, the claim that consumer rolls should be included in the product scope of this investigation was rejected.

(28) Regarding the effect of any anti-dumping duties on jumbo rolls on the downstream industry, this is addressed below in recitals 151 to 163 concerning the Union interest.

C. DUMPING

8. Normal value

(29) The Commission first examined whether the total volume of domestic sales of each exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.

(30) On this basis the total sales of one exporting producer were found to be not representative. For this cooperating exporting producer as the like product was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.

(31) The normal value for this cooperating exporting producer was constructed by adding the following to its average cost of production of the like product during the investigation period: