COMMISSION IMPLEMENTING REGULATION (EU) 2023/593

of 16 March 2023

re-imposing a definitive anti-dumping duty on imports of certain lightweight thermal paper originating in the Republic of Korea as regards the Hansol Group and amending the residual duty

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 Articles 9(4) and 14(1) thereof,

Whereas:

1. PROCEDURE

(1) Following an anti-dumping investigation in accordance with Article 5 of the basic Regulation, on 2 May 2017 the Commission adopted Implementing Regulation (EU) 2017/763 [2] imposing a definitive anti-dumping duty on imports into the Union of certain lightweight thermal paper ('LWTP') originating in the Republic of Korea ('the country concerned') ('the Regulation at issue'). The measures took the form of fixed duty rates: EUR 104,46 per tonne net for both the Hansol group and for all other companies.

1.1. The judgments in cases T-383/17 [3] and C-260/20 P [4]

(2) The Hansol group (Hansol Paper Co. Ltd. and Hansol Artone Paper Co. Ltd.) ('Hansol') challenged the Regulation at issue before the General Court. On 2 April 2020, the General Court issued its judgment in Case T-383/17 annulling Implementing Regulation (EU) 2017/763 insofar as it concerned Hansol. On 11 June 2020, the Commission appealed the judgment of the General Court (Case C-260/20 P). On 12 May 2022, the Court of Justice rejected the appeal.

(3) The General Court found that the Commission had committed an error when establishing normal value for at least one product type sold by Hansol Artone Paper Co. Ltd. ('Artone'). Absent domestic sales of that product type, the Commission had, pursuant to Article 2(3) of the basic Regulation, constructed normal value for Artone on the basis of Artone's cost of production. As Hansol Paper Co. Ltd. ('Hansol Paper') had representative domestic sales in the ordinary course of trade of that product type, the General Court found that the Commission should have used the domestic sales price of that party as a normal value, pursuant to Article 2(1) of the basic Regulation.

(4) The General Court also found that the Commission had made a manifest error of assessment in the weighting of sales in the European Union of jumbo rolls to independent customers as compared with sales to related converters for conversion into small rolls. The Commission had applied such weighting to properly reflect Hansol's overall dumping behaviour whereas Hansol, at its request, had been granted an exemption for three of its related converters to complete a questionnaire. The General Court found that, by not accounting for a certain resales volume of Schades Nordic, one of these three related converters in the Union, the Commission had underestimated the weight of Hansol's sales of jumbo rolls to independent customers which had a significantly lower dumping margin than its sales to related converters for resale in the form of small rolls to independent traders. The Commission had therefore infringed Article 2(11) of the basic Regulation as the calculations made by the Commission did not reflect the full extent of dumping practiced by Hansol.

---

[1] OJ L 176, 30.6.2016, p. 21.

[2] Commission Implementing Regulation (EU) 2017/763 of 2 May 2017 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain lightweight thermal paper originating in the Republic of Korea (OJ L 114, 3.5.2017, p. 3).

[3] ECLI:EU:T:2020:139.

[4] ECLI:EU:C:2022:370.

(5) The General Court finally found that the weighting error described under recital (4) also affected the calculation of the undercutting and injury margin, since the Commission had used the same weighting for those calculations. It therefore found that the Commission had infringed Article 3(2) and 3(3) of the basic Regulation.

(6) These findings were upheld by the Court of Justice ([5]).

1.2. **Implementation of the judgments**

(7) According to Article 266 of the Treaty on the Functioning of the European Union ('TFEU'), the Union institutions are obliged to take the necessary steps to comply with the Union Courts' judgments. In case of an annulment of an act adopted by the Union institutions in the context of an administrative procedure, such like the anti-dumping investigation in this case, compliance with the General Court's judgment consists in the replacement of the annulled act by a new act, in which the illegality identified by the General Court is eliminated ([6]).

(8) According to the case-law of the General Court and the Court of Justice, the procedure for replacing an annulled act may be resumed at the very point at which the illegality occurred ([7]). That implies, in particular, that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-dumping procedure. For instance, where a regulation imposing definitive anti-dumping measures is annulled, the proceeding remains open because it is only the act concluding the proceeding that has disappeared from the Union legal order ([8]), except in cases where the illegality occurred at the stage of initiation. The resumption of the administrative procedure with the re-imposition of anti-dumping duties on imports that were made during the period of application of the annulled regulation cannot be considered as contrary to the rule of non-retroactivity ([9]).

(9) In the present case, the General Court annulled the Regulation at issue as regards Hansol on the grounds mentioned under recitals (3) to (5).

(10) Findings in the Regulation at issue, which were not contested, or which were contested but rejected by the General Court or not examined by the General Court, and therefore did not lead to the annulment of the Regulation at issue, remain fully valid ([10]).

(11) Following the Court of Justice's judgment in Case C-260/20 P, the Commission decided to partially re-open the anti-dumping investigation concerning imports of certain lightweight thermal paper that lead to the adoption of the Regulation at issue and to resume the investigation at the point at which the irregularities occurred. A Notice ('the re-opening Notice') was published in the *Official Journal of the European Union* on 30 June 2022 ([11]). The re-opening was limited in scope to the implementation of the judgment of the Court of Justice with regard to Hansol.

([5]) The Court of Justice found that the General Court had erred in law in holding that the Commission had incorrectly decided to deduct SG&A costs and a profit margin for resales of the product concerned by Schades to independent customers for the purpose of establishing the export prices of that product in the context of the determination of the injury.

([6]) Joined Cases 97, 193, 99 and 215/86 Asteris AE and others and Hellenic Republic v Commission [1988] ECR 2181, paragraphs 27 and 28; Case T-440/20, Jindal Saw v European Commission [2022] EU:T:2022:318, paragraphs 77-81.

([7]) Case C-415/96 Spain v Commission, ECR I-6993, paragraph 31; Case C-458/98 P Industrie des Poudres Spheriques v Council [2000] ECR I-8147, paragraphs 80 to 85; Case T-301/01 Alitalia v Commission [2008] ECR II-1753, paragraphs 99 and 142; Joined Cases T-267/08 and T-279/08 Region Nord-Pas de Calais v Commission [2011] ECLI:EU:T:2011:209, paragraph 83.

([8]) Case C-415/96 Spain v Commission, ECR I-6993, paragraph 31; Case C-458/98 P Industries des Poudres Spheriques v Council [2000] ECR I-8147, paragraphs 80 to 85.

([9]) Cases C-256/16 Deichmann SE v Hauptzollamt Duisburg [2018] ECLI:EU:C:2018:187, paragraph 79; C-612/16 C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs [2019] ECLI:EU:C:2019:508, paragraph 58; and Case T-440/20, Jindal Saw v European Commission [2022] EU:T:2022:318, paragraph 59.

([10]) Case T-650/17, Jinan Meide Casting Co. Ltd [2019] ECLI:EU:T:2019:644, paragraphs. 333–342.

([11]) Notice of re-opening of the anti-dumping investigation with regard to Commission Implementing Regulation (EU) 2017/763 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain lightweight thermal paper originating in the Republic of Korea following the judgment of the General Court of 2 April 2020 in Case T-383/17, as upheld by the Court of Justice in case C-260/20 P (OJ C 248, 30.6.2022, p. 152).

(12) At the same time, the Commission decided to make imports of certain lightweight thermal paper originating in the Republic of Korea and produced by Hansol subject to registration and requested national customs authorities to await the publication of the relevant Commission Implementing Regulation re-imposing the duties before deciding on any claims for repayment and remission of anti-dumping duties insofar as imports concerning Hansol's products were concerned ([12]) ('the registration Regulation').

(13) The Commission informed interested parties of the re-opening and invited them to comment.

2. COMMENTS FROM INTERESTED PARTIES UPON REOPENING

(14) The Commission received comments from Hansol and the European Thermal Paper Association ('ETPA') and its members.

(15) Hansol noted that in the registration Regulation, the Commission had relied on the judgments of the General Court in Cases T-440/20 and T-441/20 ('Jindal Saw') ([13]) for concluding that registration was a tool so that measures may subsequently be applied against imports from the date of registration. Hansol submitted that these judgments were not yet final and that they did not apply to the present situation, as in Case T-383/17 the General Court had stated that the regulation was illegal whereas it had not stated so in Cases T-440/20 and T-441/20. It also argued that in Jindal Saw the company concerned, Jindal Saw, was one of several exporting producers and there were several countries concerned, whereas Hansol is the sole exporting producer in the case at hand which concerns only Korea. On that basis, Hansol submitted that the Commission may therefore not rely on the Jindal Saw judgments to retroactively collect the final liability for the payment of the anti-dumping duties on imports of the product concerned manufactured by Hansol.

(16) Concerning the fact that the Jindal Saw judgment could still be appealed, ETPA submitted that these judgments replicate long-established case-law. ETPA also disputed the differences alleged by Hansol between the judgments in Jindal Saw and that in T-383/17, as in the operative part of the judgments in T-300/16 and T-301/16 (the cases preceding T-440/20 and T-441/20 by which the original regulations in Jindal Saw were annulled), like in T-383/17, the General Court annulled the contested regulation in its entirety, in so far as it concerns the applicant. According to ETPA, the fact that the judgment annulled the Regulation at issue only for Hansol also entails that, contrary to Hansol's claim, it still forms part of the legal order of the Union.

(17) In this respect, the Commission noted that the fact that the judgment in Case T-440/20 was still not final when the registration regulation was published does not imply that registration was not possible in this case. The General Court in that case endorsed the Commission practice of registering imports when implementing judgments, supporting the fact that the Commission can indeed register imports in such situations. The General Court stated that Article 14 of the basic Regulation, empowering the Commission to require national authorities to take appropriate measures to register imports, is of general application. In particular the General Court noted that 'Article 14(5) of that regulation is not subject to any restriction as to the circumstances in which the Commission is empowered to require the national customs authorities to register goods'. The General Court further stated that 'depriving the Commission of the right to resort to registration as part of proceedings for reimposing a definitive anti-dumping duty is liable to undermine the effectiveness of regulations that may lead to such a reimposition'. The judgment in any event became final in the meantime. The claim was therefore rejected.

(18) Concerning Hansol's claim that the Regulation at issue no longer stands as Hansol, for which it was annulled, was the only exporting producer concerned by that Regulation, the Commission noted that, without entering into the legal relevance of the claim, the claim is factually incorrect. Indeed, the fact that no other producers from the Republic of Korea exporting to the Union in the investigation period had been identified does not mean that Implementing Regulation (EU) 2017/763 only applies to Hansol. Indeed, in the Regulation at issue, the Commission also imposed duties on other exporting producers via the residual duty. ([14]) Moreover, the General Court annulled the contested Regulation only 'in so far as it concerns Hansol Paper Co. Ltd.'. The claim was therefore rejected.

([12]) Commission Implementing Regulation (EU) 2022/1041 of 29 June 2022 making imports of certain lightweight thermal paper originating in the Republic of Korea subject to registration following the re-opening of the investigation in order to implement the judgment of the General Court of 2 April 2020 in Case T-383/17, as upheld by the Court of Justice in Case C-260/20 P, with regard to Commission Implementing Regulation (EU) 2017/763 (OJ L 173, 30.6.2022, p. 64).

([13]) Case T-440/20, Jindal Saw v European Commission [2022] EU:T:2022:318, paragraphs 154 – 159.

([14]) Implementing Regulation (EU) 2017/763, recitals (129) and (133).

(19) Hansol further indicated a concern that the Commission would possibly not correctly understand how to correct the issue of the weighting. Hansol claimed that, according to the judgment of the General Court, the percentage representing the resales of jumbo rolls by Schades Ltd. in the total sales of Jumbo rolls by Hansol Paper, Artone, and its related trader Hansol Europe to its related trader Schades Ltd., should be applied to the quantity of sales of jumbo rolls to its related converters (Schades Nordic, Heipa and R+S) for resales. The resulting quantity should be added to the quantity of sales of jumbo rolls (direct and indirect) used for the dumping margin calculation and deducted from the quantity of sales of jumbo rolls to Schades Nordic, Heipa and R+S for conversion. On that basis, Hansol provided a recalculation of the weighting between the direct and indirect sales of jumbo rolls to independent customers versus the sales to related converters for resales in the form of small rolls to independent customers. ETPA underlined that during the investigation, in addition to Schades Ltd., the only converter related to Hansol that also resold jumbo rolls was Schades Nordic and that therefore only for that reason already such an approach would not be in line with the evidence available to the Commission. It also emphasized that, while the General Court identified certain errors in the approach adopted by the Commission in the original investigation, it did not impose an approach for a revised weighting calculation and clarified that it is up to the Commission to decide what measures are appropriate to ensure compliance with the judgment.

(20) With regard to this issue, the Commission noted that the method proposed by Hansol is fundamentally different from the method used by the Commission in its dumping calculation for the Regulation at issue. In that calculation establishing Hansol's margins, the Commission quantified the total direct and indirect sales of jumbo rolls to unrelated customers made by the Hansol group as a whole as reported in the questionnaire replies of the different group entities in their sales tables. On that basis the Commission established the weight of such sales as compared to the weight of jumbo rolls for conversion into small rolls. Hansol's proposal to apply the calculated share of jumbo rolls resales by Schades Ltd. as compared to Schades Ltd's total purchase volumes to the other three related converters is a fundamentally different and less accurate method, in view of the jumbo roll resales volumes of the three related converters which did not reply to the questionnaire, as reported by Hansol during the proceeding.

(21) The Commission further clarified that, whereas the General Court found that the Commission had erred by not including in the calculation the jumbo rolls resales volumes reported in the proceeding by Schades Nordic ([15]), it had not disqualified the Commission's methodology as such. The Commission therefore strictly adhered to the General Court's ruling by keeping the methodology for establishing the respective weight unchanged, except for the fact that it now added the volumes of jumbo rolls sold by Schades Nordic, Heipa and R+S, as required by the General Court. That calculation was further explained in the limited company-specific disclosure.

3. RE-EXAMINATION OF THE ISSUES IDENTIFIED BY THE GENERAL COURT AND UPHELD BY THE COURT OF JUSTICE

3.1. Dumping margin

3.1.1. *Normal value*

(22) For two product types exported to the Union by Artone, the Commission had, in its calculating of dumping, constructed normal value in the absence of representative domestic sales of that party. In paragraph 148 and paragraphs 152-158 of the judgment in Case T-383/17 and paragraphs 79 and 85 of the judgment in Case C-260/20 P, the Union Courts found that, according to both the wording and the structure of the first subparagraph of Article 2(1) of the basic Regulation, it was the price actually paid or payable in the ordinary course of trade which must, as a matter of priority, be taken into consideration to establish the normal value. When the exporter does not sell the like product domestically, the normal value is to be established on the basis of prices of other sellers or producers as a matter of priority, and not on the basis of the production costs of the company concerned.

(23) One of the two product types referred to in recital (22) was indeed sold on the domestic market in representative quantities and in the ordinary course of trade by the related company Hansol Paper and, therefore, the General Court found that the Commission had infringed Article 2(1) of the basic Regulation in the context of the calculation of the normal value of Artone.

([15]) Paragraphs 86 and 87 of the General Court's judgment in case T-383/17, paragraphs 62 – 64 of the Court of Justice's judgment in case C-260/20 P.

(24) Thus, the Commission revised the calculation of the normal value for that product type by replacing Artone's constructed normal value by the normal value of Hansol Paper as regards that product type.

(25) The other product type exported by Artone for which normal value was constructed did not have representative domestic sales by Hansol Paper either. Indeed, Hansol Paper's domestic sales volumes fell well below the 5 % threshold of Article 2(2) of the basic Regulation. Consequently, and pursuant to Article 2(3) of the basic Regulation, the normal value of that product type had also been constructed for Hansol Paper. In the absence of representative sales prices in the ordinary course of trade of other sellers or producers in the exporting country, the construction of Artone's normal value for this product type was therefore maintained.

3.1.2. *Weighting*

(26) In the investigation leading to the Regulation at issue, the Commission had received questionnaire replies from Hansol, Artone, Hansol Europe (a related trader in the Union) and Schades UK Ltd., a related trader/converter located in the Union. Three converters located in the Union and related to the Hansol Group, i.e. Schades Nordic, Heipa and R+S, had requested an exemption to complete the questionnaire for companies related to the exporting producer (Annex I to the questionnaire). These parties converted the product concerned for resale, in small rolls, to independent customers. The Commission accepted their exemption request, which was based on the absence or limited volume of sales of the product concerned by these parties.

(27) As per Article 2(11) of the basic Regulation, the Commission is obliged to take into account all of the export transactions to the Union when calculating the dumping margin. In order to include in its calculation of dumping the significant volume of sales by the Hansol Group to the related converters which had been exempted from completing a questionnaire, the Commission had extended the results of the dumping calculation by applying a weighting of the dumping margins calculated on the basis of the verified questionnaire replies of Hansol Paper, Artone, Hansol Europe and Schades UK Ltd. For that purpose, the Commission attributed a weight of between 15 % and 25 % to the dumping margin established for direct sales and sales of the product concerned through related companies and a weight of between 75 % and 85 % to the dumping margin established for sales to related converters for resale as small rolls to unrelated parties ([16]).

(28) The General Court and the Court of Justice found that the Commission had infringed Article 2(11) and 9(4) of the basic Regulation. They found that the weighting used was vitiated by a manifest error as a certain volume of product concerned resold by Schades Nordic had been neglected. The volume of direct and indirect sales of the product concerned had thus been understated in the calculation of the weighting and the full extent of the dumping had consequently not been reflected in the calculations ([17]).

(29) In light of the findings of the Union Courts as summarized in recital (28), the Commission reviewed the weighting calculation. It did so by adding to the volume of direct and indirect sales of the product concerned used for that computation, the volume of Hansol jumbo rolls resales through Schades Nordic as reported by Hansol during the investigation. The weight of Hansol's direct and indirect sales of the product concerned as compared to its total sales to the Union consequently increased by 0,7 percentage points, whereas the weight of its sales to related converters for resale as small rolls to unrelated parties decreased by the same percentage.

3.1.3. *Dumping margin*

(30) The Commission recalculated the dumping margin for Hansol, by replacing the constructed normal value of one product type sold by Artone by a normal value based on the domestic sales price of that product type achieved by Hansol Paper, as explained in recital (24), and by revising the weighting of the established dumping margins for the two kinds of sale, as explained in recital (29).

([16]) Commission Implementing Regulation (EU) 2016/2005 of 16 November 2016 imposing a provisional anti-dumping duty on imports of certain lightweight thermal paper originating in the Republic of Korea (OJ L 310, 17.11.2016, p. 1), recitals (45) and (46).

([17]) Case T-383/17, paragraphs 83 to 87 and 92; and Case C-260/20 P, paragraph 63.

(31) On that basis, the revised definitive weighted average dumping margin of the Hansol Group, expressed as a percentage of the CIF Union frontier price, duty unpaid, was lowered from 10,3 % to 10,2 %.

3.2. **Undercutting margin and impact analysis**

(32) In the Regulation at issue, the same weighting which had been applied to the dumping margins for direct and indirect sales of the product concerned, on the one hand, and for sales to related converters for resale as small rolls to unrelated parties, on the other, had also been applied to calculate Hansol's undercutting margin.

(33) The Union Courts found that the error affecting the calculation of the weighting of sales also affected the price undercutting calculation and the assessment of the impact of the dumped imports on like products of the Union industry ([18]).

(34) With regard to the calculation of undercutting, the Commission implemented the Court of Justice's judgment by applying the revised weighting rates, as explained under recital (29), also to the undercutting margins for the direct and indirect sales of the product concerned, on the one hand, and for sales to related converters for resale as small rolls to unrelated parties, on the other.

(35) The result of the comparison, expressed as a percentage of the sampled Union producers' turnover during the investigation period, was a weighted average undercutting margin of 9,3 %.

(36) The undercutting margin found during the investigation leading to the regulation at issue was 9,4 %. In view of the immaterial difference between that margin and the revised undercutting margin, the Commission concluded that that change did not warrant the reassessment of the injury or causation analysis. Therefore, it confirmed the findings in that respect as summarized in sections 4 and 5 of the Regulation imposing provisional measures ([19]) and recital (102) of the Regulation at issue.

4. **DISCLOSURE**

(37) On 14 November 2022, the Commission informed all interested parties of the above findings on the basis of which it intended to propose to re-impose the anti-dumping duty on imports of certain lightweight thermal paper originating in the Republic of Korea and manufactured by Hansol and adjust the residual duty, on the basis of the facts collected and submitted relating to the original investigation. Following the final disclosure, comments were received from Hansol, ETPA and the Government of the Republic of Korea ('GOK').

(38) The GOK expressed its concerns with regard to the way the Commission had implemented the Union Courts' judgments as it understood that the revised dumping calculations did not fully rectify the errors identified in these judgments. However, the GOK did not further specify in what sense the Commission would have erred.

(39) ETPA strongly supported the Commission's intended course of action.

(40) In its comments to the disclosure, Hansol submitted that the Commission had not corrected the mistake with regard to the normal value calculation. Hansol also submitted that the Commission had not rectified the weighting error identified by the General Court and confirmed by the Court of Justice.

4.1. **Normal value**

(41) Hansol submitted that it agreed to the fact that the Commission had implemented the Union Courts' judgments by using, for the comparison with Artone's export price, the domestic sales price of Hansol Paper for a product type which that party had sold on the domestic market in representative quantities and in the ordinary course of trade (see recitals (23) and (24)). However, Hansol disagreed with the fact that the Commission, as explained in recital (25), had not done so for another product type not sold on the domestic market by Artone.

([18]) Case T-383/17, paragraphs 211 and 212; and Case C-260/20 P, paragraph 112.
([19]) Implementing Regulation (EU) 2016/2005.

(42) Hansol claimed that the Commission should nevertheless have used Hansol Paper's sales prices of that product type hereafter also referred to as 'product type X' (the actual product type number is confidential). It argued that the General Court had ruled that the Commission should use other parties' sales prices, if available, 'as a matter of priority'. In this respect, it claimed that Hansol's domestic sales of product type X were all profitable and, as a result, Hansol Paper's constructed normal value for that product type was equal to a normal value based on sales prices. The constructed normal value being equal to the sales price, Hansol claimed that the Commission was under the obligation to use Hansol Paper's sales price.

(43) The Commission disagreed. First, it clarified that the General Court had confirmed that, pursuant to Article 2(3) of the basic Regulation, first subparagraph, if there are no or insufficient sales of the like product in the ordinary course of trade, the Commission shall derogate from the principle of using sales prices to establish normal value and shall base normal value on the basis of prices of other sellers or producers or, if these are not available, calculate normal value on the basis of cost of production. It specified, in paragraph 150 of the judgment in Case T-383/17, that an insufficiency of sales covers the situation in which sales of the like product in the exporting country constitutes less than 5 % of the sales volume of the product concerned to the Union. The General Court therefore confirmed that in this scenario the Commission shall not use domestic sales prices ([20]). In this case, Hansol Paper's domestic sales volumes of product type X constituted less than 1 % of the sales of that product type to the Union, which is well below the 5 % threshold mentioned in Article 2(2) of the basic Regulation, and therefore its normal value of that product type was constructed by the Commission. It also recalled that during the investigation, Hansol never claimed that the Commission should not have constructed normal value of that product type for Hansol Paper. Absent of any other cooperating producer, as the Commission had constructed normal value of product type X for Hansol Paper, as explained above, and no alternative domestic sales price of that product type was therefore available, the Commission constructed normal value of product type X for Artone.

(44) Second, the mere fact that the constructed normal value of a given product type is identical to the sales price thereof does not turn it into a normal value based on sales prices. A normal value established under Article 2(3) of the basic Regulation is a constructed normal value. Therefore, for the purpose of calculating dumping, this constructed normal value cannot be used for a comparison with other parties' export prices as there is no provision for doing so in the basic Regulation. Hansol's claim that the Union Courts' judgments obliged the Commission to use Hansol Paper's domestic sales price in Artone's dumping calculation for that particular product type was therefore rejected.

4.2. **Weighting**

(45) Hansol further submitted that the Commission had not correctly understood the method that it should adopt to correct the weighting error. It invoked paragraph 86 of the judgment in Case T-383/17 and paragraph 64 of the judgment in Case C-260/20 P to claim that the Commission should have reflected the proportion of Schades UK Ltd. sales without conversion in Hansol's sales to its other related traders and not simply add the volume of Schades Nordic sales without conversion to Hansol's direct and indirect sales to independent customers. Hansol also brought forward that if the General Court would have considered that the Commission would rectify the weighting error as explained in recital (29), it would, in view of the limited impact, not have reached the conclusion that the weighting error could have affected the price undercutting calculation and the assessment of the impact of the dumped imports on like products of the Union industry.

(46) As a preliminary comment, Hansol's claim suggests that the Commission had used sampling, i.e. that it had applied Article 17(1) of the basic Regulation where it decided to use Schades UK Ltd.'s data in order to calculate the dumping margin for sales of the product concerned to related converters. The Commission noted that in paragraphs 63 to 69 of the judgment in Case T-383/17, the General Court dismissed the same claim. Indeed, the Commission decided to calculate the dumping margin on Hansol's sales to the other three related converters on the export price data from Schades UK Ltd, because it was considered the best placed to provide the most accurate figures with regard to the majority of Hansol Group's sales to related converters in the Union for subsequent resale as small roll to unrelated customers ([21]). For the purposes of Hansol Group's dumping calculation, the Commission took the view that Schades UK Ltd. was the only converter related to the Hansol group to have resold the product concerned to independent customers. This conclusion was considered incorrect by the Union Courts in view of the available evidence on file as regards Schades Nordic.

([20]) Case T-383/17, paragraphs 150 and 152.
([21]) Implementing Regulation (EU) 2017/763, recital (32).

(47) Indeed, the Commission noted that Hansol, in the original investigation, had reported to the Commission that Schades Nordic had resold [170 – 190] tonnes without conversion to independent customers. It also reported that the other two related converters that had been exempted, Heipa and R+S, had no resales without conversion ([22]). Hansol did not provide any evidence of sales of jumbo rolls by either Heipa or R+S. Therefore, Hansol's claim was in direct contradiction with the information that it had provided during the investigation.

(48) In the judgment in Case C-260/20 P, the Court of Justice clearly stated that the Commission cannot exclude information provided by interested parties purely on the ground that it was provided other than by responding to the anti-dumping questionnaire ([23]). The Commission, after having reopened the investigation, complied with that finding as it had taken aboard the information provided by Hansol, in the investigation, on the resales of jumbo rolls by Schades Nordic, Heipa and R+S. As Hansol had reported that Heipa and R+S had no resales of the product concerned, no correction was needed with regard to the volumes established for these parties

(49) Moreover, Hansol based its claim that the Commission should apply the proportion of Schades UK Ltd.'s sales without conversion to Hansol's three other related traders in particular on the text in paragraph 86 of the judgment in Case T-383/17 which reads: '(…) it should be noted that the Commission decided to use Schades (UK Ltd's) data in order to calculate the dumping margin on the sales made by the applicant to the three other related converters.(…)'. In this respect it also referred to the statement of the Court of Justice in paragraph 64 of the judgment in Case C-260/20 P, as follows: 'as is apparent from paragraphs 85 and 86 of the judgment under appeal, the Commission had decided to use Schades (UK Ltd's) data to calculate the dumping margin on Hansol's sales to the other three related converters. (…) In view of the fact that the Commission knew that Schades (Nordic) had resold certain quantities of the product concerned to independent customers without conversion, the General Court held that that institution should have reflected this in the sales of the product concerned to the other related converters. (…)'.

(50) The Commission considered that Hansol misread the statements made by the Union Courts. Indeed, Schades UK Ltd's data was used to calculate the dumping margin on Hansol's sales to the other three related converters as the dumping margin established for Schades UK Ltd.'s sales of jumbo rolls converted into small rolls was applied to the applicable volumes for conversion of Korean origin sold to these other three related converters. In paragraph 64 the Court of Justice noted, however, that the representative nature of Schades UK Ltd.' data 'in no way excluded the calculation based on those data from being vitiated by errors, given the failure to take account of all the relevant data in that regard'. In other words, the Court of Justice found that the use of Schades UK Ltd. as representative for Hansol's sales to the other related converters did not imply that the Commission could disregard the evidence on file as regards sales of jumbo rolls to independent customers reported by Schades Nordic. It did not require the Commission to reflect or extent the same proportion of Schades Ltd's sales without conversion in Hansol's sales to its other related traders. That would contradict the actual evidence on file, which has not been contested by Hansol. Through the re-opening of the investigation, and unlike previously done, the Commission fully considered the amounts of jumbo rolls sold to Hansol's related converters in the Union that resold jumbo rolls without conversion.

(51) It is with regard to the [170 – 190] tonnes of resales of the product concerned to independent customers by Schades Nordic that the General Court and the Court of Justice had established an error as these resales, that had been reported by Hansol in the procedure by other means than through a questionnaire reply, had not been considered by the Commission. This was corrected, as explained in recital (29), by adding to the volume of direct and indirect sales of the product concerned that volume of Hansol's jumbo rolls resales through Schades Nordic as reported by Hansol during the investigation. No further adjustments needed to be made, as Hansol had reported that the converters Heipa and R+S had not made any resales of the product concerned to independent customers.

([22]) Email of Hansol submitted on 19 February 2016, Sherlock number t16.002026.
([23]) Case C-260/20 P, paragraphs 50 to 53.

(52) Finally, the Commission rejected that the fact that the correction made by the Commission has a small impact only on the undercutting margin and no impact on the injury and causation analysis would demonstrate that the Commission had misunderstood the Union Courts' judgments. The General Court judgment says that 'it could not be excluded' that the Commission's error *could have had* an impact and not that it had an impact on the injury and causation analysis. ([24]) In the same vein, the Court of Justice noted in paragraph 62: 'The fact that, in light of those data, it was, at the very least, possible that the Commission had given too great a weighting to sales made to related converters for the purposes of conversion into small rolls, thereby increasing the actual dumping practised by Hansol, was sufficient to call in question the reliability and objective nature of the Commission's assessment of the dumping practised by Hansol'. Therefore, the fact that the correction of the weighing had a small impact on the revised undercutting demonstrates nothing but that the error identified by the General Court was immaterial. Thus, this claim was rejected.

5. **LEVEL OF THE MEASURES**

(53) The error identified by the General Court and upheld by the Court of Justice on the weighting of sales also affected the calculation of the injury margin. The Commission implemented the Union Courts' judgments by applying the revised weighting rates, as explained under recital (29), also to the injury margins for the direct and indirect sales of the product concerned, on the one hand, and for sales to related converters for resale as small rolls to unrelated parties, on the other.

(54) The result of the comparison resulted in an injury margin for Hansol of 36,9 %, whereas the injury margin established during the investigation leading to the regulation at issue was 37 % ([25]). Given that the re-established dumping margin is lower than the injury margin, in accordance with the applicable rules, the anti-dumping duty rate should be set at the level of the dumping rate. Accordingly, the re-imposed anti-dumping duty rate for Hansol is 10,2 %.

(55) The Commission recalled that the anti-dumping duty was imposed as a fixed amount in euro per tonne net. The revised definitive duty rate of 10,2 % represents a fixed duty rate of EUR 103,16 per tonne net.

(56) The Commission also recalled that the level of cooperation in this case was high, as the imports of Hansol constituted the total exports to the Union during the investigation period. Therefore, the residual anti-dumping duty was set at the level of the cooperating company. Consequently, the residual definitive duty rate, applicable to all other companies, was revised to a fixed duty rate of EUR 103,16 per tonne net.

(57) The revised level of anti-dumping duty applies without any temporal interruption since the entry into force or the Regulation at issue (namely, as of 4 May 2017 onwards). Customs authorities are instructed to collect the appropriate amount on imports concerning Hansol's products and refund any excess amount collected so far in accordance with the applicable customs legislation.

(58) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([26]), when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

([24]) Case T-383/17, paragraph 212.

([25]) Implementing Regulation (EU) 2017/763, recital (126).

([26]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

6. **CONCLUSION**

(59) On the basis of the above, the Commission considered it appropriate to re-impose the definitive anti-dumping duty on imports of certain lightweight thermal paper weighing 65 g/m² or less; in rolls of a width of 20 cm or more, a weight of the roll (including the paper) of 50 kg or more and a diameter of the roll (including the paper) of 40 cm or more ('jumbo rolls'); with or without a base coat on one or both sides; coated with a thermos-sensitive substance on one or both sides; and with or without a top coat, currently falling under CN codes ex 4809 90 00, ex 4811 90 00, ex 4816 90 00 and ex 4823 90 85 (TARIC codes: 4809 90 00 10, 4811 90 00 10, 4816 90 00 10, 4823 90 85 20), originating in the Republic of Korea at a fixed duty rate of EUR 103,16 per tonne.

(60) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of certain lightweight thermal paper weighing 65 g/m² or less; in rolls of a width of 20 cm or more, a weight of the roll (including the paper) of 50 kg or more and a diameter of the roll (including the paper) of 40 cm or more ('jumbo rolls'); with or without a base coat on one or both sides; coated with a thermos-sensitive substance on one or both sides; and with or without a top coat, currently falling under CN codes ex 4809 90 00, ex 4811 90 00, ex 4816 90 00 and ex 4823 90 85 (TARIC codes: 4809 90 00 10, 4811 90 00 10, 4816 90 00 10, 4823 90 85 20), originating in the Republic of Korea, as of 4 May 2017.

2. The rate of the definitive anti-dumping duty applicable to the product described in paragraph 1 shall be a fixed amount of EUR 103,16 per tonne net.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Any definitive anti-dumping duty as regards Hansol's products paid pursuant to Implementing Regulation (EU) 2017/763 in excess of the definitive anti-dumping duty established in Article 1 shall be repaid or remitted.

2. The repayment or remission shall be requested from national customs authorities in accordance with the applicable customs legislation. Any reimbursement that took place following the Court of Justice ruling in Case C-260/20 P Hansol Paper shall be recovered by the authorities which made the reimbursement, up to the amount set out in Article 1(2).

Article 3

The definitive anti-dumping duty imposed by Article 1 shall also be collected on imports registered in accordance with Article 1 of Implementing Regulation (EU) 2022/1041 making imports of certain lightweight thermal paper originating in the Republic of Korea subject to registration following the re-opening of the investigation in order to implement the judgment of the General Court of 2 April 2020 in Case T-383/17, as upheld by the Court of Justice in Case C-260/20 P, with regard to Implementing Regulation (EU) 2017/763.

Article 4

Customs authorities are directed to discontinue the registration of imports, established in accordance with Article 1(1) of Implementing Regulation (EU) 2022/1041, which is hereby repealed.

Article 5

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 March 2023.

For the Commission
The President
Ursula VON DER LEYEN