# Commission Regulation (EU) No 404/2010 of 10 May 2010 imposing a provisional anti-dumping duty on imports of certain aluminium wheels originating in the People's Republic of China

## COMMISSION REGULATION (EU) No 404/2010

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## imposing a provisional anti-dumping duty on imports of certain aluminium 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 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 13 August 2009, the Commission announced, by a notice published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding with regard to imports into the Union of certain aluminium road wheels originating in the People's Republic of China (the 'country concerned' or 'the PRC').

(2) The proceeding was initiated as a result of a complaint lodged on 30 June 2009 by the Association of European wheel manufacturers (EUWA) ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain aluminium wheels. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

#### 2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, the Union producers mentioned in the complaint, other known producers in the Union, 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. 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.

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

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EU) No 404/2010. (See end of Document for details)*

(5) In view of the large number of exporting producers in the PRC, importers and Union producers, sampling was envisaged in the notice of initiation for the determination of dumping and injury 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, all exporting producers, importers and Union producers were asked to make themselves known to the Commission and to provide information specified in the notice of initiation.

(6) A total of 36 companies or groups of related companies ('groups') in the PRC came forward and provided the requested information within the given deadline. These 36 companies or groups produced and/or exported the product concerned to the European Union market during the investigation period and expressed a wish to be included in the sample. They were regarded as co-operating companies and were considered for inclusion in the sample. The level of cooperation from the PRC, i.e. the percentage of exports to the EU by the Chinese cooperating companies as compared to all Chinese exports to the EU, was more than 90 %.

(7) After consulting the parties concerned in accordance with Article 17(2) of the basic Regulation, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which can reasonably be investigated within the time available and also taking into account the geographical spread of the co-operating companies or groups. The sample selected consists of four (groups of) companies, representing 47 % of the exports to the EU of the 36 co-operating companies or groups, and around 43 % of the total exports to the EU from the PRC. The authorities of the PRC and the Chinese Chamber of Commerce agreed on the choice of sample made by the Commission but requested the inclusion of at least two additional (groups of) companies in the sample. However, given the fact that the sample initially selected consists of 20 companies belonging to 4 groups, it was decided that no more companies or groups could be added since this would not permit completion of investigations within the statutory time limits.

(8) Five exporting producers in the PRC, which were not included in the sample, requested individual examination and provided the relevant information within the given deadline, with a view to the application of Articles 9(6) and 17(3) of the basic Regulation. However, in view of the size of the sample which concerned 4 groups with many companies involved, the Commission concludes, in accordance with Article 17(3) of the basic Regulation, that no individual examination of exporting producers in the PRC not included in the sample can be granted because this would be unduly burdensome and would prevent completion of the investigation in good time.

(9) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual examination in accordance with Article 17(3) of the basic Regulation, if they so wished, the Commission sent claim forms to the Chinese exporting producers that made such request and to the Chinese authorities.

(10) The Notice of initiation was sent to around 40 Union producers of aluminium road wheels (ARWs). 17 replies were received. 5 groups of companies were sampled

as they were found to be representative of the total Union production in terms of sales volumes and production in the EU (more than 75 %) geographical coverage and type of activity, i.e. Original Equipment Manufacturer (OEM) and so-called aftermarket (AM) sales, see recital (19) *et seq* for further details. Although the majority of sales of the sampled EU producers' sales were directed to the OEM segment, 2 of the sampled producers also sold to the AM segment. Non-complaining companies were also represented in the sample.

(11) During the investigation, parties put forward further arguments concerning alleged differences between the OEM and AM segments. In order to obtain more relevant information, it was decided to extend the sample to one additional (major) producer active in the AM segment.

(12) Complainants requested that their names be kept confidential for fear that they could face retaliation by customers or competitors. The Commission took the view that there was indeed a significant possibility of retaliation and accepted that the names should not be disclosed. After initiation, all cooperating companies agreed to release their names in their capacity as co-operators but not, where applicable, in their capacity as complainants.

(13) The Notice of initiation was sent to around 80 importers and importers/users of ARWs. 40 replies were received from companies representing around one third of total imports from China. 12 of these replies were received from importers and the rest from importing users. 7 companies were sampled (5 importers and 2 importing users).

(14) The Commission sent questionnaires to the 6 Union producers selected in the sample, to the exporting producers in the sample selected for the PRC and to those who requested IT, to the 7 importers selected in the sample. In addition, questionnaires were sent to users and cooperating other producers.

(15) Questionnaire replies were received from the 4 sampled Chinese exporting producers and from 5 Chinese exporting producers requesting IT in accordance with Article 17(3) of the basic Regulation. Replies were also received from the 6 sampled Union producers, 3 importers not related to an exporting producer, from 9 other EU producers and 13 users. Submissions were also received from the Chinese Chamber of Commerce, and from two associations of users.

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

(a) Union producers:

— Borbet group:

Borbet Solingen GmbH — Germany

— Heyes Lemmerz group:

Heyes Lemmerz Alukola, s.r.o. — Czech Republic

Heyes Lemmerz Italy Holding s.r.l. — Italy

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— Ronal group:
  Ronal AG — Switzerland
  Ronal Polska Sp. z o.o. — Poland
— Speedline s.r.l. — Italy
— Mapsa S. Coop. L. — Spain
— AEZ — Germany
— Française de Roues S.A.S.V. — France

(b) Exporting producer sand their related companies in the PRC:
— Baoding Lizhong Wheels manufacturing Co. Ltd. (Baoding)
— Zhejiang Wanfeng Auto Wheel Co. Ltd (Wanfeng)
— YHI Manufacturing (Shanghai) Co., Ltd (YHI)
— CITIC Dicastal Wheel Manufacturing (CITIC)

(c) Related companies in the Union:
— OZ Deutschland, Biberbach (Germany)
— OZ SpA, Bassano del Grappa (Italy)

(d) Related companies in Singapore:
— OZ Asia
— YHI Manufacturing

(e) Users:
— Renault — France
— BMW — Germany

(17) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from Turkey as analogue country took place at the premises of the following companies:

(f) Producers in Turkey:
— CMS Jant ve Makina Sanayi A.Ş.
— Hayes Lemmerz İnci Aluminyum.

3. **Investigation period**

(18) The investigation of dumping and injury covered the period from 1 July 2008 to 30 June 2009 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2006 to the end of the IP (the period considered).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(19) The product concerned is defined as aluminium road wheels of the motor vehicles of CN headings 8701 to 8705, whether or not with their accessories and whether or not fitted with tyres originating in the People's Republic of China (the product concerned), currently falling within CN codes ex 8708 70 10 and ex 8708 70 50.

(20) The product concerned is sold in the Union via two distribution channels: to the Original Equipment Manufacturer (OEM) segment and to the so-called aftermarket (AM) segment. In the OEM segment, car manufacturers organize tender procedures for ARWs (around two years before the launch of a new car model) and are involved in the process of developing a new wheel which will bear their brand name. Both Union producers and Chinese exporters compete in the same tenders. In the AM sector, ARWs are designed, developed and branded by ARW producers to be then sold to wholesalers, retailers, tuning companies, car repair shops, etc.

(21) One exporter claimed that the ARWs destined for the OEM segment should be excluded from the product scope of the proceeding because they are fitted only on a new car while the ARWs destined to the AM segment are meant to replace the OEM wheel during the lifetime of a car model. The argument is self-contradictory because it confirms that 'AM ARWs' are made to fit and perform to the same degree as 'OEM ARWs'. In fact the 'AM ARWs' can be produced by means of different production processes[(3)], in all diameters and weights, with all different types of finishing, etc. The difference between the 'OEM and AM' ARWs relates solely to the different channels of distribution which result in the involvement of the car industry in the process of developing and designing the wheel. It has also been claimed that the price setting of 'OEM and AM' ARWs differs, the former being linked to the changing London Metal Exchange (LME) price. Indeed, the car manufacturers use a so called zero-base price formula. It consists of three elements: (1) aluminium price (variable, linked to LME), (2) value added, transformation costs, and (3) a fixed quality premium. This price setting method is adjusted to the needs of the car industry, but the cost components of both 'OEM and AM' ARW are the same.

(22) Consequently, although the 'OEM and AM' ARW have different channels of distribution they share the same physical and technical characteristics and are interchangeable. They are thus considered to constitute one single, homogenous product. In addition, ARWs are sold and imported from China in significant quantities via both sales channels. In the light of these findings, it is provisionally concluded that the exclusion of the 'OEM ARW' from the product scope of the investigation is not warranted.

(23) An interested party claimed that wheels for go-karts should be excluded because go-karts would fall out of CN headings 8701 to 8705. Nevertheless, the party failed to conclusively show that go-karts cannot be included within the above-mentioned CN headings; therefore, the claim was provisionally rejected.

(24) The same party claimed that wheels for all-terrain vehicles (ATVs) should also be excluded from the product scope, because those wheels would be fundamentally different from wheels manufactured for other motor vehicles. Nevertheless, certain