

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2384**of 17 December 2015****imposing a definitive anti-dumping duty on imports of certain aluminium foils originating in the People's Republic of China and terminating the proceeding for imports of certain aluminium foils originating in Brazil following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009**

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 11(2) thereof,

Whereas:

A. PROCEDURE**1. Measures in force**

- (1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Regulation (EC) No 925/2009 ⁽²⁾, a definitive anti-dumping duty on imports of certain aluminium foil originating in Armenia, Brazil and the People's Republic of China ('the PRC' or 'China').
- (2) The measures took the form of an *ad valorem* duty established at 13,4 % on imports from Armenia, at 17,6 % on imports from Brazil and at 30 % on imports from the PRC, with the exception of Alcoa (Shanghai) Aluminium Products Co., Ltd (6,4 %), Alcoa (Bohai) Aluminium Industries Co., Ltd (6,4 %), Shandong Loften Aluminium Foil Co., Ltd (20,3 %) and Zhenjiang Dingsheng Aluminium Co., Ltd (24,2 %).
- (3) An undertaking offered by one Brazilian exporting producer was accepted by the Commission by means of Commission Decision 2009/736/EC ⁽³⁾.

2. Request for an expiry review

- (4) Following the publication of a notice of impending expiry ⁽⁴⁾ of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures against Brazil and the PRC pursuant to Article 11(2) of the basic Regulation.
- (5) The request was lodged by AFM Aluminiumfolie Merseburg GmbH, Alcomet AD, Eurofoil Luxembourg SA, Hydro Aluminium Rolled Products GmbH, Impol d.o.o. and Symetal SA, ('the applicants') on behalf of producers representing more than 25 % of the total Union production of certain aluminium foils.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ Council Regulation (EC) No 925/2009 of 24 September 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain aluminium foil originating in Armenia, Brazil and the People's Republic of China (OJ L 262, 6.10.2009, p. 1).

⁽³⁾ Commission Decision 2009/736/EC of 5 October 2009 accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of certain aluminium foil originating, inter alia, in Brazil (OJ L 262, 6.10.2009, p. 50).

⁽⁴⁾ Notice of the impending expiry of certain anti-dumping measures (OJ C 49, 21.2.2014, p. 7).

- (6) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.
- (7) The applicants did not request the initiation of an expiry review investigation of the anti-dumping measures against imports originating in Armenia. These measures therefore lapsed on 7 October 2014 ⁽¹⁾.

3. Initiation of an expiry review

- (8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 4 October 2014, by a notice published in the *Official Journal of the European Union* ⁽²⁾ ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. Parallel anti-dumping investigation

- (9) In parallel, on 8 October 2014, the Commission announced the initiation of an anti-dumping investigation pursuant Article 5 of the basic Regulation with regard to imports into the Union of certain aluminium foils originating in Russia ⁽³⁾ (the 'parallel investigation').
- (10) In that investigation, the Commission imposed in July 2015, by means of Regulation (EU) 2015/1081 ⁽⁴⁾, a provisional anti-dumping duty on imports of certain aluminium foils originating in Russia. The provisional measures were imposed for a period of six months.
- (11) On 17 December 2015, the Commission imposed, by means of Regulation (EU) No 2015/2385 ⁽⁵⁾, a definitive anti-dumping duty on imports of certain aluminium foils originating in Russia.
- (12) The two parallel investigations covered the same review investigation period and the same period considered as defined in recital 13.

5. Investigation

5.1. Review investigation period and period considered

- (13) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2013 to 30 September 2014 (the 'review investigation period'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2011 to the end of the review investigation period (the 'period considered').

5.2. Parties concerned by the investigation and sampling

- (14) The Commission officially advised the applicants, the other known Union producers, the exporting producers in Brazil and the PRC, the known importers, the users and traders known to be concerned, and the representatives of the exporting countries, of the initiation of the expiry review.

⁽¹⁾ Notice of the expiry of certain anti-dumping measures (OJ C 350, 4.10.2014, p. 22).

⁽²⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain aluminium foils originating in Brazil and the People's Republic of China (OJ C 350, 4.10.2014, p. 11).

⁽³⁾ Notice of initiation of an anti-dumping proceeding concerning imports of certain aluminium foils originating in Russia (OJ C 354, 8.10.2014, p. 14).

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/1081 of 3 July 2015 imposing a provisional anti-dumping duty on imports of certain aluminium foils originating in Russia (OJ L 175, 4.7.2015, p. 14).

⁽⁵⁾ Commission Implementing Regulation (EU) 2015/2385 of 17 December 2015 imposing a definitive anti-dumping duty on imports of certain aluminium foils originating in Russia (see page 91 of this Official Journal).

- (15) 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. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (16) In its Notice of Initiation, the Commission announced that it might sample the exporting producers in the PRC, Union producers and unrelated importers in accordance with Article 17 of the basic Regulation. No sampling was foreseen for exporting producers in Brazil.

Sampling of exporting producers in the PRC

- (17) Out of 12 known Chinese producers, two submitted a reply to the sampling questionnaire. In view of the limited number of cooperating companies, no sampling was required.

Sampling of Union producers

- (18) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production. The sample consisted of six Union producers and their related companies, as the internal structure of the groups was unclear at the beginning of the investigation as far as it concerns the functions of producing and reselling the product in question. The sampled Union producers accounted for over 70 % of total Union production. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample is considered representative of the Union industry.
- (19) In March 2015, one of the sampled Union producers sold all its activity including equipment, rights permits, obligations concerning employees and its existing contracts to a new company. As this change took place after the investigation period, it is not relevant for the investigation under Article 6(1) of the basic Regulation.

Sampling of unrelated importers

- (20) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all unrelated importers to provide the information specified in the Notice of Initiation.
- (21) Fourteen known importers/users were contacted at the initiation stage and were invited to explain their activity and to fill in the sampling form attached to the Notice of Initiation, if applicable.
- (22) Five companies replied to the sampling form. Four of them were rewinders, i.e. industrial users which were importing the product concerned for further processing before re-selling it and one was a trader that did not, however, import the product concerned during the period considered. Due to the limited number of companies having responded to the sampling form, sampling was not warranted.
- (23) Two other users came forward. A user's questionnaire was sent to them.

Questionnaires and cooperation

- (24) The Commission sought and verified all the information deemed necessary for the purpose of a determination of dumping, resulting injury and Union interest.

- (25) The Commission sent questionnaires to the six sampled Union producers and their related companies, two Brazilian exporting producers and two Chinese exporting producers, one trader and the above six users identified in the Union.
- (26) Questionnaire replies were received from all sampled Union producers and from three users.
- (27) Two Chinese exporting producers and one Brazilian producer replied to the questionnaire. A second Brazilian producer had initially indicated its interest to cooperate with the investigation, but did not reply to the questionnaire. Consequently, a letter was sent to this company informing it of the Commission's intention to apply Article 18 of the basic Regulation. The company responded that it would not fill in the questionnaire but that its views would be represented by the Brazilian Aluminium Association (Associação Brasileira do Alumínio, 'ABAL'). In addition, written submissions were received from ABAL.

Verification visits

- (28) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers:

- Aluminiumfolie Merseburg GmbH, Merseburg, Germany
- Alcomet AD, Schumen, Bulgaria
- Eurofoil Luxembourg SA, Dudelange, Luxembourg and its related company Eurofoil France SAS, Rugles, France
- Hydro Aluminium Slim SpA, Cisterna di Latina, Italy
- Impol d.o.o., Maribor, Slovenia
- Symetal SA, Athens, Greece

Users:

- Cofresco Frischhalteprodukte GmbH & Co KG, Minden, Germany
- Sphere Group, Paris, France

Exporting producer in Brazil:

- Companhia Brasileira de Alumínio (CBA), São Paulo, Brazil

Exporting producers in the PRC:

- Zhenjiang Dingsheng Aluminium Industries Joint-Stock Limited Company, Zhenjiang, PRC, and its related companies Hangzhou Five Star Aluminium Company, Hangzhou, PRC; Hangzhou Dinsheng Import & Export, Hangzhou, PRC; and Dingsheng Aluminium Industries (Hong Kong) Trading Co, Hong Kong.
- Nanshan Light Alloy co. Ltd, Yantai, PRC

Producers in the market economy country:

- Assan Alüminyum San. ve Tic. A.S, Istanbul, Turkey
- Panda Aluminium Inc. Co., Ankara, Turkey

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. Product concerned**

- (29) The product concerned is aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm, not backed, not further worked than rolled, in rolls of a width not exceeding 650 mm and of a weight exceeding 10 kg ('jumbo rolls') originating in Brazil and the PRC, currently falling within CN code ex 7607 11 19 (TARIC code 7607 11 19 10) ('the product concerned'). The product concerned is commonly known as aluminium household foil ('AHF').
- (30) AHF is manufactured on the basis of pure aluminium, which is firstly cast into thick strips (of a thickness of several mm, i.e. up to 1 000 times thicker than the product concerned) and subsequently rolled in different stages into the desired thickness. Once rolled, the foil is annealed by a thermal process and is finally presented on reels (rolls).
- (31) These reels of AHF are further rewound into smaller rolls by downstream processors so-called rewinders. The obtained product (i.e. consumer rolls which is not product concerned) is used in multi-purpose short-life wrapping, mostly in households, catering, food and floristry retail business.

2. Like product

- (32) The investigation showed that the product concerned, the product produced and sold on the Brazilian and Chinese domestic markets, the product produced and sold on the domestic market in Turkey, which served as an analogue country, and the product produced and sold in the Union by the Union industry have the same basic physical, chemical and technical characteristics as well as the same basic uses.
- (33) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

- (34) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from Brazil and the PRC.

1. Brazil

- (35) One producer from Brazil cooperated with the investigation. Before the imposition of the original measures, the producer had represented 100 % of the exports of AHF from Brazil to the Union.

1.1. Absence of exports during the review investigation period

- (36) There were no exports of AHF from Brazil to the Union during the review investigation period. Therefore, there is no likelihood of continuation of dumping from Brazil. The assessment was thus limited to the likelihood of recurrence of dumping using export prices to other third countries.

1.2. Likelihood of recurrence of dumping

- (37) The Commission analysed whether there was a likelihood of recurrence of dumping should the measures lapse. When doing so, the following elements were analysed: the production capacity and spare capacity in Brazil, the absence of dumping from Brazil to other markets, and the attractiveness of the Union market.

1.2.1. Production capacity and spare capacity in Brazil

- (38) The capacity utilisation of the cooperating Brazilian producer was found to be above 90 % and its unused spare capacity to be 3 000 tonnes per year. This is equivalent to 6 % of the production of the Union industry and 3 % of the Union consumption. It was therefore concluded that there was no significant spare capacity that could be directed to the Union market should the measures against Brazil be allowed to lapse.
- (39) The other two known Brazilian producers did not cooperate with the investigation, and therefore their spare capacity could not be verified. A study submitted by the applicants estimated the combined capacity for aluminium foils of the two other producers to be 58 000 tonnes for all types of aluminium foil combined, equivalent to the total capacity of the cooperating Brazilian producer. It is considered unlikely that these two producers would have a significant spare capacity that would be directed to the Union market, should the measures against Brazil be allowed to lapse: they were not exporting to the Union, neither during the review investigation period, nor before the imposition of the original measures.

1.2.2. Absence of dumping from Brazil to other markets

- (40) The exports of the cooperating Brazilian producer during the review investigation period were to a single customer in the USA. These exports represented 68 % of total Brazilian AHF exports to the USA in 2013, making the cooperating producer the biggest Brazilian exporter of aluminium foils. These exports represented 33 % of all Brazilian AHF exports in 2013. No dumping was found in these exports when the export price was compared with the normal value in Brazil. The absence of dumping was determined using the methodology as set out below.

1.2.2.1. Normal value

- (41) In accordance with Article 2(2) of the basic Regulation the Commission first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating producer in Brazil was representative in comparison with the total export volume, namely whether the total volume of such domestic sales represented at least 5 % of the total volume of export sales of the product concerned from Brazil. On that basis, it was found that the domestic sales in Brazil were representative.
- (42) The Commission then examined whether the domestic sales of the like product could be regarded as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers on the domestic market which were profitable during the review investigation period. The domestic sales were found to be made in the ordinary course of trade.
- (43) Normal value was thus based on the actual domestic price, which was calculated as a weighted average price of the profitable domestic sales made during the review investigation period.

1.2.2.2. Determination of the export price

- (44) The export price was established in accordance with Article 2(8) of the basic Regulation on the basis of export prices actually paid or payable to the first independent customer.

1.2.2.3. Comparison

- (45) The normal value and export price of the cooperating exporting producer were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (46) On this basis, adjustments were made for differences in physical characteristics, transport, ocean freight and insurance costs, handling loading and ancillary costs, packing costs, credit costs, discounts and commissions where demonstrated to affect price comparability.

1.2.2.4. Dumping margin

- (47) On this basis, the Commission found that there was no dumping occurring in the exports to the USA.
- (48) Therefore, the Commission considers that it is unlikely that, if the current measures were to be repealed, the exporting producers from Brazil would sell the product concerned to the Union market at dumped prices.

1.2.3. Attractiveness of the Union market

- (49) The prices in the Brazilian domestic market are attractive, as demonstrated by the fact that the vast majority of the production is sold on the domestic market. These domestic sales are profitable. The price levels in Brazil are similar to the prices in the Union market.
- (50) It is therefore not expected that, should the measures lapse, the Brazilian exports to the Union market would increase significantly by undercutting the Union prices.

1.2.4. Claims by the interested parties concerning likelihood of recurrence of dumping from Brazil

- (51) Two interested parties, ABAL and CBA, claimed that there is no likelihood of recurrence of dumping from Brazil for the following reasons:
- (i) absence of Brazilian exports of the product concerned to the Union market;
 - (ii) Brazil recently becoming a net importer of aluminium instead of being a net exporter due to the increasing domestic demand in Brazil;
 - (iii) increase of production costs because of increased raw material and electricity costs, resulting in loss of competitiveness of the Brazilian products;
 - (iv) absence of massive exports from Brazil to the Union of aluminium converter foils, a similar product but not subject to anti-dumping measures;
 - (v) presence of related companies already established within the Union, that are responsible for serving the Union market, instead of resorting to exports from Brazil;
 - (vi) absence of spare capacity and the decreasing production in Brazil, and the resulting unlikelihood of capacity diversion or expansion;
 - (vii) difference in physical characteristics of the products sold on domestic market and the products exported.

- (52) As regards the first claim, the absence of Brazilian exports to the Union was confirmed by the investigation. However, the Commission considers that the absence of exports may have been due to the anti-dumping measures in place. The absence of exports is therefore not in itself a sufficient evidence to conclude that there is no risk of recurrence of dumping.
- (53) As regards the second claim, Brazil's status of net importer of primary aluminium since 2014 was confirmed by the investigation. The increase in domestic demand in Brazil was also confirmed: from 2009 to 2013 the domestic consumption of all aluminium products increased by 48 % and the consumption of aluminium foils increased by 24 %. However, the interested parties did not provide evidence that this fact would necessarily remove the risk of recurrence of dumping. Nevertheless, the increased domestic demand in Brazil was considered as a factor increasing the attractiveness of the domestic market when analysing the attractiveness of the Union market, as explained above.
- (54) As regards the third claim, the investigation confirmed the higher prices on the domestic market, but it was not sufficient to conclude that dumping could not recur in the presence of high domestic prices.
- (55) As regards the fourth claim, the interested parties failed to provide evidence that the behaviour in respect of one product could be used to predict the behaviour in respect of another. This claim was therefore rejected.
- (56) As regards the fifth claim, the investigation confirmed that there were related companies of the non-cooperating Brazilian producers established in the Union. However since none of these companies cooperated with the investigation, it was not possible to determine whether they indeed were producing the like product to supply the Union market. Therefore this claim could not be verified.
- (57) As regard the sixth claim, the investigation confirmed the absence of significant spare capacity. This was considered when assessing the production capacity and spare capacity in Brazil, as explained above.
- (58) As regards the seventh claim, the differences in physical characteristics were duly taken into account when comparing the normal value and the export prices, as explained above.

1.2.5. Conclusion on the likelihood of recurrence of dumping from Brazil

- (59) The investigation showed that there is only limited spare capacity in Brazil that could be directed to the Union market should the measures against Brazil be allowed to lapse. No dumping practices to other markets were found. The attractiveness of the Union market for Brazilian producers is considered limited in the light of the high attractiveness of their domestic market and the similarity of the price levels.
- (60) Given the above, it is considered unlikely that dumping from Brazil would recur, if measures were to lapse.
- (61) Consequently, the proceeding should be terminated for imports of the product concerned originating in Brazil.

2. The PRC

- (62) Two producers from the PRC cooperated with the investigation. They had initially reported 4 264 tonnes of exports to the Union, which according to Eurostat would have corresponded to 250 %-350 % of total Chinese imports to Union in the review investigation period. In the course of the investigation the export volume was established to be within a range of 900-1 100 tonnes for the first producer, corresponding to 53 % 90 % of the total exports from the PRC to the Union. Most of these exports were made under the inward processing regime and hence were neither subject to anti-dumping nor customs duty. The second producer was found to not have exported the product concerned to the Union during the review investigation period.

2.1. Selection of the analogue country and calculation of the Normal Value

- (63) In the Notice of Initiation, the Commission had invited all interested parties to comment on its proposal to use Turkey as a market economy third country for the purpose of establishing normal value in respect of the PRC. Turkey had been used as an analogue country in the original investigation.
- (64) One interested party expressed reservations on the proposal of Turkey and suggested South Africa as an alternative analogue country, claiming that South Africa would be more suitable because the cost structure of Turkish producers would be different from the Chinese cost structure and that Turkey had imposed anti-dumping duties of 22 % against Chinese imports of all types of aluminium foil in July 2014.
- (65) In addition to the suggestions made by the interested parties, the Commission itself sought to identify an appropriate analogue country. It identified India, Japan, South Korea, United Arab Emirates, USA, and Taiwan as an additional potential analogue country due to their large production volume of aluminium foils. However it was found that Japan, USA and Taiwan produced thinner aluminium foils but not the product concerned.
- (66) Requests to cooperate were sent to the known producers in India, South Africa, South Korea, United Arab Emirates and Turkey. Cooperation was only received from two exporting producers in Turkey. There was no reply from the producers in the other potential analogue countries.
- (67) Turkey was found to be a significant producer of aluminium foil with an open market and free from distortions as regards the prices of raw material or energy. The production processes in Turkey and in the PRC were found to be similar. Turkey was selected as an analogue country to establish the normal value for the PRC in accordance with Article 2(7)(a) of the basic Regulation and verification visits were carried out at the premises of the two cooperating companies.
- (68) In accordance with Article 2(2) of the basic Regulation it was first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating producers in Turkey was representative in comparison with the total export volume to the Union, namely whether the total volume of such domestic sales represented at least 5 % of the total volume of export sales of the product concerned to the Union. On that basis, it was found that the domestic sales in the analogue country were representative.
- (69) It was also examined whether the domestic sales of the like product could be regarded as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers on the domestic market which were profitable during the review investigation period. The domestic sales of one of the producers were found to be made in the ordinary course of trade, whereas the profitability of sales of the second producer could not be established due to lack of detailed cost accounting data.
- (70) The normal value of the second producer could not be constructed in line with Article 2(3) of the basic Regulation due to lack of detailed cost accounting data.
- (71) Normal value was thus based on the actual domestic price of the first producer, which was calculated as a weighted average price of the profitable domestic sales made during the review investigation period.
- (72) One Chinese producer claimed that the normal value cannot be validly calculated on the basis of the domestic sales of only one Turkish producer. Moreover, the Chinese producer underlined that the confidential nature of the business data of the Turkish producer made it impossible to evaluate or substantiate the resulting dumping margin.

- (73) The use of the data of a single producer in the analogue country is in line with the jurisprudence of the Court of Justice of the European Union, according to which such prices can be used if they are the result of genuine competition in the domestic market. As indicated in recitals 68 and 69 above, there are several Turkish domestic producers and Turkey is also an importer of aluminium foils. The Commission therefore considers that the prices in the Turkish market are the result of genuine competition and there is no element indicating that the prices of a single producer cannot be used to determine normal value. As regards the business data, the Commission must protect the confidentiality of the data submitted by the parties and therefore cannot disclose to the Chinese producer commercially sensitive information concerning the Turkish producer. The claims of the said Chinese exporter must therefore be rejected.

2.2. Determination of the export price

- (74) The export price was established in accordance with Article 2(8) of the basic Regulation on the basis of export prices actually paid or payable to the first independent customers.
- (75) One Chinese producer pointed out that its VAT refund rate had been incorrectly calculated. The calculation was modified accordingly and the Commission re-disclosed the revised findings to the concerned producer.

2.3. Comparison

- (76) The normal value and export price of the cooperating exporting producer were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (77) On this basis, adjustments were made for transport, ocean freight and insurance costs, handling loading and ancillary costs, packing costs, credit costs, discounts and commissions where demonstrated to affect price comparability.
- (78) One Chinese producer claimed that the normal import duty of 7,5 % in Turkey pushes the domestic prices up by the same amount and that this should be adjusted for fair comparison. The Chinese producer also claimed that an adjustment for packing costs was not justified because packing costs apply to all producers wherever they are located.
- (79) The Commission notes that China also has in place an import duty for aluminium foils. Therefore, there seems to be no distortion of comparison due to the existence of a similar import duty in Turkey. In addition, even if an adjustment for import duty would be granted it would not change the fact that there is significant dumping from Chinese exporters to the Union market. As regards packing costs, an adjustment has been made to both Chinese export prices and the Turkish domestic prices in order to neutralise any differences in packaging. Consequently, the packing cost adjustment cannot cause a distortion in the comparison. These claims must therefore be rejected.

2.4. Dumping margin

- (80) As provided by Article 2(11) and (12) of the basic Regulation, the weighted average normal value of each type of the like product in the analogue country was compared with the weighted average export price of the corresponding type of the product concerned.
- (81) On this basis, the weighted average dumping margin, expressed as a percentage of the CIF (cost, insurance, freight) Union frontier price, duty unpaid, is as follows:

Company	Dumping margin
Zhenjiang Dingsheng Aluminium Industries Joint-Stock Limited Company, Zhenjiang, PRC	28,1 %

2.5. Likelihood of continuation of dumping from the PRC

- (82) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated the likelihood of continuation of dumping should measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in the PRC, dumping from the PRC to other markets and the attractiveness of the Union market.

2.5.1. Production capacity and spare capacity in the PRC

- (83) The capacity utilisation of the two cooperating Chinese producers was found to be 85 % and 90 %. The spare capacity was found to be 50 000 tonnes for these two producers. This is equivalent to the total production of the Union industry and more than 50 % of the Union consumption. Furthermore, one of the cooperating companies was in the process of constructing additional foil-rolling capacity of 40 000 tonnes. It was therefore concluded that there was significant spare capacity that could be directed to the Union market at least in part, should the measures against the PRC be allowed to lapse.
- (84) The other known Chinese producers did not cooperate with the investigation, and therefore their spare capacity could not be verified. A study submitted by the applicants estimated the combined capacity for aluminium foils of the other, non-cooperating Chinese producers to be approximately ten times the combined capacity of the two cooperating producers. The study estimates the total Chinese production capacity for all types of aluminium foil to be 450 000 tonnes larger than the total domestic Chinese consumption. The study also forecasts that the Chinese production capacity will continue to increase from 2,5 million tonnes in 2014 to 2,8 million tonnes in 2018 and that the growth of the Chinese domestic consumption from 2,1 million tonnes to 2,4 million tonnes in the same period is unlikely to be sufficient to fully absorb the increasing capacity. It is therefore considered likely that there would be additional spare capacity among the non-cooperating producers that could be directed to the Union market at least in part, should the measures against the PRC be allowed to lapse.
- (85) One Chinese producer, while not disputing the findings concerning spare capacity volumes, claimed that it was unrealistic to assume that the entire spare capacity would be directed to the Union market.
- (86) The Commission considers, in line with its assessment in recitals 84 and 97, that the spare capacity could be directed to the Union market at least in part. The recital 83 has been modified accordingly.

2.5.2. Dumping from the PRC to other markets

- (87) The export prices to other markets during the review investigation period of one the cooperating Chinese producers (the main export destinations being United Arab Emirates, Saudi Arabia, USA, Egypt and India) were found to be below the Normal Value as established in the recitals 63 to 71 above and therefore dumped. The export prices to other markets of the second Chinese producer could not be collected.
- (88) In view of the existence of dumping to other markets the Commission concludes that the exporting producer from the PRC sells the product concerned to third countries at dumped prices. Therefore, the Commission considers that it is likely that, if the current measures were to be repealed, the exporting producers from the PRC would also sell the product concerned to the Union market at dumped prices.
- (89) One Chinese producer claimed that the finding of dumping in exports to other markets is irrelevant since the scope of the review is limited to the Union market and not the world market. According to the Chinese producer, price comparisons across markets are inappropriate since price structures in other parts of the world can be different. Furthermore, the presence of Union exports to these same markets should also be compared and could result in a finding that the Union domestic prices are too high.

- (90) As explained in recital 82, the Commission has taken into account several indicators to assess the likelihood of dumping to the Union market. The Commission considers that exporters who are found to be dumping in other markets are more likely to engage in dumping into the Union too, when compared with exporters that are found not to be dumping in other markets. For this reason it is a relevant indicator for establishing the likelihood of continuation of dumping. The claim must therefore be rejected.
- (91) The claim concerning export behaviour of the Union producers is addressed in recital 171.

2.5.3. Attractiveness of the Union market

- (92) As mentioned in recital 114 below, the investigation showed that the Chinese imports made under the normal import regime during the review investigation period would have undercut the Union industry prices on average by 12,2 % in the absence of anti-dumping duties. Moreover, Chinese imports made under the inward processing regime and hence not subject to anti-dumping or customs duty, which made about 75 % of the Chinese imports, were found to undercut the Union industry's sales prices by 18 %. The Chinese prices are also lower than export prices from any other country to the Union. These price differentials certainly show the attractiveness of the Union market and the ability of the Chinese exporters to compete by price should measures be repealed.
- (93) Thus, it can be reasonably expected that, should the measures be repealed, a substantial part of the current Chinese exports would be re-directed to the Union.
- (94) It is worth recalling that before the original measures were imposed, the original investigation had established that the Chinese market share in the Union market amounted to 30,72 %. It is therefore expected that, should the measures lapse, the Chinese exports currently having 2 % of the Union market will increase significantly to regain lost market share in the Union.
- (95) One Chinese producer claimed that small undercutting was part of a normal pricing mechanism whenever non-domestic producers are competing with domestic producers. A 12,2 % price undercutting would not be unreasonable and would not cause difficulties to Union producers.
- (96) A finding of undercutting does not in itself lead to a conclusion of unfair behaviour from the exporter. In this case however, the undercutting margin found indicated the likely price levels of Chinese imports should measures be allowed to lapse and their capacity to take over market share in the Union at the expense of the Union industry. In addition, it was found that these imports are likely to be dumped. Therefore, the argument that the level of the price undercutting of 12,2 % would not be unreasonable was irrelevant in this context and was therefore rejected.

2.5.4. Conclusion on the likelihood of continuation of dumping from the PRC

- (97) The investigation showed that Chinese imports continued to enter the Union market at dumped prices with significant dumping margins. It also demonstrated that the spare capacity for production of the product concerned in the PRC is significant in comparison with the Union consumption during the review investigation period. This spare capacity is likely to be directed at least in part to the Union market should the measures against the PRC be allowed to lapse.
- (98) In addition, exports from the PRC to third countries were made at dumped prices. This pricing behaviour of the Chinese exports in third markets shows a likelihood of continuation of dumping to the Union market, should the measures be allowed to lapse.
- (99) Furthermore, the attractiveness of the Union market in terms of prices indicates that there is a risk that Chinese exports would be redirected toward the Union market, should the measures be allowed to lapse.

- (100) Given the above, there is a likelihood that, if measures were to lapse, Chinese dumped imports of the product concerned will significantly increase should the measures in force be allowed to lapse.

D. DEFINITION OF THE UNION INDUSTRY

- (101) The like product was manufactured by 12 known Union producers during the review investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (102) The total Union production during the review investigation period was estimated at 47 349 tonnes. The Commission established the figure on the basis of Eurostat statistics, the verified questionnaire replies of the sampled Union producers and the estimated data related to the non-sampled producers and provided by the applicants. As indicated in recital 18, the Union producers selected in the sample represented over 70 % of the total Union production of the like product.

E. SITUATION ON THE UNION MARKET

1. Preliminary remarks

- (103) Data on production, production capacity, sales volume, employment and export volume relating to the whole Union industry for the period considered was provided by the applicants. The data was estimated and provided on a maximum and minimum range basis, broken down in two categories: sampled Union producers and non-sampled Union producers. For the sampled Union producers, the Commission used the actual verified data provided by these companies in their questionnaire replies. For the non-sampled Union producers, the figures provided by the applicants were used. These estimates were made available for comments to the interested parties. No comments were, however, received.

2. Union consumption

- (104) The Union consumption figures established and published in the parallel investigation have been used in the present investigation. They were determined on the basis of total estimated sales volume of the Union industry on the Union market and the total import volume based on Eurostat and corrected, where necessary, by the verified data provided by the exporting producer of the parallel investigation concerning imports from Russia and the questionnaire replies submitted by the sampled Union producers.
- (105) As there is only one exporting producer in Russia, all figures related to this exporter had to be given in ranges for reasons of confidentiality. Moreover, in order to avoid the Russian import volume to be calculated by deduction, it was also necessary to use ranges for the consumption and import volumes from other third countries.
- (106) On this basis, Union consumption developed as follows:

Table 1

Union consumption for AHF (tonnes)

	2011	2012	2013	Review investigation period
Union consumption	[71 300-82 625]	[74 152-92 540]	[84 847-108 239]	[83 421-105 760]
Index (2011 = 100)	100	[104-112]	[119-131]	[117-128]

Source: Figures published in the parallel investigation based on Eurostat, questionnaire replies and information provided by the applicants.

- (107) Union consumption increased between 2011 and 2013 but decreased between 2013 and the review investigation period. Overall, consumption increased between 17 % and 28 % during the period considered. The increase in consumption between 2011 and the review investigation period mainly reflects the increase of imports from Russia and other third countries, while the sales of the Union industry on the Union market only slightly increased (see recital 134).

3. Volume, prices and market share of imports from the PRC

- (108) Since the investigation established that there is no likelihood of continuation or recurrence of dumping from Brazil (see recital 60) the analysis of the volume, prices and market share of imports is limited to the imports from the PRC. The Commission established the volume and prices of imports from the PRC on the basis of Eurostat.

(a) Volume and market share of the imports from the PRC

- (109) Imports into the Union from the PRC developed as follows:

Table 2

Volume and market shares of imports from the PRC

	2011	2012	2013	Review investigation period
PRC				
Volume of imports under the normal import regime (tonnes)	[2 000-2 300]	[200-400]	[150-350]	[300-400]
Volume of imports under the inward processing import regime (tonnes)	[800-1 000]	[700-1 000]	[950-1 300]	[900-1 300]
Total volume of imports (all regimes) (tonnes)	[2 843-3 205]	[967-1 378]	[1 137-1 603]	[1 222-1 699]
Index (2011 = 100)	100	[34-43]	[40-50]	[43-53]
Market share	4 %	1 %	1 %	2 %

Source: Eurostat.

- (110) Import volumes from the PRC decreased by between 47 % and 57 %, with a corresponding decrease in market share from 4 % to 2 %, namely a decrease of 2 percentage points, during the period considered. Both import volumes and market share from the PRC remained at low levels during the whole period considered.

(b) *Price of imports and price undercutting*

(111) The table below shows the average price of the dumped imports.

Table 3

Average price of dumped imports

	2011	2012	2013	Review investigation period
PRC				
Average price (EUR/tonne)	2 251	2 417	2 306	2 131
Index (2011 = 100)	100	107	102	95

Source: Eurostat.

- (112) The average prices of imports from the PRC decreased during the period considered from EUR 2 251 EUR/tonne to 2 131 EUR/tonne, i.e. a decrease of around 5 %. The prices of Chinese imports were on average lower than Union industry sales prices on the Union market and prices of imports from other third countries during the entire period considered.
- (113) During the review investigation period, about 75 % of the Chinese imports, representing a market share of more than 1 %, were made under the inward processing regime and hence were not subject to anti-dumping nor customs duty. They were found to undercut the Union industry's sales prices by 18 %. In respect of the cooperating exporting producer who represented about 53 %-90 % of the Chinese imports during the review investigation period and made 98 % of its imports under the inward processing regime, an undercutting margin ranging between 15 % and 18 % was established.
- (114) The remaining 25 % of the Chinese imports were made under the normal import regime. When adding the customs duty and the anti-dumping duty to the Chinese CIF prices, Chinese prices calculated for these imports were on average higher than the Union industry's sales prices on the Union market and there was thus a negative undercutting (- 12,5 %). However, when import prices are considered without anti-dumping duties there would be undercutting of 12,2 %.
- (115) When considering all Chinese imports irrespective of the import regime and adding the applicable customs and anti-dumping duties to the CIF prices of imports made under the normal regime, Chinese prices were found to undercut the Union industry's sales prices by 10,2 % on average during the review investigation period.
- (116) One Chinese producer claimed that the undercutting margin of 18 % established for Chinese imports made under the inward processing regime was incorrect since the prices of Union producers included an 'inbuilt 7,5 % normal tariff' which the domestic users could not obtain relief from should they incorporate AHF manufactured in the Union in exports to third countries. However the interested party did not substantiate the claim and in particular failed to explain the notion of 'inbuilt normal tariff'. In any event it is recalled that, as explained in recital 113, imports made under the inward processing regime are not subject to customs duty. Therefore it would not be justified to make adjustments for customs duties that are not borne. It must be noted also that the Commission duly applied the adjustment for customs duty when establishing the undercutting margin for imports made under the normal regime in recital 114 and for all Chinese imports irrespective of the import regime in recital 115. Therefore the claim was rejected.
- (117) The same Chinese producer claimed that it was necessary to deduct the customs duty rate from the undercutting margins of 12,2 % and 10,2 % established respectively in recitals 114 and 115. It is however clarified that in order to establish these margins the Commission already took into account the customs duty applicable to imports made under the normal regime. Therefore the claim was rejected.

4. Import from other third countries

Table 4

Imports from other third countries (all imports regimes)

Country		2011	2012	2013	Review investigation period
Brazil	Volume (tonnes)	0	0	0	0
Russia	Volume (tonnes)	[19 532-26 078]	[23 243-34 422]	[27 345-39 116]	[26 368-37 812]
	<i>Index (2011 = 100)</i>	100	[119-132]	[140-150]	[135-145]
	Market share	29 %	34 %	34 %	34 %
	Average price (EUR/tonne)	[2 145-2 650]	[2 038-2 624]	[1 952-2 571]	[1 973-2 597]
	<i>Index (2011 = 100)</i>	100	[95-99]	[91-97]	[92-98]
Turkey	Volume (tonnes)	[5 120-6 100]	[8 090-10 553]	[11 213-14 213]	[11 520-14 579]
	<i>Index (2011 = 100)</i>	100	[158-173]	[219-233]	[225-239]
	Market share	7 %	11 %	13 %	13 %
	Average price (EUR/tonne)	2 950	2 743	2 710	2 571
	<i>Index (2011 = 100)</i>	100	93	92	87
Other third countries (China not included)	Volume (tonnes)	[3 100-3 750]	[279-750]	[1 891-3 000]	[3 162-4 313]
	<i>Index (2011 = 100)</i>	100	[9-20]	[61-80]	[102-115]
	Market share	4 %	1 %	2 %	4 %
	Average price (EUR/tonne)	2 878	2 830	2 687	2 406
	<i>Index (2011 = 100)</i>	100	98	93	84
Total	Volume (tonnes)	[29 000-35 000]	[33 000-43 000]	[41 000-54 000]	[42 000-56 000]
	<i>Index (2011 = 100)</i>	100	[113-125]	[142-155]	[145-160]
	Market share	41 %	46 %	50 %	51 %
	Average price (EUR/tonne)	2 538	2 453	2 401	2 367
	<i>Index (2011 = 100)</i>	100	97	95	93

Source: Eurostat, data regarding Russia established and published in the parallel investigation.

- (118) During the period considered, imports from other third countries into the Union increased by between 45 % and 60 % which is faster than the progression of the Union consumption. The market share of the other third countries therefore increased from 41 % to 51 % over this period.
- (119) There were no imports from Brazil during the period considered. Import volumes from Russia increased between 40 % and 50 % from 2011 until 2013 with a slight decrease in the review investigation period. The corresponding market share increased from 29 % in 2011 to 34 % in 2012 and then remained constant until the end of the review investigation period. During the period considered import volumes from Turkey increased between 125 % and 139 % and their market share increased from around 7 % to 13 %. Turkish import prices decreased by 13 % over the period considered but remained above the price level of imports from other third countries, including Russia and China, and were at similar levels as the Union's industry prices during the review investigation period.
- (120) Overall, imports from other third countries excluding PRC, Russia and Turkey increased between 2 % and 15 %. However, as the Union consumption increased, their total market share decreased from 4 % in 2011 to around 2 % in 2013 and then increased to 4 % by the end of the review investigation period; their prices were at lower levels than the Union industry's prices, with the exception of 2012.
- (121) The prices of imports from the other third countries were higher than the prices of imports from the PRC during the entire period considered.
- (122) One Chinese producer claimed that the Commission's analysis of the imports from other third countries in recitals 118-121 should have encompassed the entire foil market instead of focusing on the product concerned since decisions made by Union producers in respect of other types of foil allegedly influence their production of the product concerned. The claim was not substantiated. In any event the investigation established, as mentioned in recital 185, that the largest sampled Union producer of AHF was producing solely AHF and that Union producers found to produce both AHF and another type of foil named aluminium converter foil ('ACF') could not switch easily from producing one product to the other, as the production of both products in certain quantities was needed in order to maximise efficiency. As mentioned in recital 185 the investigation further showed that the sampled Union producers had a stable ratio of production between these types of foil during the period considered. Therefore the claim was rejected.
- (123) One Chinese producer noted that since the production capacity of the Union producers represented less than 50 % of the Union consumption it was necessary for users to import AHF from exporting producers in third countries. On that basis the Chinese producer claimed that exporting producers were competing between themselves and not with the Union producers when supplying users not served by the Union producers. The claim was however not substantiated. First, the allegation that the production capacity of the Union producers represented less than 50 % of the Union consumption is incorrect. As shown in recitals 106 and 129 the Union industry's production capacity represented between 58 % and 74 % of the Union consumption during the review investigation period and was above 55 % during the entire period considered. In addition, as shown in Table 5, the investigation established that the Union industry had spare capacity during the entire period considered that could have been used to serve the Union market if indeed, there had been no competing dumped imports. Furthermore, imports from third countries were also in competition with the like product produced by the Union industry since existing customers of the Union producers were able to switch to suppliers from third countries. Therefore the claim was rejected.

5. Economic situation of the Union industry

5.1. General remarks

- (124) In accordance with Article 3(5) of the basic Regulation, the Commission examined all economic factors and indices having a bearing on the state of the Union industry.
- (125) As mentioned in recital 18, sampling was used for the determination of possible injury suffered by the Union industry.
- (126) For the injury determination the Commission distinguished between macroeconomic and microeconomic injury indicators. As explained in recital 103, the Commission evaluated macroeconomic indicators relating to the

whole Union industry on the basis of information provided by the applicants which was duly verified for the sampled companies. The Commission evaluated microeconomic indicators relating only to the sampled companies on the basis of data contained in the questionnaire replies of the sampled Union producers. Both sets of data were found representative of the economic situation of the Union industry.

- (127) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (128) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

5.2. Macroeconomic indicators

5.2.1. Production, production capacity and capacity utilisation

- (129) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 5

Union industry's total production, production capacity and capacity utilisation

	2011	2012	2013	Review investigation period
Production volume (tonnes)	44 316	46 165	48 796	47 349
<i>Index (2011 = 100)</i>	100	104	110	107
Production capacity (tonnes)	54 777	54 485	59 186	61 496
<i>Index (2011 = 100)</i>	100	99	108	112
Capacity utilisation	81 %	85 %	82 %	77 %
<i>Index (2011 = 100)</i>	100	105	102	95

Source: questionnaire replies, information provided by the applicants.

- (130) Production fluctuated during the period considered. While it increased between 2011 and 2013, it decreased between 2013 and the review investigation period. Overall, the production volume increased by 7 % during the period considered.
- (131) The production capacity increased by 12 % during the period considered.
- (132) As a result of the higher increase in production capacity than in production volume, the capacity utilisation decreased by 5 % over the period considered.
- (133) One Chinese producer claimed that the capacity of an aluminium foil plant should not be expressed in tonnes since the same machinery produces different masses of foil in a given period of time depending on the thickness

and width of the foil. In reply to this claim, it is not contested that the capacity of a plant expressed in tonnes can be influenced by the thickness or width of the manufactured foils. However, the imports of the product concerned and certain injury factors such as consumption, sales volume and production were established using tonnes as the unit of measurement. It is a matter of consistency in the injury analysis to use the same measurement unit for comparison purposes. Moreover, the investigation did not point to changes in the product mix of the Union industry production such as to invalidate the use of tonnes as the unit of measurement. It is also noted that the interested party concerned failed to provide any quantitative information showing that a different measurement unit would have changed the analysis of this injury factor. Therefore the claim was rejected.

5.2.2. Sales volume and market share

(134) The Union industry's sales volume and market share developed over the period considered as follows:

Table 6

Union industry's sales volume and market share

	2011	2012	2013	Review investigation period
Sales volume (tonnes)	[41 007-45 870]	[41 007-49 081]	[42 647-52 292]	[41 827-50 457]
Index (2011 = 100)	100	[100-107]	[104-114]	[102-110]
Market share	55 %	53 %	49 %	47 %

Source: questionnaire replies, Eurostat, information provided by the applicants.

(135) Sales volume of AHF slightly increased over the period considered. Sales volume increased mostly from 2011 to 2013, i.e. between 4 % and 14 %. During the review investigation period the sales volume decreased; overall, sales volume increased between 2 % and 10 % during the period considered. The increase in sales volumes, taking into account the parallel increase in consumption and the increase in imports led, however, to a decrease in market share of the Union industry from 55 % in 2011 to 47 % in the review investigation period, i.e. a decrease of 8 percentage points during the period considered.

5.2.3. Growth

(136) While Union consumption increased by between 17 % and 28 % during the period considered, the sales volume of the Union industry increased between 2 % and 10 %, which translated in a loss of market share of 8 percentage points.

5.2.4. Employment and productivity

(137) Employment and productivity developed over the period considered as follows:

Table 7

Employment and productivity

	2011	2012	2013	Review investigation period
Number of employees	769	787	758	781
Index (2011 = 100)	100	102	99	102

	2011	2012	2013	Review investigation period
Productivity (tonnes/employee)	58	59	64	61
<i>Index (2011 = 100)</i>	100	102	112	105

Source: questionnaire replies, information provided by the applicants.

- (138) Employment of the Union industry fluctuated during the period considered and overall slightly increased by 2 %.
- (139) Between 2011 and 2013 productivity increased due to the higher increase in production than the increase in employment. From 2013 to the review investigation period, productivity decreased by 7 % but remained higher than at the beginning of the period considered in 2011.

5.2.5. Magnitude of the dumping margin and recovery from past dumping

- (140) The dumping margin of imports from the PRC amounted to 28,1 % during the review investigation period (see recital 81) but its impact on the situation of the Union industry was limited due to the anti-dumping measures in force which successfully curbed the volume of dumped imports.
- (141) However, as established in the parallel investigation, the volume of dumped imports from Russia increased significantly during the period considered. These imports caused material injury to the Union industry. Therefore the recovery of the Union industry was not possible despite the existence of the anti-dumping measures.

5.3. Microeconomic indicators

5.3.1. Prices and factors affecting prices

- (142) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 8

Selling prices and costs

	2011	2012	2013	Review investigation period
Average unit selling price in the Union (EUR/tonne)	2 932	2 714	2 705	2 597
<i>Index (2011 = 100)</i>	100	93	92	89
Unit cost of production (EUR/tonne)	2 995	2 794	2 699	2 651
<i>Index (2011 = 100)</i>	100	93	90	89

Source: questionnaire replies.

- (143) The Union industry's average unit selling price to unrelated customers in the Union decreased continuously and overall by 11 % over the period considered.
- (144) Despite this decrease, unit cost of production remained above the average selling price of the Union industry and the Union industry could not cover its production cost by the selling price with the exception of 2013. The parallel investigation established that the Union industry was not able to raise its selling price due to the price pressure exerted by the dumped imports from Russia.

5.3.2. Labour costs

- (145) The average labour costs of the Union industry developed over the period considered as follows:

Table 9

Labour costs

	2011	2012	2013	Review investigation period
Average labour costs per employee (EUR)	21 692	22 207	20 603	20 594
<i>Index (2011 = 100)</i>	100	102	95	95

Source: questionnaire replies.

- (146) Between 2011 and the review investigation period, the average labour costs per employee of the sampled Union producers decreased by 5 %. Labour cost first increased by 2 % between 2011 and 2012, then decreased between 2012 and 2013 and then remained stable during the review investigation period.

5.3.3. Inventories

- (147) Stock levels of the Union industry developed over the period considered as follows:

Table 10

Inventories

	2011	2012	2013	Review investigation period
Closing stocks	1 931	1 999	2 133	2 085
<i>Index (2011 = 100)</i>	100	104	110	108
Closing stocks as percentage of production	5 %	5 %	5 %	5 %
<i>Index (2011 = 100)</i>	100	100	100	100

Source: questionnaire replies.

- (148) Inventories cannot be considered as a relevant injury indicator in this sector, as production and sales are mainly based on orders and, accordingly, producers tend to hold limited stocks. Therefore, the trends on inventories are given for information only.
- (149) Overall closing stocks increased by 8 % over the period considered. While stocks increased from 2011 to 2013 by 10 %, from 2013 to the end of the review investigation period they slightly decreased. Closing stocks as a percentage of production remained stable during the entire period considered.

5.3.4. Profitability, cash flow, investments, return on investments and ability to raise capital

- (150) Profitability, cash flow, investments and return on investments of the Union producers developed over the period considered as follows:

Table 11

Profitability, cash flow, investments and return on investment

	2011	2012	2013	Review investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 2,2 %	- 2,9 %	0,2 %	- 2,1 %
<i>Index (2011 = 100)</i>	100	65	209	104
Cash flow (EUR)	1 505 960	2 909 820	3 365 140	1 962 349
<i>Index (2011 = 100)</i>	100	193	223	130
Investments (EUR)	3 271 904	5 404 990	4 288 862	4 816 442
<i>Index (2011 = 100)</i>	100	165	131	147
Return on investments	- 4 %	- 5 %	0 %	- 3 %
<i>Index (2011 = 100)</i>	100	60	209	108

Source: questionnaire replies.

- (151) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. During the period considered, the Union industry was loss-making with the exception of 2013, where it realised a profit margin slightly above break-even. Profitability decreased between 2011 and 2012, increased in 2013 but then decreased again in the review investigation period where it reached a similar level as in 2011. Overall, profitability increased by 4 % during the period considered, which corresponds to an increase of 0,1 percentage points and which did not allow the Union industry to realise profits during the review investigation period. As established in the parallel investigation, this situation was mainly due to the price pressure exerted by Russian imports which entered into the Union at dumped prices undercutting those of the Union industry and did not allow the Union industry to increase its selling prices as to cover its cost of production.

- (152) The net cash flow is the Union industry's ability to self-finance their activities. The cash flow fluctuated during the period considered with an increasing trend. Overall net cash flow increased by 30 % over the period considered. However, it should be noted that in absolute values the cash flow remained at low levels when compared to the total turnover of the product in question.
- (153) The investments increased by 47 % over the period considered. The investments increased by 65 % from 2011 to 2012, decreased during 2013 and increased again during the review investigation period. They mainly represented investments necessary for new machinery and remained at rather low levels during the review investigation period when compared to total turnover.
- (154) The return on investments is the profit in percentage of the net book value of investments. As the other financial indicators, the return on investment from the production and sale of the like product was negative as from 2011, with the exception of 2013 where it was 0 %, reflecting the trend in profitability. Overall, return on investments slightly increased by 8 % over the period considered.
- (155) As far as the ability to raise capital is concerned, the deterioration of the ability to generate cash for the like product of the sampled Union producers was weakening their financial situation by reducing the internally generated funds. The investigation found that, overall, the ability to raise capital deteriorated over the period considered.

6. Conclusion on injury

- (156) Several main injury indicators showed a negative trend. Regarding profitability, the industry was loss-making almost during the whole period considered, with the exception of 2013 where it reached a level only slightly above break-even; during the review investigation period, the Union industry realised a negative profit of - 2,1 %. Sales prices decreased by 11 % during the period considered. The unit cost that also decreased by 11 % remained higher than the average sales price during the whole period considered, with the exception of 2013. The Union industry market share decreased by 8 percentage points, i.e. from 55 % in 2011 to 47 % in the review investigation period.
- (157) Some injury indicators developed positively during the period considered. Production volume increased by 7 % and production capacity by 12 %. These increases did however not match the increase in consumption, which was much higher, namely between 17 % and 28 %. Sales volume increased between 2 % and 10 %. However, in a market with increasing consumption, this did not translate in an increase of market share, but to the contrary to a loss of market share by 8 percentage points. Investments increased by 47 %. They concerned new machinery and remained at rather low levels during the review investigation period. Likewise cash flow increased by 30 % during the period considered but remained at low levels. These positive trends do not, therefore, preclude the existence of injury.
- (158) The cooperating Brazilian producer and the Brazilian Aluminium Association claimed that according to the analysis of publicly available financial documents of some applicants there would be no material injury. This is contradicted by the results of the investigation which is based on actual verified data of the Union industry relating to AHF. Indeed, some of the Union producers did not produce exclusively AHF and therefore the publicly available financial documents cannot reveal the actual situation of the Union industry for AHF. Therefore, conclusions on the economic situation of the Union industry within the meaning of Article 3(5) of the basic Regulation should not be based on publicly available financial documents but on the more detailed and verified information available in the investigation. This claim was therefore rejected.
- (159) The same interested parties claimed that statistics and statements published by the European Aluminium Foil Association ('EAFA') indicated that the Union industry did not suffer any injury during the period considered including the review investigation period. However, it was found that the used statistics and statements referred either to the entire aluminium foil sector or to a 'thinner gauges' category covering AHF but also other types of foils such as converter foils and foils used for flexible packaging. On this basis, no meaningful conclusion in respect of the product concerned can be drawn and the claim was thus rejected.
- (160) One Chinese producer claimed that the evolution of the unit cost described in recital 156 could not be reconciled with the evolution of the aluminium price quoted on the London Metal Exchange (the 'LME price'). In reply to this claim it must be noted that the price paid by Union producers to aluminium smelters or traders is

the sum of the LME price and a surcharge known as the 'metal premium'. Therefore any assessment of the Union producer's unit cost based solely on the LME price must be considered incomplete. The claim was therefore rejected.

- (161) The same interested party claimed that the reconciliation of the evolution of the unit cost with the evolution of the aluminium price would still be impossible even if the metal premium was taken into account. That claim was however not substantiated. In addition the investigation showed that the LME price decreased during the period considered by more than 20 % while the metal premium more than doubled during the period considered. Taking into account the LME price and metal premium together, the cost of aluminium paid by the Union producers decreased during the period considered by around 11 %. This decrease is in line, and actually even identical, to the decrease of the unit cost reported over the same period in recital 156. Therefore the claim was rejected.
- (162) One Chinese producer referred to recital 156 and claimed that possible causes of injury were lower priced imports, allegedly higher production costs, a lack of interest in AHF as prices of other categories of foil in the Union would be higher and a lack of interest in the Union market as AHF prices would be higher on the export markets. In respect of higher production costs, the Chinese producer mentioned the high metal premium and the fact that the Union industry was using a mix of two manufacturing methods, hot rolling and continuous casting while exclusive reliance on continuous casting would be more cost-effective.
- (163) In reply to these claims, it is recalled that from recitals 156 and 157 it can be concluded that the Union industry suffered material injury. Regarding the claims on the costs of production, it is first noted that in respect of the role of the metal premium as a potential injury factor, the parallel investigation established that both the Union industry and the Russian exporting producer bore comparable costs when sourcing the raw material to manufacture AHF, as the market prices of this raw material in both Russia and the Union market are directly linked to the London Metal Exchange. Therefore it can be concluded that the level of metal premium was not an injury factor during the review investigation period. In respect of the potential role of manufacturing methods, the investigation showed that continuous casting was used to produce close to two thirds of the AHF produced by the Union industry during the review investigation period. Any difference in cost-effectiveness would thus be mitigated by the preponderance of continuous casting as production method in the Union. It is also explained in recital 185 that there was no indication that the Union industry had lost interest in AHF. The investigation has shown no indication either that the Union producers neglected the Union market in favour of export markets of AHF. The investigation indeed showed that Union producers only exported 1 182 tonnes of AHF to third countries during the review investigation period which represents less than 3 % of the domestic sales of the Union producers during the same period. Therefore these claims were rejected.
- (164) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

F. LIKELIHOOD OF RECURRENCE OR CONTINUATION OF INJURY

1. Preliminary remarks

- (165) Since it was concluded that there is no likelihood of recurrence of dumping for imports from Brazil, the analysis of the likelihood of recurrence or continuation of injury was limited to the imports from the PRC.
- (166) To assess the likelihood of recurrence or continuation of injury if the measures against the PRC were allowed to lapse, the potential impact of Chinese imports on the Union market and the Union industry was analysed in accordance with Article 11(2) of the basic Regulation.
- (167) As shown in recitals 124-164, the Union industry suffered material injury during the review investigation period. During the whole period considered, Chinese imports were only present on the Union market in limited quantities, while import volume and market share from Russia increased during the same period. In the parallel investigation, it was concluded that imports from Russia were dumped and caused material injury to the Union industry, while imports from China, given their low volume and price levels, contributed only in part to the

injury suffered by the Union industry without however breaking the causal link between imports from Russia and the material injury suffered by the Union industry. At the same time, as outlined in recitals 80-100, the investigation has shown that the Chinese imports were made at dumped price levels during the review investigation period and there was a likelihood of continuation of dumping should the measures be allowed to lapse.

2. Spare capacity, trade flows and attractiveness of the Union market and pricing behaviour of the PRC

- (168) The significant spare capacities in the PRC that cannot be fully absorbed by the Chinese domestic demand and export markets other than the Union market, the continuation of dumping during the review investigation period with significant dumping margins and the dumping practice of Chinese exporters to third country markets, described in detail in recitals 82-100 clearly indicate that there is a strong likelihood that volumes of Chinese dumped imports would increase significantly in case the measures in force were allowed to lapse.
- (169) Should the measures in force be repealed, Chinese import prices will in all likelihood undercut the Union industry's sales prices on the Union market. Indeed the investigation has shown that, in the absence of anti-dumping duties, the Chinese imports made under the normal import regime during the review investigation period would have undercut the Union industry prices on average by 12,2 % ⁽¹⁾.
- (170) As mentioned in recitals 92-94, the Union market is attractive for Chinese imports given that prices in the Union market were broadly in line with the prices in other export markets. In addition, in July 2014 Turkey imposed anti-dumping measures against China for a range of aluminium foils including the product concerned. It is therefore likely that part of the production previously exported to Turkey would be reoriented to the Union market should the measures against China be repealed. Therefore, it can be concluded that the repeal of measures would in all likelihood result in a significant increase of Chinese imports at dumped prices significantly undercutting the Union industry prices, thus causing further injury to the Union industry.
- (171) The cooperating Brazilian producer and the Brazilian Aluminium Association claimed that, on the basis of statistics published by the EAFA, it could be established that the Union producers of aluminium foil increased their exports to third country markets which would demonstrate that these third country markets were more attractive than the Union market. In respect of this claim, it was found that the statistics used by these parties referred either to the entire aluminium foil sector or to a 'thinner gauges' category including AHF but also other types of foils such as converter foils and foils used for flexible packaging. On this basis, no meaningful conclusions can be drawn in respect of the product concerned alone. In addition, the investigation established that volumes of the product concerned exported by the Union industry to third country markets during the review investigation period amounted to only 1 182 tonnes, representing less than 3 % of their domestic sales during the review investigation period. The claims made in this regard were therefore rejected.

3. Conclusion

- (172) In view of the findings of the investigation, it is concluded that the repeal of measures against the PRC would in all likelihood result in a significant increase of Chinese imports at dumped prices undercutting significantly the Union industry prices, thus causing further injury to the Union industry.

G. UNION INTEREST

1. Preliminary remark

- (173) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing measures against the PRC would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, traders, importers and users.

⁽¹⁾ For the determination of the undercutting rate of 12,2 % it was taken into account that the customs duty rate amounted to 4 % during the first three months of the review investigation period and increased to 7,5 % afterwards. Applying the currently applicable customs duty rate of 7,5 % to the entire period would have a negligible impact as it would decrease the undercutting rate by only 0,5 %.

2. Interest of the Union industry

- (174) The investigation established that the Union industry suffered material injury during the review investigation period. As mentioned in recital 167 the material injury mainly stems from the dumped imports of Russia while imports from China only partly contributed to the injury suffered by the Union industry. It was also established that there was a likelihood of continuation of injury should measures against China be allowed to lapse.
- (175) In case the measures against China are lifted it is likely that Chinese imports will resume in important volumes on the Union market at dumped prices that would also significantly undercut the Union industry's sales prices and exert a higher price pressure than that exerted by the dumped Russian imports during the review investigation period. The Union industry would be forced to match the lower price levels and thereby increase its losses.

3. Interest of users

- (176) The users in the Union are rewinders whose activities consist in trading wrapping material (aluminium foil, but also paper and plastic) after rewinding AHF into small rolls ('consumer rolls') and repacking it for industrial and retail sales business. Six companies came forward and received a questionnaire. Three companies cooperated in the proceedings by submitting questionnaire replies. Two of the cooperating companies were verified on-the-spot.
- (177) The investigation showed that AHF is the main raw material of the rewinders, representing around 80 % of their total cost of manufacturing.
- (178) During the review investigation period, none of the three cooperating users imported from the PRC. Their main sources of supply were the Union industry, Russia and Turkey.
- (179) As rewinders are suppliers of a wide range of packaging products, for the three cooperating companies, the activity incorporating AHF represented from less than one sixth to maximum one third of their total activity.
- (180) During the review investigation period all cooperating users reported to be overall profitable. In respect to the activity incorporating the product concerned, two of the cooperating users were found to be profitable while no conclusion could be drawn for the third one due to a lack of clarity in the allocation of their selling, general and administrative (SG&A) costs.
- (181) In view of the findings above, it is considered that the maintenance of the measures against China will not have a significant negative impact on the situation of the users.

4. Interest of importers/traders

- (182) No company involved in the trading of AHF and having imported or resold AHF originating in the PRC during the period considered came forward following the publication of the Notice of Initiation. The investigation also showed that the Union industry and the exporting producers were selling AHF mostly directly to users. On these grounds, there are no indications that the imposition of measures would have an adverse effect on the situation of importers/traders.

5. Sources of supply

- (183) Some interested parties claimed that the Union industry has insufficient capacity to cover the entire demand in the Union. Therefore, these parties claimed that, should measures be maintained against Brazil and China and, at the same time, should definitive measures be imposed against Russia, the Union would face a shortage of supply which would increase the price of AHF. As a consequence rewinders would also have to increase their prices of consumer rolls to the detriment of consumers.
- (184) In reply to this claim, the investigation showed that the Union industry has excess capacity and is able to increase production and sales of AHF in the Union. Moreover alternative sources of supply are available such as Turkey, Armenia and South Africa. Finally it should also be reminded that anti-dumping measures aim to establish a level playing field in the Union and not to bar Chinese and Russian imports to the Union market which should enter the market at fair prices levels.

6. Other arguments

- (185) An interested party claimed that the Union industry had lost interest in AHF and that for this reason it had no other option than using imported AHF. However, the investigation showed that the largest sampled Union producer was producing solely AHF. Other sampled EU producers were found to use their manufacturing facility to produce a mix of AHF and aluminium converter foil ('ACF') which is a different product used in different application than AHF. These other Union producers had a relatively stable ratio of production and sales between AHF and ACF during the period considered. The investigation thus did not confirm the allegations that the Union industry was losing interest in AHF and the claim was rejected.

7. Conclusion on Union interest

- (186) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to maintain measures on imports of AHF originating in the PRC.

H. ANTI-DUMPING MEASURES

- (187) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures against the PRC be maintained and the existing measures against Brazil be repealed. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.
- (188) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain aluminium foils originating in the PRC, imposed by Regulation (EC) No 925/2009 should be maintained. Conversely, the measures applicable to imports from Brazil should be allowed to lapse.
- (189) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽¹⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (190) The Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm, not backed, not further worked than rolled, in rolls of a width not exceeding 650 mm and of a weight exceeding 10 kg, currently falling within CN code ex 7607 11 19 (TARIC code 7607 11 19 10), and originating in the People's Republic of China.

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi/Wetstraat 170, 1040 Bruxelles/Brussel, BELGIQUE/BELGIË.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Country	Company	Anti-dumping duty	TARIC additional code
PRC	Alcoa (Shanghai) Aluminium Products Co., Ltd and Alcoa (Bohai) Aluminium Industries Co., Ltd	6,4 %	A944
	Shandong Loften Aluminium Foil Co., Ltd	20,3 %	A945
	Zhenjiang Dingsheng Aluminium Co., Ltd	24,2 %	A946
	All other companies	30,0 %	A999

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

4. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of aluminium foil sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

5. The anti-dumping proceeding concerning imports of the product mentioned in Article 1(1) originating in Brazil is hereby terminated.

Article 2

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, 17 December 2015.

For the Commission
The President
Jean-Claude JUNCKER