Commission Regulation (EU) No 845/2012 of 18 September 2012 imposing a provisional anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China

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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 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 21 December 2011, the Commission announced, by a notice published in the *Official Journal of the European Union*[(2)] ('the notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Union of certain organic coated steel products originating in the People's Republic of China ('the country concerned' or 'the PRC').

(2) The proceeding was initiated following a complaint lodged on 7 November 2011 by Eurofer (‘the complainant’), representing a major proportion, in this case more than 70 %, of the total Union production of certain organic coated steel products. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the opening of a proceeding.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainants, other known Union producers, the known exporting producers in the PRC, importers, traders, users, suppliers and associations known to be concerned, and the representatives of the PRC of the initiation of the proceeding. The Commission also advised producers in Canada and the Republic of South Africa ('South Africa') which were envisaged in the notice of initiation as possible analogue countries. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 845/2012. (See end of Document for details)*

(4) In view of the apparent high number of exporting producers, Union producers and unrelated importers, 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 samples, all known exporting producers and unrelated importers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period from 1 October 2010 to 30 September 2011.

(5) As regards the Union producers, the Commission announced in the notice of initiation that it had provisionally selected a sample of Union producers. This sample consisted of six Union producers that were known to the Commission to produce the like product selected on the basis of sales, production volume, size and geographical location in the Union. The sampled Union producers accounted for 46 % of the Union production and 38 % of the Union sales. Interested parties were also invited in the notice of initiation to make their views known on the provisional sample. One of the Union producers stated that it did not wish to be included in the sample and was replaced in the sample by the next largest producer.

(6) 26 exporting producers or groups of exporting producers in the PRC provided the requested information and agreed to be included in the sample. On the basis of the information received from the exporting producers, the Commission initially selected a sample of three exporting producers with the highest export volume to the Union. However, one of the sampled exporting producers did not provide accurate export data and was excluded from the sample. Two other exporting producers that were subsequently included in the sample, withdrew their cooperation. Therefore, the Commission finally decided to limit the sample to the two exporting producers originally selected to form part of the sample and that had the highest export volume to the Union. Their export volume accounts for more than 30 % of total exports of all cooperating Chinese exporting producers.

(7) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned, the Chinese authorities and to other Chinese exporting producers that made themselves known within the deadlines set out in the notice of initiation. Three Chinese exporting producers, including one that was included in the sample, requested MET pursuant to Article 2(7) of the basic Regulation, or IT should the investigation establish that they did not meet the conditions for MET. One of these exporting producers, which was not included in the sample, subsequently withdrew its request. The other exporting producer in the sample requested IT only.

(8) Five unrelated importers provided the requested information and agreed to be included in the sample. In view of the limited number of cooperating importers, sampling was deemed to be no longer necessary.

(9) The Commission sent questionnaires to the two sampled exporting producers in the PRC, 14 other exporting producers in the PRC that requested so, four producers in Canada, three producers in South Africa, five producers in the Republic of Korea ('South Korea'), five producers in the Federative Republic of Brazil ('Brazil') – candidate countries of the analogue country choice, the six sampled Union producers, the five cooperating importers in the Union and to the known users.

(10) Replies were received from nine exporting producers and related companies in the PRC, one producer in Canada and one producer in another possible analogue country, South Korea. Furthermore, the six sampled Union producers, two unrelated importers and ten users replied to the questionnaire.

(11) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies:

(a) *Union producers*

— ArcelorMittal Belgium, Belgium and related sales company ArcelorMittal Flat Carbon Europe SA, Luxembourg

— ArcelorMittal Poland, Poland

— ThyssenKrupp Steel Europe AG, Germany

— voestalpine Stahl GmbH and voestalpine Stahl Service Center GmbH, Austria

— Tata Steel Maubeuge SA (formerly known as Myriad SA), France

— Tata Steel UK Ltd, United Kingdom

(b) *Exporting producers in the PRC*

— Zhangjiagang Panhua Steel Strip Co., Ltd and its related companies: Chongqing Wanda Steel Strip Co., Ltd, Zhangjiagang Wanda Steel Strip Co., Ltd, Jiangsu Huasheng New Construction Materials Co. Ltd and Zhangjiagang Free Trade Zone Jiaxinda International Trade Co., Ltd;

— Zhejiang Huadong Light Steel Building Material Co. Ltd and its related company Hangzhou P.R.P.T. Metal Material Company Ltd;

— Union Steel China and its related company Wuxi Changjiang Sheet Metal Co. Ltd.

(c) *Union importers*

— ThyssenKrupp Mannex, Germany

(d) *Union users*

— Steelpartners NV (belonging to Joris IDE group), Belgium

3. Investigation period

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(12) The investigation of dumping and injury covered the period from 1 October 2010 to 30 September 2011 (‘investigation period’ or ‘IP’). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2008 to the end of the investigation period (‘the period considered’).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(13) The product concerned is certain organic coated steel products ('OCS'), i.e. flat rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, and excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc) currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70, and originating in the People's Republic of China ('the product concerned').

(14) The main application of the OCS is in the construction industry, also for further processing in various products used in construction (like sandwich panels, roofing, cladding, etc.). Other applications include home appliance production (white and brown goods) or equipment for construction (doors, radiators, lights, etc.).

2. Like product

(15) The investigation has shown that OCS produced and sold by the Union industry in the Union, OCS produced and sold on the domestic market of the PRC and OCS imported into the Union from the PRC, as well as that produced and sold in Canada, which serves as an analogue country, have the same basic physical and chemical characteristics and the same basic end uses. Therefore these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(16) Some interested parties argued that the products from the PRC were not comparable with those sold by the Union industry because the former were sold in a different market and price segment and for a different end-use like outdoor construction use, whereas a substantial part of the Union industry products are high quality products used only in the niche home appliances sector.

(17) The investigation showed that while indeed, the Union producers sold a part of their production to such market segments as home appliances, the same products were also sold to construction materials industry, which is allegedly the main market segment of the Chinese exports. Moreover, the price levels between those sectors were found to be largely comparable for the same product types sold to different users.

(18) It should be noted that, as the product concerned is largely standardised, it has similar basic physical and chemical characteristics as the like product irrespective of the end uses. Therefore, the argument is provisionally rejected.

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3. Product exclusion requests

(19) Several requests for exclusion of certain product types were received from users, Chinese exporters and Union producers. The product types requested to be excluded concern e.g. chromium or tin coated steel, steel plates painted with inorganic zinc silicate primer or painted with other materials than organic ones.

(20) However, no conclusions have been reached so far, as some of those requests are not sufficiently documented to make an informed decision. Therefore, it has been decided to investigate these claims further.

C. DUMPING

1. Market Economy Treatment ('MET')

(21) Pursuant to Article 2(7)(b) of the basic Regulation, in antidumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation. Briefly and for ease of reference only, these criteria are set out in summarised form below:

— Business decisions are made in response to market signals, without significant State interference, and costs reflect market values;

— Firms have one clear set of basic accounting records, which are independently audited in line with international accounting standards and are applied for all purposes;

— There are no significant distortions carried over from the former non-market economy system;

— Bankruptcy and Property laws guarantee stability and legal certainty; and

— Exchange rate conversions are carried out at market rates.

(22) As set out in recital (8) above, three exporting producers from the PRC requested market economy treatment ('MET') and replied to the MET claim form within the given deadline, of which one exporting producer subsequently withdrew its request.

(23) As regards the remaining two cooperating exporting producers in the PRC having requested MET, following a judgment by the Court of Justice of 2 February 2012[3] it was decided to examine the claims of both the exporting producer which was included in the sample (Zhangjiagang Panhua Steel Strip Co. Ltd and its related companies) and the exporting producer which was not included in the sample (Union Steel China and its related company). The Commission sought all information deemed necessary and verified information submitted in the MET claim at the premises of the companies in question.

(24) None of the two cooperating groups of exporting producers in the PRC were found to meet the criteria to be granted MET, because the cost of the major raw material, hot-rolled steel coils, is significantly distorted due to State interference in the steel