Commission Implementing Regulation (EU) 2015/519 of 26 March 2015 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/519

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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 11(2) thereof,

Whereas:

A. PROCEDURE

1. Measures in force

(1) The Council, following an anti-dumping investigation ('the original investigation'), imposed, by means of Regulation (EC) No 91/2009[(2)], as last amended by Implementing Regulation (EU) No 924/2012[(3)], a definitive anti-dumping duty ('the original measures') on imports of certain iron or steel fasteners ('ISF') originating in the People's Republic of China ('the PRC').

(2) The measures, after amendment by Implementing Regulation (EU) No 924/2012, took the form of an *ad valorem* duty established for individual sampled Chinese exporting producers at the level of 0,0 % to 69,7 %. At the same time the antidumping duty for the cooperating, non-sampled Chinese exporting producers was set at a level of 54,1 % while residual duty for non-cooperating Chinese exporting producers amounted to 74,1 % ('the duties in force').

(3) By Council Implementing Regulation (EU) No 723/2011[(4)], as last amended by Implementing Regulation (EU) No 693/2012[(5)], the original measures were extended to imports of ISF consigned from Malaysia, whether declared as originating in Malaysia or not.

2. Request for an expiry review

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/519. (See end of Document for details)*

(4) Following the publication of a notice of impending expiry[6] of the definitive anti-dumping measures in force, the Commission received on 1 October 2013 a request for the initiation of an expiry review of those measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by the European Industrial Fasteners Institute ('the applicant') on behalf of producers representing more than 25 % of the total Union production of ISF.

(5) 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

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced, on 30 January 2014, by a notice published in the *Official Journal of the European Union*[7] ('the notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. Investigation

4.1. *Review investigation period and period considered*

(7) The investigation of a continuation or recurrence of dumping covered the period from 1 January 2013 to 31 December 2013 ('the review investigation period' or 'RIP'). 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 2010 to 31 December 2013 ('the period concerned').

4.2. *Parties concerned by the investigation*

(8) The Commission officially advised the applicant, the other known Union producers, the exporting producers in the PRC, and the representatives of the PRC of the initiation of the expiry review. The 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.

(9) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(10) In view of the apparent large number of exporting producers in the PRC and of producers and unrelated importers in the Union involved in the investigation, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above-mentioned parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide the Commission with the information requested in the notice of initiation.

(11) Out of 325 known Chinese producers 24 submitted a reply to the sampling questionnaire. However, 13 of these reported no exports to the EU, whereas three other were found not to be dumping in the original investigation and are therefore not subject to the measure in force. The remaining eight companies reported 11 800 tonnes of export to EU, which according to Eurostat corresponded to 132 % of total Chinese imports to EU in the RIP. A sample of three largest exporters was proposed. However, one of the companies included in the sample claimed that it had wrongly reported its EU exports in the sampling form and in fact it should have reported zero exports.

(12) The sample was therefore established to consist of the three largest remaining exporters. All three sampled companies withdrew their cooperation at different stages of the procedure choosing not to reply to questionnaires or denying on-spot verification. Consequently, letters were sent to each of the three companies informing them of the Commission's intension to apply Article 18 of the basic Regulation. No reaction was received from these exporting producers.

(13) The Commission examined the situation of the four remaining exporting producers that replied to the sampling questionnaire. Their exports to the Union were so low, namely less than 1 % of total exports, that it was not considered appropriate or representative to establish a new sample and base the findings of the investigation on their situation. It was considered more appropriate to base the findings of the investigation on a wider and more representative basis, namely on the facts available in view of the non-cooperation of the sampled Chinese exporting producers. The four remaining companies were informed of the Commission's intention to use the facts available.

(14) In view of the insufficient cooperation the Commission's intention to apply Article 18 was also announced to the Chinese authorities. The Commission did not receive any comments or requests for an intervention of the Hearing Officer on the respective letters to the companies and the Chinese authorities.

(15) At the preliminary stage of investigation the Commission received cooperation from 91 Union producers/group of producers which represented around 50 % of the Union production of ISF. In view of the large number of cooperating producers the Commission applied sampling. The selected sample originally consisted of nine companies/groups of companies among the most representative in terms of volumes, size, mixture of product types and geographical location in the Union. One of the sampled companies withdrew its cooperation and chose not to reply to the questionnaire. Consequently, the Commission informed the company of its exclusion from the sample in view of non-cooperation. A sample reduced to the remaining eight companies/group of companies was nevertheless considered representative as it covered 24 % of the estimated total Union production of ISF during the RIP.

(16) Replies to the questionnaires were received from two Union importers. In view of the relatively limited number of companies, no sampling was required.

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(17) With regard to the users, none of them made itself known within the deadline provided in the Notice of Initiation or later in the procedure. Therefore, it is considered that no user cooperated in the investigation.

(18) Verification visits were carried out at the premises of the following companies:

(a) Union producers:

Eleven companies (at least one belonging to each of the eight sampled groups of companies) were visited. These Union producers requested, on the basis of Article 19 of the basic Regulation, that their identities be kept confidential. They claimed that disclosure of their identity could lead to a risk of significant adverse effects to their business activities. Their request was examined and found to be warranted. Consequently, the names of these companies are not listed.

(b) Union importers:

Adolf Würth GmbH & Co — Germany
Marcopol z o.o. — Poland

(c) Producers in the market economy countries:

ACKU Metal Industries (M) Sdn. Bhd., Penang, Malaysia
Sofasco Industries (M) Sdn. Bhd., Penang, Malaysia
Kalisma Steel Pvt Ltd, Mumbai, India

5. Disclosure

(19) All interested parties were informed of the essential facts and considerations leading to the conclusions of this expiry review and were invited to comment (final disclosure). They were also granted a time period to submit comments subsequent to disclosure. Submissions were received from the applicant, the China Chamber of Commerce for Import and Export of Machinery and Electronic Products, two Union importers/producers and their related Chinese producer and two associations of Union distributors. The submission and comments were duly taken into consideration where warranted.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(20) The product concerned is certain iron or steel fasteners, other than stainless steel i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws turned from bars, rods, profiles or wire, of solid section, of a shank thickness not exceeding 6 mm and excluding screws and bolts for fixing railway track construction material), and washers, originating in the PRC, currently falling within CN codes 7318 12 90, 7318 14 91, 7318 14 99, 7318 15 59, 7318 15 69, 7318 15 81, 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00.

2. **Like product**

(21) The product concerned and the iron or steel fasteners produced and sold in the Union by the Union industry and the iron or steel fasteners produced and sold in the domestic market of Malaysia ('the analogue country') were found to have essentially the same physical and chemical characteristics and the same basic uses as the iron or steel fasteners produced in the PRC sold for export to the Union. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

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

(22) 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 PRC.

1. **Preliminary remarks**

(23) As explained in recitals 11 to 14 above, the Chinese exporting producers selected to be part of a sample did not cooperate with the investigation. Thus, in the absence of sufficient cooperation from exporting producers in the PRC, the overall analysis, including the dumping calculation, was based on facts available pursuant to Article 18 of the basic Regulation.

(24) The likelihood of a continuation or recurrence of dumping was assessed by using the expiry review request, combined with other sources of information such as trade statistics on imports and exports (Eurostat and Chinese export data) and other information publicly available (such as a declaration from the Chinese Fastener Industry Association).

(25) The absence of cooperation affected the comparison of the normal value with the export price in that the precise product mix exported by Chinese producers to the Union was unknown.

2. **Dumping of imports during the RIP**

2.1. *Selection of the analogue country and calculation of the Normal Value*

(26) In the notice of initiation, the Commission had invited all interested parties to comment on its proposal to use India as a market economy third country for the purpose of establishing normal value in respect of the PRC. India had been used as an analogue country in the original investigation.

(27) In addition to India, the applicant had suggested USA as a potential analogue country. Other interested parties expressed reservations on the proposal of India and suggested Malaysia, Taiwan, Thailand and Vietnam as alternative analogue countries.

(28) In addition to the suggestions made by the interested parties, the Commission itself sought to identify an appropriate analogue country. It identified Japan as an additional potential analogue country due to its large production volume of fasteners similar to PRC's.