Commission Implementing Regulation (EU) 2020/353 of 3 March 2020 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of steel road wheels originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2020/353

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imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of steel road wheels originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] ('the basic Regulation'), and in particular Article 9(4) thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 15 February 2019, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of steel road wheels ('SRW') originating in the People's Republic of China ('the PRC' or 'the country concerned') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union*[(2)] ('Notice of Initiation'). The product scope of the investigation was clarified in the notice amending the Notice of Initiation[(3)].

(2) The Commission initiated the investigation following a complaint lodged on 3 January 2019 by the Association of European Wheels Manufacturers ('EUWA' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of steel road wheels. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

(3) The Commission did not make imports of the product concerned subject to registration under Article 14(5a) of the basic Regulation, as explained in recital (4) of Commission Implementing Regulation (EU) 2019/1693[(4)] ('the provisional Regulation'). No parties made any comments on this point.

1.3. Provisional measures

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/353. (See end of Document for details)*

(4) In accordance with Article 19a of the basic Regulation, on 19 September 2019, the Commission provided parties with a summary of the proposed duties and details about the calculation of the dumping margin and the margin adequate to remove the injury to the Union industry. Interested parties were invited to comment on the accuracy of the calculations within three working days. No comments were submitted.

(5) On 11 October 2019, the Commission imposed a provisional anti-dumping duty on imports into the Union of steel road wheels originating in the People's Republic of China by the provisional Regulation.

(6) As stated in recital (23) of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2018 to 31 December 2018 ('the investigation period' or 'IP') and the examination of trends relevant for the assessment of injury covered the period from 1 January 2015 to the end of the investigation period ('the period considered').

1.4. **Subsequent procedure**

(7) Following the disclosure of the essential facts and considerations on the basis of which provisional anti-dumping measures were imposed ('provisional disclosure'), the complainant, eight importers and/or resellers, and two Chinese exporting producers made written submissions making their views known on the provisional findings.

(8) The parties who so requested were granted an opportunity to be heard. A hearing took place with one Chinese exporting producer. No hearing with the Hearing Officer in trade proceedings was requested at that stage.

(9) The Commission continued seeking and verifying all the information it deemed necessary for its final findings. When reaching its definitive findings, the Commission considered the comments submitted by interested parties and revised its provisional conclusions when appropriate.

(10) The Commission informed all interested parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports into the Union of steel road wheels originating in the PRC ('final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.

(11) One unrelated importer had a hearing with the Commission services on 9 January 2020. On 16 January 2020, one group of Chinese exporting producers had a hearing in the presence of the Hearing Officer concerning the stage following final disclosure.

(12) The comments submitted by the interested parties were considered and taken into account where appropriate in this Regulation.

1.5. **Sampling**

(13) In the absence of comments concerning sampling, recitals (7) to (18) of the provisional Regulation were confirmed.

1.6. **Investigation period and period considered**

(14) In the absence of comments concerning the investigation period and the period considered, recital (23) of the provisional Regulation was confirmed.

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Claims regarding the product scope**

(15) Following the publication of the provisional Regulation, several parties pointed at ambiguities in the description of TARIC code 8716 90 90 97, i.e. one of the codes subject to provisional measures. These parties asked the Commission to confirm that this code only refers to wheels for road use, and therefore it did not cover wheels for wheelbarrows and hand trucks.

(16) The Commission confirmed that this interpretation was correct and that wheels for wheelbarrows and hand trucks do not fall within the scope of this investigation. To ensure clarity, the Commission adjusted the description of the TARIC code in question accordingly. On 29 October 2019, the Commission also published a note to the file informing all interested parties about this adjustment.

(17) Right before the publication of the provisional Regulation an unrelated importer requested the exclusion of spare road steel wheels for passenger cars on the grounds that they do not have the same basic technical and physical characteristics as all other products falling within the product scope. This importer argued that spare road steel wheels cannot be used as normal wheels because their speed is limited to 80 km/hour. The party further claimed that the overall production of spare road steel wheels for passenger cars is very small in the Union and even non-existent in the case of the replacement market (as opposed to the Original Equipment Manufacturer or 'OEM' segment where wheels are incorporated to the car during the manufacturing process).

(18) The Commission dismissed the unrelated importer's request. The speed limit does not alter the basic technical and physical characteristics of a wheel and the importer did not bring any other evidence showing that such spare road wheels would have technical and physical characteristics different from all other products falling within the product scope of the investigation. Furthermore, the party itself confirmed that there is production of these types of wheels in the Union and therefore competition with imported spare road steel wheels. The fact that these wheels are allegedly not produced and sold by the Union industry in one of the two main distribution channels is irrelevant since the steel road wheels in the replacement market and those sold on the OEM segment have the same basic technical and physical characteristics.

(19) Following the publication of the provisional Regulation, a party criticised the fact that the complaint uses the application of a wheel, i.e. wheels used on the road, to determine whether a steel wheel falls within the scope of the investigation or not. Instead, the party proposed speed and load as the distinguishing factor to determine

whether a steel wheel is designed to be used on the road and therefore falls within the scope of the investigation. In particular, the party considered that only wheels designed to travel above 50 km/h are designed and built as road wheels. The party reiterated the claim following final disclosure.

(20) The Commission considered that this claim did not question the product definition or the scope of the investigation itself, but rather suggests an alternative way to describe steel road wheels. The Commission does however not consider that speed is a relevant factor for defining the product scope, as explained above in recital (18), and therefore dismissed the party's proposal.

(21) One exporting producer complained that the provisional regulation contained neither technical definitions for the products excluded nor procedures for confirming with Union customs officials and the Commission services whether or not certain products were excluded from the scope of measures.

(22) The Commission confirmed, however, that the technical definitions of the products excluded and customs procedures already in place were sufficient for the proper application and monitoring of the current anti-dumping measures, and that, at this stage, additional definitions or procedures did not appear to be necessary in this case. This claim was therefore rejected.

(23) Following the publication of the provisional Regulation, an unrelated importer submitted that steel wheels for agricultural trailers or semi-trailers with a rim diameter of 16 inches and more (up to 54 inches) should be excluded from the scope of the investigation because they have different physical and technical characteristics than steel wheels for truck trailers or semi-trailers and in term of speed, load capacity and stud holes. It is noted that the provisional Regulation mentioned the exclusion from the scope of the measures wheels for agricultural trailers and other trailed agricultural equipment used in fields with a rim diameter of not more than 16 inches for clarification purposes. However, while this exclusion narrowed the scope of the investigation, it did not change the fact that wheels mainly designed and used for off the road purposes were never covered by the product definition, as explained in recital (24).

(24) It is noted that the provisional Regulation provisionally excluded from the scope of the measures wheels for passenger car trailers, caravans, agricultural trailers and other trailed agricultural equipment used in fields, with a rim diameter of not more than 16 inches. Some parties considered that, as a consequence, wheels of agricultural trailers and other trailed agricultural equipment used in fields, with a rim diameter of more than 16 inches would be covered by the scope of the measures. However, the Commission clarified that, by this exclusion, it did not intend to include in the scope of the investigation certain other off the road wheels. Indeed, wheels designed for uses other than on public roads were specifically excluded from the product definition in the Notice of Initiation. This was also the intention of the complainant. Indeed, the open version of the complaint specified that OTR (Off The Road) wheels, i.e. wheels for equipment not normally designed for the road, such as agricultural wheels, wheels for earthmoving and mining equipment and wheels for industrial handling (such as

fork lift truck wheels or cranes) are excluded from this complaint. The investigation did not bring to light any reasons to question this exclusion, and thus steel wheels for agricultural trailers or semi-trailers were not included in the scope of the investigation, irrespective of their rim diameters.

(25) Following final disclosure, EUWA proposed to add 'wheels for use in construction vehicles' in the list of products excluded. The Commission deemed this addition unnecessary given that those wheels were never covered by the product definition. EUWA's proposal was thus rejected.

(26) Following the publication of the provisional Regulation, an unrelated importer submitted that certain wheels for passenger cars for winter tyres should be excluded from the scope of the investigation, namely wheels specially designed for fitting multiple car models. The company claimed that Union producers refused to produce this type of wheels and that such wheels have resource-saving characteristics and serve a minor share of the 'aftermarket' or replacement market. The party reiterated the claims following final disclosure.

(27) The investigation found that steel wheels for winter tyres – including those fitting multiple car models – have the same basic physical and technical characteristics as other products falling within the product scope of the investigation. The wheel from the unrelated importer is a 'universal' passenger car wheel that has a centre hole adapter ring. This latter feature allows using one base wheel for different centre hole diameters by means of different centre hole adapters. The result is the same as a fix centre hole. The product competes with wheels for winter tyres produced by the Union producers and which are distributed both on the OEM and the aftermarket channel. Thus there was no basis for this product type to be excluded from the scope of the investigation. The Commission therefore rejected the unrelated importer's request.

2.2. **Conclusion**

(28) Having taken into account all comments submitted by interested parties after the provisional Regulation, the Commission confirmed that the product definition in recital (42) of the provisional Regulation properly reflected the scope of the investigation. Thus, the product concerned was defined as wheels of steel designed for use on the road, whether or not with their accessories and whether or not fitted with tyres, designed for:

— Road tractors,

— Motor vehicles for the transport of persons and/or the transport of goods,

— Special purpose motor vehicles (for example, fire fighting vehicles, spraying lorries),

— Trailers or semi-trailers, not mechanically propelled, of the above listed vehicles

originating in the PRC, currently falling under CN codes ex 8708 70 10, ex 8708 70 99 and ex 8716 90 90 (TARIC codes 8708 70 10 80, 8708 70 10 85, 8708 70 99 20, 8708 70 99 80, 8716 90 90 95 and 8716 90 90 97) ('the product concerned').