Implementing Regulation of the Council (EU) No 157/2010 of 22 February 2010 imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96

IMPLEMENTING REGULATION OF THE COUNCIL (EU) No 157/2010

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THE COUNCIL OF THE EUROPEAN UNION,

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)], repealing Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(2)] (the 'basic Regulation') and in particular Article 11(2) of Regulation (EC) No 1225/2009,

Having regard to the proposal submitted by the European Commission ('the Commission') after having consulted the Advisory Committee,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) By Regulation (EC) No 119/97[(3)], the Council imposed definitive anti-dumping duties ranging from 32,5 % to 39,4 % on imports of certain ring binder mechanisms ('RBMs') originating in the People's Republic of China (PRC). These rates of duty were applicable to RBMs other than those with 17 or 23 rings, while RBMs with 17 and 23 rings were subject to a duty equal to the difference between the minimum import price (MIP of EUR 325 per 1 000 pieces and the free-at-Union-frontier not cleared through customs price whenever the latter was lower than the MIP).

(2) By Regulation (EC) No 2100/2000[(4)], the Council amended and increased the above mentioned duties for certain RBMs other than those with 17 or 23 rings, following a review investigation pursuant to Article 12 of the basic Regulation. The amended duties ranged from 51,2 % to 78,8 %.

(3) Following a request by two Union producers an expiry review pursuant to Article 11(2) of the basic Regulation was initiated in January 2002[(5)] and, by Regulation (EC) No 2074/2004[(6)], the Council extended the existing anti-dumping measures for four years.

Changes to legislation: *There are currently no known outstanding effects for the Implementing Regulation of the Council (EU) No 157/2010. (See end of Document for details)*

(4) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Regulation (EC) No 1208/2004[7], the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Vietnam, whether declared as originating in Vietnam or not.

(5) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Regulation (EC) No 33/2006[8], the Council extended the definitive anti-dumping measures to imports of certain RBMs consigned from Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not.

(6) Finally, in August 2008, by Regulation (EC) No 818/2008[9], the Council extended the scope of the measures to certain slightly modified RBMs since it was established that measures were circumvented.

2. **Request for a review**

(7) Following the publication of a notice of impending expiry of the anti-dumping measures in force on imports of certain RBMs originating in the PRC[10], the Commission received, on 4 September 2008, a request to review these measures pursuant to Article 11(2) of the basic Regulation.

(8) The request was lodged by the Union producer Ring Alliance Ringbuchtechnik GmbH ('the applicant') representing a major proportion, in this case more than 50 %, of the total Union production of ring binder mechanisms. The request was based on the grounds that the expiry of measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.

(9) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review pursuant to Article 11(2) of the basic Regulation, the Commission initiated a review[11].

3. **Investigation**

(a) *Procedure*

(10) The Commission officially advised the exporting producers, importers and users known to be concerned, the representatives of the exporting country, the applicant Union producer and the other known Union producer of the initiation of the expiry review. 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.

(11) All parties who so requested within the above time limit and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.

(12) Questionnaires were sent to all the parties that were officially advised of the initiation of the review and to those who requested a questionnaire within the time limit

set out in the notice of initiation. In addition, one producer in Thailand (the envisaged analogue country) was contacted and received a questionnaire.

(13) Replies to the questionnaires were received from one exporting producer in the PRC who did not export RBMs to the European Union ('EU') and its related company in Thailand, the applicant Union producer, three unrelated importers and one user related to the complainant. The other Union producer did not cooperate in this investigation and one unrelated importer only submitted comments.

(14) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties. They were granted a period within which to make representations subsequent to disclosure. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.

(b) *Interested parties and verification visits*

(15) The Commission's services sought and verified all the information deemed necessary for the purpose of determination of the likelihood of a continuation or recurrence of dumping and injury and of the EU interest. Verification visits were carried out at the premises of the following companies:

(i) applicant Union producer

— Ring Alliance Ringbuchtechnik GmbH, Vienna, Austria;

(ii) producer in the exporting country

— Wah Hing Stationery Manufactory Ltd ('WHS'), Guangzhou and its related company Wah Hing Stationery Manufactory Ltd (WHS) in Hong Kong, PRC;

(iii) unrelated importer in the EU

— Giardini S.r.l., Settimo Milanese, Italy.

(c) *Investigation period*

(16) The investigation of continuation or recurrence of dumping covered the period from 1 October 2007 to 30 September 2008 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2005 up to the end of the RIP ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(17) The product concerned is the same as defined in Council Regulation (EC) No 2074/2004 i.e. certain ring binder mechanisms consisting of two steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel trigger mechanism fixed to the ring binder mechanism. The rings can have different

shapes, the most common ones being round and D-shaped ('the product concerned'). RBMs are currently falling within CN code ex 8305 10 00. Lever-arch mechanisms ('LAM') classified within the same CN code are not included in the scope of the product concerned.

(18) RBMs are used to make paper, cardboard and plastic-coated office files, presentation and other bound files.

(19) A large number of different types of RBMs were sold in the EU during the RIP. The differences between these types were determined by the width of the base, the type of mechanism, the number of rings, the opening system, the nominal paper holding capacity, the ring diameter, the shape of the rings, the length and the ring spacing. Given the fact that all types have the same basic physical and technical characteristics and, within certain ranges, are interchangeable, it was established that all RBMs constitute one single product for the purpose of the present proceeding.

2. **Like product**

(20) It was also found that there was no difference in the basic physical and technical characteristics and uses between RBMs produced in the PRC and RBMs produced by the Union industry and sold on the EU market.

(21) It was therefore concluded that RBMs originating in the PRC and RBMs produced and sold by the Union industry on the EU market were all like products 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, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

1. **Preliminary remarks**

(23) No Chinese producer exporting RBMs to the EU cooperated with the investigation. Of the four Chinese companies named in the request, only one cooperated, as well as its related company based in Thailand. The three other exporting companies did not reply to the questionnaire. The sole Chinese cooperating producer did not export the product concerned to the EU but performed exports of the product concerned to other third country markets. In the absence of cooperation of any Chinese exporting producer of the RBMs to the EU during the RIP, findings with regard to dumping had to be based on information available to the Commission from other sources in accordance with the provisions of Article 18 of the basic Regulation. In this case it was considered that the most reasonable and appropriate information was the information given by Eurostat in relation to exports. Where practical and with due regard to the time limits of the investigation, this information was checked by reference to information from the sole Chinese producer that cooperated with the present investigation but did not export RBMs to the EU and to the Chinese export statistics. Nevertheless, account taken of the fact that no company specific data with

respect to quantities and volumes exists from the Chinese exporting producers the Eurostat statistics are still considered the only available proxy of the Chinese exports to the EU, even if the absolute level of prices given by Eurostat seems quite high as compared to import prices reported by Chinese export statistics and Eurostat figures given for other third countries.

2. **Continuation of dumping**

(a) *Analogue country*

(24) Since the PRC is an economy in transition and in accordance with the provisions of Article 2(7)(a) of the basic Regulation, normal value had to be determined on the basis of the price or constructed normal value obtained in an appropriate market economy third country (the 'analogue country'), or the price from the analogue country to other countries, including the Union, or where those are not possible on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.

(25) In the previous investigation, India was chosen as analogue country. In this respect it is noted that the Commission informed the sole Indian producer that cooperated in the previous investigation on the initiation of the current proceeding but the relevant party refused to cooperate. In the expiry review request, Thailand was suggested as analogue country for the purpose of establishing normal value. This choice was contested by certain parties involved with the proceeding who claimed that India should have been used as an appropriate analogue country.

(26) With respect to Thailand one Thai producer agreed to cooperate. Therefore the Commission examined the possibility of using data obtained from Thailand for the purpose of establishing normal value for PRC. With this regard it should be noted that there were no domestic sales of the product concerned in Thailand. Therefore, any determination of normal value in Thailand would have to be made on the basis of Article 2(6)(c).

(27) Moreover, the comparison of the level of the average export price of the product concerned when exported from Thailand and the average export price of the product concerned from PRC as provided by Eurostat showed that Chinese prices were higher than Thai prices. In this regard it should be noted that there is a significant range of different product types that are covered by the product concerned and prices can vary depending on the product type. Due to absence of cooperation by the PRC exporting producers, the exact composition of their export sales to the EU could not be established and compared to the product mix of the Thai exporting producers. Consequently, since there were no indications that the significant difference in export prices can be attributed to any other factor, it was concluded that there is a difference in product mix of RBMs exported to the EU by the Chinese and the Thai exporting producers. In effect, based on the differences in export prices for Thailand and PRC to the European Union, it was concluded, using the best data available, that the exports from PRC cover rather more expensive, elaborated product types and that also for this reason it would not be appropriate to use data from Thailand for establishing normal value for PRC.