

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2385**of 17 December 2015****imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain aluminium foils originating in the Russian Federation**

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 9(4) thereof,

Whereas:

A. PROCEDURE**1. Provisional Measures**

- (1) The European Commission (the Commission) imposed on 4 July 2015 a provisional anti-dumping duty on imports of certain aluminium foils originating in the Russian Federation (Russia) by Implementing Regulation (EU) 2015/1081 ⁽²⁾ (the provisional Regulation).
- (2) The proceeding was initiated on 8 October 2014 following a complaint lodged on 25 August 2014 by AFM Aluminiumfolie Merseburg GmbH, Alcomet AD, Eurofoil Luxembourg SA, Hydro Aluminium Rolled Products GmbH and Impol d.o.o. (the complainants) on behalf of producers representing more than 25 % of the total Union production of aluminium foils. The complaint contained prima facie evidence of dumping of the said product and of resulting material injury that was considered sufficient to justify the initiation of the investigation.

2. Subsequent procedure

- (3) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed (the provisional disclosure), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.
- (4) The intervention of the Hearing Officer in trade proceedings was requested by the sole exporter, Rusal group, and five users. The hearing with the exporter took place in the presence of a representative of Russia on 14 October 2015. The main points discussed were the application of Article 2(9) of the basic Regulation for the calculation of export price and the impact of imports of aluminium converter foils (ACF) from the People's Republic of China (PRC) on the situation of the Union industry. The hearing with the users took place on 23 October 2015, after the deadline for submitting comments to the final disclosure. The main points discussed were the alleged circumvention of the anti-dumping measures on imports of AHF from the PRC, the impact of the imports from third countries on the injury suffered by the Union industry, the impact of the imposition of anti-dumping measures on imports of aluminium household foil (AHF) from Russia on users, and the possibility to use the minimum import price as type of measures.
- (5) In addition, on 27 October 2015 five rewinders requested a confrontational hearing with the complainants. However, the complainants have not shown interest in participating in such hearing.
- (6) The Commission considered the oral and written comments submitted by the interested parties and, where appropriate, modified the provisional findings accordingly.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ 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).

- (7) The Commission informed all parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports of certain aluminium foils originating in Russia and definitively collect the amounts secured by way of provisional duty (the definitive disclosure). All parties were granted a period within which they could make comments on the definitive disclosure.
- (8) The comments submitted by the interested parties were considered and taken into account where appropriate.

3. Sampling

- (9) Following provisional disclosure, 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 injury assessment under Article 6(1) of the basic Regulation.
- (10) In the absence of comments concerning the method of sampling, the provisional findings set out in recitals 7 to 13 of the provisional Regulation are confirmed.

4. Investigation period and period considered

- (11) As set out in recital 19 of the provisional Regulation the investigation of dumping and injury covered the period from 1 October 2013 to 30 September 2014 (the investigation period). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period (the period considered).
- (12) After provisional disclosure, the Russian authorities argued that as the investigation period also included data for the last quarter of 2013, the determination of trends in the injury analysis did not meet the requirement of the objectiveness laid down in Article 3(2) of the basic Regulation.
- (13) The investigation period was set in accordance with Article 6(1) of the basic Regulation. In addition, the Commission relied on a sufficiently representative period of time for the examination of trends of all relevant economic factors and indices having a bearing on the state of the industry i.e. the investigation period and 3 complete financial years prior to the investigation period. The fact that there is some overlapping between the investigation period and one of the years included in the period considered does not affect the objective determination of the injury carried out by the Commission. This claim was therefore rejected.

B. PRODUCT CONCERNED AND LIKE PRODUCT

- (14) As set out in recital 20 of the provisional Regulation, 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 Russia, 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).
- (15) Following the provisional disclosure, several interested party claimed that the Russian imports did not compete with the AHF manufactured by the Union industry, however without further explaining this claim or substantiating it. Therefore, this claim was rejected.
- (16) In the absence of any other comments regarding the product concerned and the like product, the conclusions reached in recitals 21 to 28 of the provisional Regulation are confirmed.

C. DUMPING

- (17) The details of the dumping calculation are set out in recitals 29 to 52 of the provisional Regulation.
- (18) Following the provisional disclosure, Rusal group contested the adjustments made to the export price as described in recitals 40 to 42 of the provisional Regulation. Rusal group claimed that deduction of sales, general and administrative (SG&A) expenses and profit of the related trader are only warranted in case of delivery duty paid (DDP) transactions and not in case of delivery at place of destination (DAP) and cost, insurance and freight (CIF) transactions.

- (19) In reply to this claim, it is noted that the Commission constructed the export price in accordance with Article 2(9) of the basic Regulation due to the existing association between the producers and their related trader. The investigation showed that this association applies to all types of transactions regardless of their commercial terms. Moreover, Rusal group did not provide any evidence on why the profit margin used would not be reasonable. The claims made in this regard are therefore considered unsubstantiated and should be rejected. With regard to SG&A expenses, it is the party claiming the excessiveness of the adjustment who shall provide specific evidence and calculations justifying its claim and, in particular, to give the alternative rate of adjustment that it suggests where applicable. Rusal group however failed to provide any of this in its submission following the provisional disclosure.
- (20) On the basis of above, the claim of the exporting producer was rejected.
- (21) Following the final disclosure Rusal group reiterated its disagreement concerning the adjustments made for SG&A and profit under Article 2(9) of the basic Regulation for DAP and CIF transactions. Rusal group is not contesting the application of Article 2(9) given the involvement of the related trader in all types of transactions (i.e. DDP, DAP and CIF). However, with regards to the transactions performed under CIF and DAP terms, Rusal group contests the applicability of the adjustments under the second and third subparagraph of Article 2(9), in particular SG&A and profit. In its view, under CIF and DAP terms the delivery of the goods to the buyer is made prior to importation, and therefore these adjustments are not applicable. In its submission Rusal group listed a number of cases where apparently the Commission did not make adjustments under Article 2(9). Finally, the Rusal group claims that, in the alternative, should the Commission maintain that the application of Article 2(9) requires an automatic adjustment for reasonable SG&A costs and profit, then the Commission services should recognise that the trader was an integrated department of the exporting producer in CIF and DAP transactions, and consequently apply Article 2(8) of the basic Regulation to those transactions.
- (22) In reply to this, the Commission confirms that, in the case of Rusal an adjustment for a reasonable margin for SG&A and profits under the second and third subparagraph of Article 2(9) should be applied for all types of transactions. Although the delivery of the goods for the CIF transactions is made prior to the release into free circulation of the goods and even if the responsibility for the customs clearance is on the buyer (as opposed to transactions under DDP terms), this does not change the fact that the sales are performed by the related trader which is bearing SG&A costs and which is normally seeking to make a profit for its services. In light of the fact that the trader is related to the exporting producer, Article 2(9) of the basic Regulation implies that the data of such trader is by definition unreliable and that its SG&A costs and profits should be established by the investigating authority on a reasonable basis. Besides, Article 2(9) of the basic Regulation does not preclude adjustments being made for costs incurred before importation, inasmuch as those costs are normally borne by the importer. Therefore, the complete exclusion of adjustments for SG&A and profit for what concerns sales performed under CIF terms is not justifiable. Indeed, the fact that the related company performs only certain functions does not prevent the Commission from making the adjustments under Article 2(9) of the basic Regulation but could be reflected in a lower amount of SG&A to be deducted from the price at which the product concerned is first resold to an independent buyer. In any event, the interested party who intends to dispute the extent of the adjustments made on the basis of Article 2(9) of the Basic Regulation has a burden of proof. Hence, if this party deems the adjustments to be excessive it must supply specific evidence and calculations justifying those claims. As regards DAP transactions, it should be mentioned that the places of delivery are well inside the EU customs territory and therefore the difference with respect to the degree of involvement of the trader as compared to sales under DDP terms is even smaller. As for the past cases mentioned by the Rusal group it is important to note first that the Commission's position is in line with the case-law of the Union Courts. Second, the Commission enjoys a wide discretion in the sphere of measures to protect trade and, when exercising that discretion, is not bound by its past assessments. In any event, the factual situation in each of the cases referred to by the Rusal group differed. As regards finally the alternative claim to apply Article 2(8) of the basic Regulation, the Commission refers to the reasoning in this recital and in recital 19 and reiterates that the mere fact of association between the exporter and the related company is enough to enable the Commission to treat the actual export prices as unreliable because the existence of association between the exporter and related company is one of a number of reasons for which the actual export prices may be regarded as unreliable.
- (23) Concerning the quantification of the adjustment for SG&A, following the receipt of comments to the provisional disclosure, the Commission invited Rusal group to identify the part of SG&A that they considered not-applicable or unreasonable for CIF and DAP transactions and to provide evidence thereof as required by case-law. However, no evidence was provided in this respect because Rusal group conditioned the submission of any information

upon the Commission's acceptance of its legal interpretation of Article 2(9) of the basic Regulation. In the absence of any element provided by the Rusal group in this respect, the claim should be rejected.

- (24) In the absence of any further comment, the provisional findings as set out in recitals 29 to 52 of the provisional Regulation are confirmed and the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, remain unchanged:

Company	Definitive dumping margin
Rusal group	34,0 %
All other companies	34,0 %

D. INJURY

1. Definition of the Union industry and Union production

- (25) The change mentioned in recital 9 above did not affect the definition of the Union industry.
- (26) In the absence of any comments with respect to the definition of the Union industry and Union production, the conclusions set out in recitals 53 to 55 of the provisional Regulation are confirmed.

2. Union consumption

- (27) In the absence of any comments with regard to Union consumption, the conclusions set out in recitals 56 to 60 of the provisional Regulation are confirmed.

3. Imports from the country concerned

- (28) In the absence of any comments concerning the imports from the country concerned, the conclusions set out in recitals 61 to 70 of the provisional Regulation are confirmed.

4. Economic situation of the Union industry

- (29) Following provisional disclosure, one interested party claimed that the analysis of the economic situation of the Union industry would be affected by the interdependence of the AHF and the ACF markets. The party claimed that the interdependence of these markets was due to three main assumptions: (i) all sampled Union producers were able to produce both AHF and ACF on the same manufacturing facilities and equipment, (ii) the relative ease to switch between the production of ACF and AHF, and (iii) the high price elasticity of demand of both products. The party finally claimed that the Union producers were not able to distinguish the economic factors relating to each of these products separately and that therefore, the Commission should have applied Article 3(8) of the basic Regulation and based its injury assessment on a broader basis.
- (30) It has to be noted that ACF is, however, a different product than AHF and it is used in different applications. As explained in recital 131 of the provisional Regulation, the largest sampled Union producer of AHF was producing solely AHF. As also mentioned in this recital, the investigation has shown that those Union producers producing both AHF and ACF could not switch easily from one product to the other as the production of both products in certain quantities is needed in order to maximise efficiency. In addition, the investigation has shown that the sampled Union producers had a stable ratio of production between the two types of foils. Furthermore, the Union producers that were manufacturing both AHF and ACF were able to separate the economic and financial data for the production and sales of AHF from those for the production and sales of ACF. Therefore, the injury analysis in recitals 71 to 108 of the provisional Regulation only refers to the production and sales of AHF in the Union and the claim that the Commission should have applied Article 3(8) of the basic Regulation was therefore rejected.

- (31) Following final disclosure, this interested party disagreed with the Commission's conclusion that the application of Article 3(8) of the basic Regulation was not applicable in this case. The interested party reiterated its arguments showed in recitals 29 and 30 above without bringing any new elements. It also insisted that the Commission could not establish that most Union producers were able to separate the economic and financial data for the production of AHF and ACF, however without substantiating its claim. Therefore, the Commission confirms that it did not need to have recourse to Article 3(8) of the basic Regulation in this case because the verified data of the sampled Union producers permitted the separate identification of the production of the like product. Because the claims made by this interested party are mere allegations that are factually incorrect, they are rejected.
- (32) Following provisional disclosure, the Russian authorities asked the Commission to provide the non-confidential versions of the responses of the sampled Union producers and all other evidence showing material injury. They further requested access to the methodology used by the Commission to assess the material injury suffered by the Union producers.
- (33) The Commission recalls that the Russian authorities were informed, together with all interested parties, on 25 August 2015 (following their submission to the provisional disclosure) on the exact procedure to follow in order to obtain access to the non-confidential file of the investigation. The non-confidential versions of those responses were in sufficient detail to permit a reasonable understanding of the substance of the information provided in confidence. As concerns the other evidence that supports the finding of material injury suffered by the Union industry, this was presented in recitals 71 to 108 of the provisional Regulation.

5. Conclusion on injury

- (34) Following provisional disclosure, two interested parties claimed that not all injury indicators showed a negative trend and that the existence of a positive trend of some of the injury indicators would demonstrate that the Union industry did not suffer material injury. It was also claimed that the insufficient increase in the Union industry's sales volume does not point to material injury as this was the result of insufficient production capacity when demand in the Union grew.
- (35) Under Article 3(5) of the basic Regulation, a finding of material injury is based on an overall assessment of all the relevant injury indicators. Drawing conclusions solely based on certain selected injury indicators would distort the analysis in this case. Thus, as concluded in recital 106 of the provisional Regulation, although production capacity, production and sales of the Union industry increased in the period considered such increase was below the increase in consumption. Despite the difficult financial situation of the Union industry, Union producers made efforts to invest to increase capacity to benefit from the increase in the Union consumption. However, as they were not able to increase prices to cost-covering levels, their ability to invest in capacity increases was limited. The producers were to a certain extent able to finance the losses incurred from the production and sales of AHF with the profits obtained from the sale of other products. However, on long term, such strategy is not sustainable for the Union industry to produce a product that is loss making. Therefore, the claim that not all injury indicators showed a negative trend and that there was, therefore, no material injury, was rejected.
- (36) Following final disclosure, the Russian authorities reiterated their claim before provisional stage that according to publicly available financial documents of the complainants there would be no material injury.
- (37) As explained in recital 107 of the provisional Regulation, 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. Moreover, the results of the investigation are based on actual verified data of the Union industry related to AHF. This claim was, therefore, rejected.
- (38) Following final disclosure, one interested party reiterated its claim that the majority of the relevant factors and indices having a bearing on the state of the Union industry of AHF had a positive development during the period considered. It furthermore claimed that the Commission's analysis of the situation of the Union industry is based only on a few indicators.
- (39) However, the Commission's analysis of the situation of the Union industry is based on the totality of the factors presented in Section D of the provisional Regulation. The fact that some of the injury indicators like production, production capacity and sales volume showed a positive trend during the period considered does not undermine the overall conclusion that the Union industry suffered material injury within the meaning of Article 3(5) of the

basic Regulation. The indicators cannot be seen in isolation from each other, the correlation between the indicators needs to be taken into account as well. As explained in recital 106 of the provisional Regulation, production volume increased by 7 % and production capacity by 12 % during the period considered. However these increases fell behind the increase in consumption which was much higher, namely by [17 %-28 %] over the period considered. As a consequence, even though the sales volume of the Union industry increased by [2 %-10 %] during the period considered, in a market with an even higher increase in consumption, the increase in sales volume did not lead to an increase of market share, but to the contrary, to a loss of market share by 8 percentage points. This demonstrates that the Union industry could not benefit from the increase in consumption. Furthermore, even though the investments increased by 47 % during the period considered, this still fell behind the investments needed to keep up with the increase in consumption. Finally, the cash flow showed a positive trend, but in absolute terms it remained at low levels. Consequently, the positive trend of some indicators, when analysed in correlation with other factors, confirms in fact an injurious situation of the Union industry. Therefore, the claims in recital 38 above were rejected.

- (40) Following final disclosure, five rewinders alleged, in the context of requesting the measures to be imposed in the form of a minimum import price, that the selling price of the Union producer manufacturing solely AHF increased after the investigation period, while the aluminium premium decreased. The parties also claimed that these elements translated into higher profits for this Union producer.
- (41) In accordance with Article 6(1) of the basic Regulation, the conclusion on injury above was reached on the basis of verified data for the period considered, not taking into account post investigation period data and on basis of data representative for the totality of the sampled companies and not on one Union producer in isolation. Therefore, the claim in recital 40 was rejected.
- (42) On the basis of the above and in the absence of any other comments, the conclusions set out in recitals 71 to 108 of the provisional Regulation that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation were confirmed. The Union industry suffered material injury, which was reflected most notably in the negative profitability almost during the entire period considered.

E. CAUSATION

1. Effect of the dumped imports

- (43) Following provisional disclosure, some interested parties reiterated their claims submitted prior to the imposition of provisional duties, i.e. that the injury suffered by the Union industry was not caused by the Russian imports but by other factors such as the inability of the Union industry to increase its production capacity in line with the increasing demand, imports from other third countries like Turkey and the PRC and the increase in production of ACF by the Union industry to the detriment of AHF.
- (44) The claimed impact of other factors on the material injury suffered by the Union industry is addressed in recitals 49 to 97 below.
- (45) In addition, one party claimed that the profitability of the Union industry increased in 2013 when the Russian imports were at their highest absolute volume which allegedly would demonstrate that the Russian imports did not have an impact on the profitability of the Union industry and did therefore not cause the material injury suffered by the Union industry.
- (46) As shown in recital 99 of the provisional Regulation, the profitability of the Union industry was slightly fluctuating, between - 2,9 % and 0,2 % during the period considered. In 2013, the profitability of the Union industry barely exceeded the breakeven point, i.e. amounted to 0,2 %. While the volume of the Russian imports was the highest in the same year, its market share remained constant at 34 %. Therefore, this minor temporary improvement of the Union industry's profitability did not affect the conclusion that the overall profitability of the Union industry was negative (with the exception of 2013) and remained under the target profit of 5 % over the entire period considered. It did also not affect the conclusion drawn in recital 116 of the provisional Regulation that there was a causal link between the deterioration of the Union industry's situation and the dumped Russian imports which held a constant and significant market share. Therefore, this claim was rejected.

- (47) In the light of the above, the causal link was established between dumped imports and the material injury found on the basis of the combined existence of substantial import volumes from Russia (34 % market share held by one producer) and the high price pressure exerted by these imports on the Union market (price underselling of around 12 %).
- (48) In the absence of any other comments as regard the effects of the dumped imports, the conclusions set out in recitals 110 to 116 of the provisional Regulation were confirmed.

2. Effect of other factors

2.1. Effect of imports from other countries

- (49) After provisional disclosure, it came to the attention of the Commission that in table 11 of the provisional Regulation, total imports included erroneously also the imports from Russia. The below table replaces table 11 of the provisional Regulation:

Table 1

Imports from other third countries

Country		2011	2012	2013	Investigation period
PRC	Volume (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
	Average price (EUR/tonne)	2 251	2 417	2 306	2 131
	Index (2011=100)	100	107	102	95
Turkey	Volume (tonnes)	[5 120-6 100]	[8 090-10 553]	[11 213-14 213]	[11 520-14 579]
	Index (2011=100)	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
	Index (2011=100)	100	93	92	87
Other third countries	Volume (tonnes)	[3 100-3 750]	[279-750]	[1 891-3 000]	[3 162-4 313]
	Index (2011=100)	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
	Index (2011=100)	100	98	93	84

Country		2011	2012	2013	Investigation period
Total imports (without Russia)	Volume (tonnes)	[10 677-10 761]	[9 037-9 902]	[14 855-16 831]	[15 226 -17 491]
	Index (2011=100)	100	[85-92]	[138-158]	[141-164]
	Market share (%)	16	13	17	19
	Average price (EUR/tonne)	2 750	2 712	2 669	2 505
	Index (2011=100)	100	99	97	91

Source: Eurostat and questionnaire reply.

- (50) One interested party claimed that the Commission failed to separate and distinguish the injurious effects of the imports from the PRC and Turkey, while other interested party claimed that the Commission underestimated the impact of imports from third countries on the situation of the Union industry.
- (51) As regard the imports from the PRC, after provisional disclosure it was found that small corrections had to be made to the level of the undercutting of the Chinese imports as stated in recital 118 of the provisional Regulation due to a clerical error. After correction, it was found that the average price of total volume of imports from the PRC to the Union in the investigation period was undercutting the Union industry prices by 10,2 % instead of 13 % as stated in recital 118 of the provisional Regulation.
- (52) In addition, as explained in recital 118 of the provisional Regulation, the import volume from the PRC decreased by [47 %-57 %] with a corresponding decrease in market share from 4 % to 2 %, during the period considered while the prices of these imports undercut the prices of Union industry by 10,2 %. On this basis, the Commission concluded in recital 121 of the provisional Regulation that Chinese imports contributed in part to the injury suffered by the Union industry, while they did not break the causal link between the dumped imports from Russia and the material injury suffered by the Union industry. Since the market share of the Chinese imports was low and showed a decreasing trend during the period considered, these imports could not have exerted a significant price pressure on the Union producers to prevent them from increasing prices to profitable levels. The conclusion that the Chinese imports did not break the causal link between the dumped Russian imports and the material injury suffered by the Union industry as per recital 121 of the provisional Regulation is thus confirmed.
- (53) Regarding imports from Turkey, as explained in recital 119 of the provisional Regulation, they showed an increasing trend during the period considered and reached a market share of 13 % in the investigation period due to a higher demand on the Union market, which Union producers were not able to satisfy as explained in recital 35. However, Turkish import prices even though they decreased by 13 % over the period considered, were at similar levels as the Union industry's prices and significantly above the price level of the Russian imports. Even if the market share of the Turkish imports had an increasing trend, given their similar levels to the Union industry's prices (sometimes even higher), they could not have exerted a significant price pressure on the Union producers to prevent them from increasing their prices to profitable levels. Consequently, the conclusion that Turkish imports did not break the link between the dumped Russian imports and the material injury suffered by the Union industry is hereby confirmed.
- (54) Following final disclosure, one interested party reiterated its claim from the provisional stage that the Commission did not separate and distinguish the injurious effects of the imports from Turkey. It also claimed that the increasing volume of Turkish imports injured the Union industry in terms of market share and capacity utilisation and therefore allegedly broke the causal link between the imports from Russia and the material injury suffered by the Union industry.

- (55) It is correct that the market share of the Turkish imports increased during the period considered while the market share of the Union industry decreased. However, the Turkish imports represented a market share of 13 % in the investigation period while the market share of the Russian imports was 34 %. In addition, the Turkish prices were at the same level as the prices of the Union industry while the Russian imports were undercutting the Union industry prices by [3 %-7 %]. In addition, it is highlighted that it is not sustainable for a loss making industry, such as the AHF industry, to continuously increase its volume of sales while incurring losses in the same time. The industry needs first to increase its prices above cost-covering levels before increasing even more its volume of sales. However, this was not possible due to the price pressure exerted by the dumped imports from Russia in significant volumes. Therefore, the claim that the Turkish imports broke the causal link between the imports from Russia and the material injury suffered by the Union industry was rejected.
- (56) It was further claimed that the Turkish import prices are higher than the Russian import prices as the Turkish producers specialise and focus their exports to the Union market on thinner foil between 0,008-0,009 mm which the Russian producer does not export to the Union market. This claim was not supported by any evidence and therefore it was rejected.
- (57) As concerns the imports from the remaining third countries, their volume decreased between 2011 and 2013 by [20 %-39 %] and then increased by [2 %-15 %] at the end of the investigation period. As explained in recital 120 of the provisional Regulation, their market share decreased from 4 % in 2011 to 2 % in 2013 and then increased to 4 % at the end of the investigation period. As also outlined in the same recital of the provisional Regulation their prices were at lower levels than the Union industry's sales prices, with the exception of 2012, but higher than the Russian import prices throughout the period considered. Therefore, imports from other third countries could not have exerted such a significant price pressure on the Union producers as to prevent them from increasing the prices to profitable levels. Consequently, the conclusion that the imports from other third countries did not break the causal link between the dumped Russian imports and the material injury suffered by the Union industry is hereby confirmed.
- (58) In the absence of any other comments the conclusions reached in recitals 117 to 122 of the provisional Regulation were therefore confirmed.

2.2. Development of Union consumption

- (59) Following provisional disclosure, two interested parties claimed that the Union industry failed to meet the growing consumption in spite of the investments made to increase production capacity, which allegedly caused the material injury suffered.
- (60) Firstly, the party did not explain how an increase in consumption in the Union as such could have had a negative impact on the Union industry and thus break the causal link between the dumped imports from Russia and the material injury suffered by the Union industry. To the contrary, under normal conditions of competition, i.e. in the absence of dumped imports, the Union industry could reasonably be expected to benefit from the increase in consumption.
- (61) Secondly, the Russian imports were able to increase their market share by 5 percentage points, while the Union producers lost 8 percentage points of their market share, i.e. it decreased from 55 % to 47 % in the period considered.
- (62) In addition, as explained in recital 78 of the provisional Regulation, the Union producers made efforts to increase production capacity but this was limited by their difficult financial situation. The relatively low level of investments was due to the difficult financial situation of the Union industry, which in itself was caused by the dumped imports. Furthermore, even though the production capacity of the Union industry slightly increased during the period considered, the capacity utilisation decreased because of the low priced dumped Russian imports. In addition, the Union industry's production volume slightly increased and its market share decreased continuously throughout the period considered. Therefore, this cannot be considered as a cause of the material injury suffered by the Union industry. These claims were therefore rejected.
- (63) In the absence of any other comment in this regard, the conclusions reached in recitals 123 to 125 of the provisional Regulation were confirmed.

2.3. Export performance of the Union industry

- (64) In the absence of any comments regarding the effect of the Union industry's export performance, the conclusions reached in recitals 126 to 128 were confirmed.

2.4. *The activity of the Union industry in the aluminium converters foils (ACF) market*

- (65) After provisional disclosure, one party claimed that the Commission failed to give consideration to ACF as other factor. It reiterated its claim that some Union producers chose to increase the production and sale of the more lucrative ACF product at the expense of AHF production. It also argued that the Commission failed to consider the impact of the production and sales of ACF and its economic situation on the overall economic situation of the Union industry for AHF. This claim was reiterated following final disclosure without any new information.
- (66) As explained in recital 81 of the provisional Regulation, several Union producers manufactured both AHF and ACF, while the largest sampled producer of AHF did not produce ACF during the investigation period. In addition, the investigation has shown that the sampled Union producers had a stable ratio of production between the two types of foils and therefore it was concluded that there was no switch of the Union industry to the production of ACF to the detriment of AHF. In any event, in case such a switch had happened, it would have been rather an effect of the dumped imports from Russia which continuously put a significant price pressure on AHF that prevented the Union producers from increasing prices to profitable levels. Moreover, the investigation showed that the trend in profitability of the product concerned is comparable across the sampled companies, irrespective of the share of AHF and ACF production in their total production. The claim described in recital 65 is therefore rejected.
- (67) In the absence of any other comment in this regard, the conclusions set out in recitals 129 to 132 of the provisional Regulation are hereby confirmed.

2.5. *Cost of raw materials*

- (68) After provisional disclosure, the Russian authorities disagreed with the Commission's conclusion that the price development of aluminium quoted at the London Metal Exchange (LME) did not have a bearing on the fact that Russian import prices were undercutting the Union industry's selling price and were exerting a price pressure on the Union market, which did not allow the Union industry to increase their selling price to a level that would have covered the cost of production.
- (69) As it was explained in recital 136 of the provisional Regulation, the investigation has showed that both, the Union industry and the Russian exporting producers bore comparable costs when sourcing aluminium to manufacture AHF, as the market prices of aluminium in both, Russia and the Union, were directly linked to the LME. In addition, while sales prices of the Union industry as well as import prices from Russia of AHF were decreasing following the price development of aluminium quoted at LME, the investigation established that Russian import prices of AHF were constantly lower than the Union industry's prices during the period considered and undercut them by [3 %-7 %] during the investigation period. Moreover, the Union industry sales prices of AHF did not cover the unit cost of production even though unit cost of production decreased. This was due to the price pressure exerted by the dumped imports in significant volumes undercutting the Union industry's sales prices which did not allow the Union industry to increase its sales prices and did therefore not allow them to benefit from the decrease in the raw material costs.
- (70) Following final disclosure, the Russian authorities reiterated their claim that the price pressure on the Union market was exercised by the LME aluminium prices instead of the Russian AHF imports, without bringing new evidence in this regard. Therefore, this claim was rejected.
- (71) In the absence of any other comment in this regard, the conclusions set out in recitals 133 to 136 of the provisional Regulation are hereby confirmed.

2.6. *Cumulated effects of other factors*

- (72) After provisional disclosure, one interested party claimed that the Commission failed to provide an assessment of the cumulated effects of all other factors without, however, specifying the legal basis for its claim or explaining how, under the facts of this case, this could have resulted in the attribution of injury resulting from other factors to the Russian dumped imports.
- (73) Firstly, the basic Regulation does not require the Commission to conduct an assessment of the cumulated effects of other factors when analysing the impact of these factors. Secondly, in the present case, the Commission was

able to properly distinguish and separate the effects of all other known factors individually on the situation of the Union industry from the injurious effects of the Russian dumped imports. Therefore, the Commission was able to conclude that the injury it ascribed to Russian dumped imports is actually caused by those imports, rather than by the other factors. The Commission therefore fulfilled its obligation not to attribute to Russian dumped imports the injury caused by other causal factors. Therefore, no collective analysis of all the known factors is necessary. In any event, this interested party did not adduce any evidence on why the Commission in this case has improperly attributed to Russian dumped imports the injury caused by other factors. Therefore, this claim was rejected.

2.7. Alleged circumvention of the anti-dumping measures on imports of AHF from the PRC

- (74) Following final disclosure, the Russian exporting producer and several rewinders claimed for the first time that the anti-dumping measures in force on imports of AHF from the PRC are being circumvented via a slightly modified form which allows them to be registered in Eurostat as ACF using the CN code 7607 11 19. In addition, the parties claimed that the aluminium foil with a thickness from 0,007 mm to 0,2 mm showed in the Chinese statistics database are circumvented AHF under the two codes 7607 11 90 and 7607 11 20. The volume of the alleged circumvented imports was therefore estimated to around 30 000 tonnes per year and it was claimed that it was causing injury to the Union industry.
- (75) It is recalled that in 2012 the Commission initiated an investigation concerning the possible circumvention of anti-dumping measures imposed on imports of certain aluminium foil originating in the PRC by imports of certain aluminium foil in rolls which are not annealed and of a width exceeding 650 mm originating in the PRC ⁽¹⁾ by Council Regulation (EC) No 925/2009 ⁽²⁾. However, on 2 July 2013 the Commission terminated the investigation ⁽³⁾ without extending the anti-dumping measures on imports of certain aluminium foil originating in the PRC to imports of certain aluminium foil in rolls which are not annealed and of a width exceeding 650 mm originating in the PRC following a withdrawal of the request from the applicants.
- (76) The current proceeding did not cover alleged circumvention practises. In any event, the Commission made an analysis of the imports of AHF and ACF from the PRC based on the Chinese database statistics supplied by Goodwill China Business Information Ltd and the Eurostat statistics.
- (77) The Chinese exports of aluminium foil via the two codes mentioned by the interested parties in the Chinese statistics are showed in the table below:

Table 2

Exports of AHF and ACF from the PRC to the Union

tonnes	CN code	2011	2012	2013	Investigation period
Volume	7607 11 90	18 786	17 177	22 444	24 760
Volume	7607 11 20	4 730	3 915	6 826	8 172
Volume	Total	23 515	21 091	29 270	32 932

Source: Goodwill China Business Information Ltd.

⁽¹⁾ Commission Regulation (EU) No 973/2012 of 22 October 2012 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 925/2009 on imports of certain aluminium foil originating in the People's Republic of China by imports of certain aluminium foil in rolls which are not annealed and of a width exceeding 650 mm originating in the People's Republic of China, and making such imports subject to registration (OJ L 293, 23.10.2012, p. 28).

⁽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 Regulation (EU) No 638/2013 of 2 July 2013 terminating the investigation concerning possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 925/2009 on imports of certain aluminium foil originating in the People's Republic of China by imports of certain aluminium foil in rolls which are not annealed and of a width exceeding 650 mm originating in the People's Republic of China (OJ L 184, 3.7.2013, p. 1).

- (78) It should be noted that the Chinese codes in the table above are not specifically for the AHF and ACF is also covered by these codes. The interested parties simply assumed that the total volume exported via these two codes is circumvented AHF, ignoring the fact that the export of genuine ACF is also reported in these codes.
- (79) Moreover it is noted that the CN code 7607 11 19 in Eurostat is further broke down into two different codes, one for AHF (7607 11 19 10) and one for ACF (7607 11 19 90). The total imports of ACF from the PRC during the period considered are showed in the table below:

Table 3

Imports of ACF from the PRC

tonnes	2011	2012	2013	Investigation period
Volume	25 506	20 996	28 135	36 464

Source: Eurostat.

- (80) On the basis of the above, while it is not excluded that some of the imported volumes declared as ACF are indeed circumvented AHF, the interested parties were clearly overstating the volume of the alleged circumvented AHF, as, during the period considered, the total volume of imports of ACF from the PRC was below the alleged circumvented volume of AHF (i.e. 30 000 tonnes), with the exception of the investigation period. Neither the information submitted by the parties nor the information collected by the Commission permit a separation of the allegedly circumvented AHF from the genuine ACF in these codes and, therefore, the Commission is not in a position to assess the volume of circumvented AHF, if any.
- (81) Since the parties did not submit any other evidence in support of their claim, it was concluded that the alleged circumventing volumes, if any, were not as such as to break the causal link between the dumped Russian imports and the material injury suffered by the Union industry.

2.8. Other arguments

- (82) The Russian authorities claimed that the Commission has not taken into account the general trend of the declining world market prices of AHF.
- (83) As explained in recitals 67, 91, 118 to 120 of the provisional Regulation, the Union prices as well as the import prices from Russia, Turkey, the PRC and other third countries decreased during the period considered. However, the prices of the Russian imports were continuously lower than the Union industry sales prices and undercutting them by [3 %-7 %] at significant volumes. Therefore, the claim was rejected.
- (84) Another interested party claimed that the profitability of the Union industry did not increase because of their expansion of production capacities and the increase in investments.
- (85) The production of AHF is machinery intensive. Therefore, in order for the Union industry to increase production capacity, investment in machinery is needed. However, from accounting point of view the impact of the depreciation of the machinery in the total manufacturing cost is limited, between 3 % and 5 %, and, consequently it cannot have a significant impact on the profitability of the Union industry. Therefore, the claim was rejected.
- (86) Following final disclosure, the Russian authorities claimed without supporting evidence that the statistical data from Russia reflect only the average quality of AHF which is a lower-priced product, while the statistics of the Union and the other major third countries reflect a mix of AHF with more expensive foils.

- (87) The investigation has not revealed any such difference in quality between the AHF manufactured by the Union producers and the one imported from Russia. The rewinders that are buying AHF from Union producers, from Russia and other third countries producers, especially Turkey, have not raised any claims about a quality difference between the different sourced AHF during the investigation. Therefore, this claim was rejected.
- (88) Following final disclosure, one interested party also claimed that, in the framework of the current proceeding, the Commission disregarded the fact that four out of the six sampled Union producers alleged injurious dumping on ACF from the PRC.
- (89) It is correct that on 12 December 2014 the Commission initiated an anti-dumping proceeding concerning imports of certain aluminium foil originating in the People's Republic of China ⁽¹⁾ which is ACF. As explained in recital 30 above, AHF and ACF are two different products, sold in two different markets. The injury suffered by the Union industry from the production and sales of ACF, if any, is not reflected in the situation of the AHF industry. In addition, the investigation on imports of ACF from the PRC was terminated by the Commission without imposition of measures ⁽²⁾. Specifically, the closed investigation did not lead to any findings by the Commission on whether or not the Union industry is injured by imports of ACF from the PRC. Therefore, this claim was rejected.
- (90) Following final disclosure, five rewinders claimed that the Russian AHF competes only marginally with the AHF manufactured by the sampled Union producers. It was further claimed that the Russian AHF competes with the AHF imported from Turkey and the PRC.
- (91) This claim was not substantiated by evidence and was therefore rejected.
- (92) The rewinders also argued that, in general, the majority of the sampled Union producers do not sell the AHF to rewinders because it is not AHF for the production of consumer rolls, but ACF sold at a premium with prices close to EUR 3 000 per tonne.
- (93) This claim is factually incorrect. First, it should be noted that as stated in table 7 of the provisional Regulation the average selling price of the Union industry was EUR 2 597 per tonne during the investigation period and not EUR 3 000 as claimed. Moreover, the investigation confirmed that all sampled Union producers were selling AHF to rewinders. The four rewinders that cooperated in the investigation and submitted a questionnaire reply were buying AHF from the Union producers. Therefore, this claim was rejected.
- (94) The five rewinders also argued that the sampled Union producer that only produced AHF has in fact caused material injury to the other sampled Union producers as its selling prices undercut those of the other sampled Union producers. In addition, it was also claimed that as the profitability of the Union industry is calculated based on the sampled Union producers, i.e. not covering the whole Union industry, the Commission should also limit the market share analysis to the sampled companies only instead of the whole Union industry.
- (95) During the period considered the selling prices of the sampled Union producer which produces only AHF were in line with the average prices of the Union industry and were, in certain years, even higher. Therefore, it is factually wrong to claim that prices of this Union producer undercut those of the other sampled Union producers.
- (96) Regarding the second part of the claim, the Commission recalls that the injury analysis is carried out at the level of the Union industry within the meaning of Article 4(1) of the basic Regulation as defined in recital 53 of the provisional Regulation. Moreover, as explained in recital 9 of the provisional Regulation, due to a large number of Union producers, sampling was applied in accordance with Article 17 of the basic Regulation. Six companies were sampled representing more than 70 % of total Union production. No comments concerning the selection of the sample were received within the deadline and, therefore, the sample was considered representative of the Union industry. In addition, due to the application of sampling, as explained in recital 73 of the provisional Regulation, the Commission distinguished between macroindicators and microindicators. The list of these

⁽¹⁾ Notice of initiation of an anti-dumping proceeding concerning imports of certain aluminium foil originating in the People's Republic of China (OJ C 444, 12.12.2014, p. 13).

⁽²⁾ Commission Implementing Decision (EU) 2015/1928 of 23 October 2015 terminating the anti-dumping proceeding concerning imports of certain aluminium foil originating in the People's Republic of China (OJ L 281, 27.10.2015, p. 16).

indicators is showed in recitals 74 and 75 of the provisional Regulation. It follows that profitability is a microindicator and therefore is calculated based on the data of the sampled Union producers, while market share is a macroindicator and it should be calculated relating to the whole Union industry. Both methodologies entitle the Commission to make findings that are as such valid for the whole Union industry.

(97) Therefore, the claims in recitals 94 above were rejected.

3. Conclusion on causation

(98) None of the arguments submitted by the interested parties demonstrates that the impact of factors other than the dumped import from Russia is such as to break the causal link between the dumped imports and the material injury established. In the light of the foregoing it is concluded that the dumped imports from Russia caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

(99) Therefore, the conclusions set out in in recitals 137 to 141 of the provisional Regulation are hereby confirmed.

F. UNION INTEREST

1. Interest of the Union industry

(100) After provisional disclosure, the Russian authorities claimed that the introduction of measures on imports from Russia would lead to an increase of imports of AHF from other third countries, especially from Turkey and the PRC, and therefore the imposition of the anti-dumping measures with regard to the imports from Russia is not in the interest of the Union industry.

(101) As laid out in recital 147 of the provisional Regulation, anti-dumping measures should restore the level playing field in the Union to enable the Union industry to compete at fair prices on the Union market with imports from other third countries, including Russia, the PRC and Turkey. The fact that other third countries increase their imports is as such not an indication that the Union industry will not be able to benefit from the anti-dumping measures imposed. Indeed, the Union industry is expected to increase sales volume and market share and to raise its selling prices to profitable levels.

(102) The anti-dumping measures in place against the PRC should ensure that Chinese imports enter the Union market at fair price levels, while Turkish price levels were already during the period considered at the same level as the Union industry's sales prices and did not exert price pressure on the market.

(103) The Commission considers that this argument does not rebut the presumption established by Article 21 of the basic Regulation in favour of the imposition of measures and the need to eliminate the trade distorting effects of the Russian dumped imports and to restore the level playing field.

(104) Therefore, these claims were rejected.

(105) In the absence of any other comments regarding the interest of the Union industry, the conclusion in recital 149 of the provisional Regulation is confirmed.

2. Interest of importers/traders

(106) In the absence of any comments regarding the interest of unrelated importers and traders, the conclusion reached in recital 150 of the provisional Regulation is confirmed.

3. Interest of users

(107) Following provisional disclosure and final disclosure several users (rewinders producing so called 'consumer rolls') reiterated their claims submitted prior to the imposition of provisional measures, however, without providing any new evidence.

- (108) One rewinder claimed in particular that anti-dumping duties will have a significant impact on its profitability as it will not be able to pass the duty on to its customers.
- (109) This claim was not substantiated. In addition, based on the figures provided by this rewinder, the investigation showed that even if the rewinder is not able to pass on the duty to its customer, it would still remain profitable.
- (110) Furthermore, the investigation showed that the 'mark-up' added by the rewinders on top of the purchase price of AHF can significantly vary, that is between 5 % and 70 %, depending on the rewinders' selling strategy. As outlined in recital 154 of the provisional Regulation, the activity of those rewinders importing AHF from Russia only represented less than one sixth to a maximum of one fourth of their total activity. Furthermore, as outlined in recital 155 of the provisional Regulation, all cooperating companies were overall profitable.
- (111) After final disclosure one party claimed that the rewinders do not add any 'mark-up' to the purchase price and that the 5 % to 70 % 'mark-up' on the purchase price as established by the Commission in recital 110 above does not reflect the rewinders' operation and their profitability.
- (112) It is recalled that the activity of the rewinders consists in rewinding the aluminium foils from a jumbo roll into a smaller roll for consumers. The rewinders do not alter the chemical properties of the aluminium foil. The 'mark-up' referred to in recital 110 was calculated by comparing the purchase price of aluminium foil in jumbo rolls with the selling price of aluminium foils in the consumer rolls for the cooperating rewinders. The rewinders incur costs during the repackaging operation, however, these costs are low as the main cost driver is the cost of aluminium foil which represents around 80 % of the total manufacturing costs. The SG&A expenses vary significantly from one rewinder to the other depending on the rewinders' selling strategy. Therefore, it is correct that the 'mark-up' does not indicate the operation and the profitability of the company, but shows that the level of SG&A expenses has a significant impact on the profitability of the rewinders.
- (113) It was also claimed that in the analysis of the situation of the rewinders industry, the Commission did not take into consideration the imports of the downstream product, i.e. consumer rolls from other third countries such as Turkey, Norway, Switzerland, India and Malaysia which substituted the decrease in imports of AHF from the RPC. However, the party did not provide any evidence of the impact of these imports on the situation of the rewinders industry.
- (114) As explained in recital 162 of the provisional Regulation, anti-dumping measures on imports of consumer rolls from the PRC were imposed in 2013 which has given the downstream industry a relieve from dumped imports causing material injury. The table below shows the evolution of imports of consumer rolls following the imposition of anti-dumping measures on imports of consumer rolls from the PRC for the countries mentioned by the party:

Table 4

Volumes of import of consumer rolls (tonnes)

	2013	Investigation period
the PRC	4 317,60	3 776,10
India	672,70	847,10
Malaysia	605,30	752,10
Norway	2 866,20	324,60
Switzerland	22,00	30,50
Turkey	2 059,80	2 498,80
Total	6 226,0	4 453,10

Source: Eurostat.

- (115) The volume of imports from the PRC was 12 994 tonnes during the investigation period of the original anti-dumping investigation on imports of consumer rolls from the PRC (see table 2 of Commission Regulation (EU) No 833/2012⁽¹⁾). After the imposition of measures, the volume of imports of consumer rolls from the PRC decreased by 8 676 tonnes in 2013 (that is to 4 317,60 tonnes) and by 9 218 tonnes in the investigation period of the current investigation (that is to 3 776,10 tonnes). The volume of this decrease is higher than the total volume of imports of consumer rolls from the five countries mentioned by the rewinder and set out in table 4 above (by 28 % in 2013 and by 52 % in the investigation period). Therefore the claim that the imports from the above mentioned countries substituted the decrease of imports from the PRC is unfounded and was rejected.
- (116) Following final disclosure, several rewinders claimed that on average the rewinders' activity incorporating AHF represents a higher part in their total activity than what the Commission stated in recital 154 of the provisional Regulation. This claim was based on data provided by two users which did not cooperate in the investigation. It was therefore argued that the Commission should not downplay the importance of the AHF in the rewinders' cost of production.
- (117) In this regard it should be noted that the Commission's findings in recital 154 of the provisional Regulation are based on the verified data of the cooperating rewinders and thus reflecting their actual situation. The above mentioned additional information was provided only after the final disclosure and thus, at such late stage in the proceeding, it could not be verified anymore. Therefore, it was rejected.
- (118) Following final disclosure, two rewinders claimed that the imposition of anti-dumping measures on imports of AHF from Russia will have a negative effect on their profitability.
- (119) These two rewinders have not come forward during the investigation until after final disclosure and only one of them submitted a questionnaire reply at this very late stage of the proceeding. Therefore, the Commission could not verify this new information. On this basis, the Commission is not in the position to assess the level of their profitability and the impact of the imposition of anti-dumping measures on imports of AHF from Russia on their profitability. Therefore, their claim was rejected.
- (120) Following final disclosure, five rewinders claimed that they will not be able to pass on the cost of the anti-dumping duty to the consumers due to the following reasons: (1) they sell based on contractual arrangements and the prices are based on the formula linked to the LME aluminium price; (2) due to the price pressure and competition resulting from consumer rolls made with AHF allegedly being circumvented from the PRC, they cannot negotiate a price increase for consumer rolls on the Union market and (3) even if at present the imports into the Union of consumer rolls from third countries is low, it is likely that they will increase in the future.
- (121) The investigation has shown that even though the rewinders are not able to pass on the anti-dumping duty to the consumers, the effect on the imposition of the anti-dumping measures on imports of AHF from Russia on rewinders will be limited. The investigation has also shown that there are two types of rewinders on the market: one category of rewinders that sell branded consumer rolls and have significant SG&A expenses, and one category of rewinders that sell non-branded consumer rolls with low SG&A expenses. The investigation further revealed that the cooperating rewinders with low SG&A expenses will likely remain profitable after the imposition of the anti-dumping measures on imports of AHF from Russia assuming that also the prices of the Union industry will increase by 5 % in order for the Union industry to reach the target profit. The cooperating rewinders that sell branded consumer rolls have high 'mark-ups' and high SG&A expenses. Therefore, it was considered that they have the ability to absorb the duty.
- (122) In the absence of any other comments regarding the interest of users, recitals 151 to 163 of the provisional Regulation are confirmed.

4. Sources of supply

- (123) Following provisional disclosure, several rewinders reiterated their claims submitted prior to the imposition of provisional measures concerning the shortage of supply without, however, providing any new evidence in this respect.

⁽¹⁾ Commission Regulation (EU) No 833/2012 of 17 September 2012 imposing a provisional anti-dumping duty on imports of certain aluminium foils in rolls originating in the People's Republic of China (OJ L 251, 18.9.2012, p. 29).

- (124) Firstly, the purpose of the anti-dumping measures is not to exclude imports from Russia from the Union market, but to establish a level playing field on the Union market. Therefore, the rewinders will still be able to import AHF from Russia after the imposition of the anti-dumping measures, however at fair price levels. In addition, it is recalled that the anti-dumping measure is set at the level of the injury margin, which is below the dumping margin, and therefore, the imports from Russia will still be possible to arrive on the Union market at a dumped, albeit non-injurious price.
- (125) It was claimed that the South Africa and India cannot be considered as an alternative source of supply capable of substituting the imports from Russia as import volumes from these countries were very low.
- (126) It is correct that the imports from South Africa and India were low throughout the period considered as compared to the imports from Russia, however, this does not exclude the possibility that these countries will increase their exports to the Union market once the level playing field is restored.
- (127) It was also claimed that the Union producers of AHF would increase their production to ACF in light of the allegedly higher margins obtained on the ACF market as compared to AHF, rather than increase capacity and production of AHF.
- (128) As explained in recitals 30 and 62 above, the investigation showed that the Union industry is interested to continue to produce AHF, and that in any event only has limited flexibility in switching from the production of AHF to ACF and vice versa. Finally, it is also recalled that the largest Union producer of AHF did not produce ACF. Therefore this claim was rejected.
- (129) Following final disclosure, several rewinders claimed on the basis of the information submitted only in confidence that no available production capacity exists in the Union and Turkey. It was also claimed that following the imposition of anti-dumping measures on imports of AHF from Armenia, the Armenian producer, with a production capacity of 25 000 tonnes per year, reoriented its exports to the US market. In addition, the party claimed that considering that the prices of AHF on the Union market will remain low due to the circumvention of the anti-dumping measures on imports of AHF from the PRC, it is unlikely that the Armenian producer will divert its exports to the Union market. Furthermore, as concerns Brazil, the rewinders referred to the parallel anti-dumping investigation on imports of AHF from Brazil and the PRC, where the Commission concluded that it was not expected that the Brazilian exports to the Union market would increase significantly in the future. In addition, it was claimed that India and South Africa cannot constitute a reliable and significant source of alternative supply, as the spare capacity for foil production is limited in these countries.
- (130) The evidence submitted in confidence was not considered sufficient to conclude that there was not sufficient production capacity available in the Union and Turkey. In fact, the investigation has shown that the Union industry has spare capacity as stated in recital 79 of the provisional Regulation. As concerns the Turkish producers, the investigation also shown that the Turkish producers are interested in the Union market as they increased their volume of sales during the period considered. As the prices on the Union market are likely to reach cost-covering levels after the imposition of anti-dumping measures on imports of AHF from Russia, it is expected that the Turkish producers will continue to find the Union market attractive and possibly redirect part of their production to the Union market.
- (131) The anti-dumping measures on imports of AHF from Armenia expired on 7 October 2014 ⁽¹⁾ and therefore the imports of AHF from Armenia can freely enter the Union market. The claims on the alleged circumvention are addressed in detail in recitals 74 to 81 above. After the imposition of anti-dumping measures on imports of AHF from Russia, it is expected that the prices of the AHF on the Union market will reach cost-covering levels. Therefore, it is not excluded that as a consequence, the Armenian producer will redirect their exports to the Union market.
- (132) As concerns Brazil, the measures were terminated and imports of AHF from Brazil can freely enter the Union market. However, once the prices will reach cost-covering levels on the Union market, it is not excluded that the Brazilian producers will consider the Union market as being more attractive than their domestic and third countries markets and, thus, redirect part of their production to the Union.

⁽¹⁾ Notice of the impending expiry of certain anti-dumping measures, OJ C 49, 21.2.2014, p. 7.

(133) As concerns India and South Africa as being considered as an alternative source of supply as stated in recital 165 of the provisional Regulation, firstly it should be noted that the information used in support of the party's claim did not separate between AHF and ACF. Nevertheless, even if in these countries the spare capacity is low, once the prices on the Union market will reach cost-covering levels it is not excluded that the Union market will become attractive for the Indian and South African producers and they will redirect part of their production to the Union market.

(134) Therefore, the claims stated in recital 129 above were rejected.

(135) In the absence of any other comments recitals 164 to 168 of the provisional Regulation are confirmed.

5. Other arguments

(136) Following provisional disclosure, one interested party claimed that the definitive measures should be imposed in a least-trade distorting and trade limiting manner without, however further expanding on this claim.

(137) Following final disclosure, this interested party reiterated its claim stated in recital 136 above, however without providing any additional information for its claim.

(138) In this regard, it is highlighted that when deciding on the level of the anti-dumping measures, the Commission is applying the lesser-duty rule in accordance with Article 9(4) of the basic Regulation and as also outlined in recital 143 below.

(139) In the absence of any other comments recitals 169 to 172 of the provisional Regulation are confirmed.

6. Conclusion on Union interest

(140) In the absence of any other comments concerning the Union interest, the conclusions reached in recital 173 of the provisional Regulation are confirmed.

G. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level (Injury margin)

(141) Following provisional disclosure, two interested parties contested the target profit used in order to determine the injury elimination level as set out in recitals 175 to 177 of the provisional Regulation. The parties argued that a profit margin of 2 % would be a market-tested profit level and should therefore be used instead in order to establish the injury elimination level. However, the claim was not substantiated and therefore it was rejected.

(142) In the absence of any other comments regarding the injury elimination level, the conclusions reached in recitals 175 to 177 of the provisional Regulation are confirmed.

2. Definitive measures

(143) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on the imports of the product concerned at the level of the injury margin, in accordance with the lesser duty rule.

(144) After final disclosure, several rewinders claimed that the definitive measures should be imposed in a form of a minimum import price (MIP). The parties suggested that the MIP should be set at the level of a slightly increased profitable price of the producer manufacturing solely AHF. Following the hearing with the Hearing Officer, the parties submitted additional information claiming that the aluminium premium decreased after the investigation period.

- (145) In the context of determining whether there is a Union interest as contemplated in Article 21(1) of the basic Regulation, information relating to a period subsequent to the investigation period may be taken into account for those purposes. ⁽¹⁾ However, the requirement of such data to be verified and representative for the whole Union industry still applies. As the request for a MIP was made at such a late stage in the proceeding, the Commission did not have the time to send questionnaires to interested parties and organise verification visits. The information submitted by the parties asking for a MIP could not be verified and also was not representative for the whole Union industry. The information submitted indeed indicates an increase of sales prices while the aluminium premium is decreasing, however the Commission cannot draw meaningful conclusions on unverified and non-representative data.
- (146) In addition, the level of the MIP should be calculated on the basis of the data representative for the whole Union industry and not just on the basis of one single Union producer as was proposed by the users. In addition, the data used for the calculation of a MIP needs to be verified and, as the request for a MIP was made at such a late stage of the proceeding, the Commission was not in the position to collect and verify the necessary data. Therefore, the proposed MIP was considered inappropriate.
- (147) In any event, a change of the type of measure would require full disclosure to all interested parties, otherwise it would significantly breach the procedural rights of the Union industry. As this claim was made at such a late stage of the investigation, the Commission did not have the necessary time to make such a disclosure to the interested parties.
- (148) In addition, the fact that the exporter sells in the Union via a related trader makes the export prices unreliable.
- (149) Therefore, in light of the above it was considered that in this particular case the circumstances are not such as to warrant the imposition of a MIP.
- (150) Nevertheless, it should be noted that the rewinders have still the possibility of asking for an interim review in accordance with Article 11(3) of the basic Regulation if the conditions are met.
- (151) On the basis of the above, the rate at which such duties will be imposed are set as follows:

Country	Company	Dumping margin (%)	Injury margin (%)	Definitive anti-dumping duty (%)
Russia	Ural Foil OJSC, Sverdlovsk region; OJSC Rusal Sayanal, Khakassia region — Rusal Group	34,0	12,2	12,2
	All other companies			12,2

3. Definitive collection of the provisional duties

- (152) In view of the dumping margins found and given the level of the injury caused to the Union industry, the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected.

4. Undertakings

- (153) Following the final disclosure Rusal group offered a price undertaking under Article 8(1) of the basic Regulation.
- (154) The offer was thoroughly examined by the Commission. It is important to note that Rusal is a complex company group with over 40 plants in 13 countries. In particular, the group includes a related producer in Armenia (Armenal) producing and selling the product concerned to the Union. In view of the relationship between the Russian exporting producers and Armenal, it is likely that these companies will sell the product concerned to the same customers or customers related to one of these customers in the Union. This poses high risk of cross-compensation. In addition, Rusal group operates through very complex sales channels with the involvement of

⁽¹⁾ Judgment of the General Court of 25 October 2011 in case No. T-192/08. Transnational Company 'Kazchrome' AO, paragraph 221.

related traders and related agents located both inside and outside Russia. The related trader and the related agent also sell other products to the Union, and these other products represent in fact the majority of the related trader's turnover. Under these circumstances it cannot be excluded that both product concerned and other products are sold to the same customers. Such transactions would entail a high risk of cross-compensation and in any event would make the monitoring of the undertaking particularly complex.

- (155) Based on above it is concluded that the acceptance of the undertaking would be impractical and consequently the undertaking offer has to be rejected.
- (156) The Committee established by Article 15(1) of Regulation (EC) No 1225/2009 did not deliver an opinion,

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 Russia.
2. The rates of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 shall be 12,2 %.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of the provisional anti-dumping duties pursuant to Implementing Regulation (EU) 2015/1081 shall be definitively collected.

Article 3

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
