

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1684**of 8 November 2018****imposing a definitive anti-dumping duty on imports of lever arch mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and measures in force**

- (1) By Council Regulation (EC) No 1136/2006 ⁽²⁾, the Council imposed an anti-dumping duty on imports of lever arch mechanisms ('LAM') originating in the People's Republic of China ('PRC') ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) By Council Implementing Regulation (EC) No 796/2012 ⁽³⁾, the Council, following an expiry review in accordance with Article 11(2) of Regulation (EC) No 1225/2009 ⁽⁴⁾, re-imposed the definitive anti-dumping measures on imports of LAM originating in the PRC (the 'previous expiry review').

1.2. Request for an expiry review

- (3) Following the publication of a notice of impending expiry ⁽⁵⁾ the Commission received a request for review pursuant to Article 11(2) of Regulation (EU) 2016/1036 (the basic Regulation).
- (4) The request for review was lodged on 30 May 2017 by the Lever Arch Mechanism Manufacturers Association ('the applicant') on behalf of three Union producers representing about 95 % of the total Union production of LAM. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation of dumping and recurrence of injury to the Union industry.

1.3. Initiation

- (5) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 1 September 2017, by a notice published in the *Official Journal of the European Union* ⁽⁶⁾ ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. Review investigation period and period considered

- (6) The investigation of continuation or recurrence of dumping covered the period from 1 July 2016 to 30 June 2017 ('review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 1136/2006 of 24 July 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of lever arch mechanisms originating in the People's Republic of China (OJ L 205, 27.7.2006, p. 1).

⁽³⁾ Council Implementing Regulation (EC) No 796/2012 of 30 August 2012 imposing a definitive anti-dumping duty on imports of lever arch mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 238, 4.9.2012, p. 5).

⁽⁴⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

⁽⁵⁾ Notice of the impending expiry of certain anti-dumping measures (OJ C 466, 14.12.2016, p. 20).

⁽⁶⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of lever arch mechanisms originating in the People's Republic of China (OJ C 290, 1.9.2017, p. 3).

1.5. Interested parties

- (7) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In addition, the Commission officially advised the applicant, the other known Union producers, the exporting producers in the PRC, importers/users which were known to be concerned, as well as the authorities of the PRC the initiation of the expiry review.
- (8) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time-limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request in writing a hearing by the Commission investigation services and/or the Hearing Officer in trade proceedings.

1.5.1. Sampling

- (9) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.5.1.1. Sampling of exporting producers in the PRC

- (10) In view of the apparent large number of exporting producers in the PRC, sampling was envisaged in the Notice of Initiation.
- (11) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. The information requested included production volume and production capacity. In addition, the Commission requested the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (12) None of the 33 Chinese exporters/producers that were contacted or any other Chinese exporter/producer came forward and provided the information requested.

1.5.1.2. Sampling of Union producers

- (13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. Pursuant to Article 17 of the basic Regulation, the sample was selected on the basis of sales volume of the like product. The sample consisted of three Union producers. The sampled Union producers accounted for more than 75 % of the estimated total production of the Union industry and for more than 75 % of the total sales volume of the Union industry to unrelated customers in the Union during the review investigation period. The Commission invited interested parties to comment on the provisional sample. No comments were received and the provisional sample was thus confirmed. The sample was considered representative for the Union industry.

1.5.1.3. Sampling of unrelated importers

- (14) In order to enable the Commission to decide whether sampling was necessary and, if so, to select a sample, all unrelated importers were invited to participate in this investigation. Those parties were requested to make themselves known by providing the Commission with the information on their companies requested in Annex II of the Notice of Initiation.
- (15) In addition, 26 importers identified in the review request were contacted by the Commission at initiation stage and were invited to explain their activity and to fill Annex II of the Notice of Initiation.
- (16) None of the importers came forward and made itself known to the Commission.

1.5.2. Questionnaires

- (17) The Commission sent questionnaires to the three sampled Union producers and to three users that were identified in the review request.
- (18) Questionnaires were also sent to 38 producers in potential market economy third countries namely in Cambodia, India, Iran, Japan, Switzerland, Thailand and Ukraine. None of the producers in any of the potential analogue countries provided the Commission with a complete questionnaire reply.

- (19) The three sampled Union producers submitted a questionnaire reply. None of the users provided a questionnaire reply.
- (20) As mentioned in recital (12), none of the Chinese exporting producers cooperated and provided a questionnaire reply.

1.5.3. Verification visits

- (21) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Verification visits were carried out at the premises of the following companies:

Union producers:

- IML, Offanengo, Italy
- NIKO, d.o.o., Železniki, Slovenia
- INTERKOV spol. s.r.o., Benešov nad Ploučnici, Czech Republic.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (22) The product under review is the same as in the original investigation namely, LAM generally used for archiving sheets and other documents in binders or files. These LAM consist of arched sturdy metal elements (normally two) on a back plate and having at least one opening trigger that permits inserting and filing of sheets and other documents originating in the PRC ('product under review'), currently falling within CN code ex 8305 10 00 (TARIC code 8305 10 00 50).

2.2. Like product

- (23) It was considered that the product under review produced in the PRC and exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical and chemical characteristics, and the same basic uses. They were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

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

3.1. Preliminary remarks

- (25) As mentioned in recitals (12) and (20), none of the Chinese exporters/producers cooperated in the investigation. Therefore, the Commission informed the Chinese authorities that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments or requests for an intervention of the Hearing Officer from the Chinese authorities in this regard.
- (26) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation the likelihood of continuation or recurrence of dumping were based on facts available, in particular publicly available information such as official company websites, information in the request for review, and information obtained from cooperating parties in the course of the review investigation (namely, the applicant and the sampled Union producers).

3.2. Dumping

- (27) For the purpose of establishing normal value, the Notice of Initiation made reference to the use of an analogue country. Alternatively, if there was no cooperation from any appropriate analogue country, the Commission envisaged using the prices actually paid or payable in the Union for the purpose of establishing normal value. Interested parties were invited to comment on the appropriateness of this basis for establishing normal value. No comments were received in this respect.
- (28) As concerns the export price, due to the lack of cooperation from exporting producers in the PRC and unrelated importers in the Union market, the Commission was unable to establish any export sales quantities or prices on a transactional basis. In this respect, the Commission considered alternative means to determine the export price.

- (29) Firstly, it was considered whether Eurostat or other statistical data such as the data reported to the Commission by the Member States in accordance with Article 14(6) of the basic Regulation ('Article 14(6) database'), cross-checked with other available data, could be used as an alternative means to establish export prices. Eurostat was however unsuitable because the import statistics also covered imports other than the product under review. Similarly, the Article 14(6) database did not allow for the possibility to compare export prices with those of the Union industry on a type-per-type basis. Also, the TARIC or the Article 14(6) database record volume of LAM in kilograms while the normal value is based on pieces.
- (30) Secondly, the Commission also considered having recourse to the export prices contained in the request for review. It is recalled that this methodology was used in the previous expiry review mentioned in recital (2) and that it, in principle, also permits a comparison on a type-per-type basis. However, the invoices contained in the request for review were for export prices to other third countries.
- (31) Accordingly, no dumping calculation could be made on the basis of export prices to the Union and it was not possible to establish an affirmative determination of dumping. The investigation therefore focused on the likelihood of a recurrence of dumping.

3.3. Likelihood of recurrence of dumping

- (32) As regards the investigation of the likelihood of recurrence of dumping, the following elements were analysed: the relationship between normal value and export prices to third countries; production capacity, production and spare capacity in the PRC; and the attractiveness of the Union market in relation to imports from the PRC.

3.3.1. Relationship between the normal value and export prices to third countries

- (33) In view of the lack of cooperation from exporting producers in the PRC, normal value was compared to export prices from the PRC to other third countries in accordance with Article 2(7) of the basic Regulation.

3.3.1.1. Basis for determining normal value

- (34) In accordance with Article 2(7) of the basic Regulation normal value had to be determined on the basis of the price or constructed value in an appropriate market economy third country (the analogue country), or the price of exports from the analogue country to other countries, including the Union. Where those methodologies are not available, normal value can also be determined on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.
- (35) The request for review by the Union industry cited a number of producers in market economy countries other than the Union (namely, India, Iran and Thailand).
- (36) In the Notice of Initiation the Commission envisaged to seek cooperation from India, Thailand and Iran. Furthermore, the Notice of Initiation specified that if there was no cooperation from producers in market economy countries other than the Union, the Commission envisaged using the prices actually paid or payable in the Union as the basis for determining the normal value. Indeed, the prices actually paid or payable in the Union were the basis used to determine normal value in the original investigation and in the previous expiry review referred to in recital (2).
- (37) As mentioned in recital (18), following initiation, producers were duly contacted by the Commission as well as other potential producers in other countries that could be identified from publicly available sources.
- (38) One Iranian producer of LAM indicated its willingness to cooperate but provided only a partial reply to the questionnaire. Despite the requests from the Commission this producer did not provide any further information. The information provided by this producer was vastly incomplete and/or inconsistent and thus could not be used as the basis for the calculation of the normal value.
- (39) No other producer in any of the other potential analogue countries contacted by the Commission cooperated.
- (40) In that context, the Commission was left with no other alternative than to rely on the prices actually paid or payable in the Union as the basis to determine normal value.
- (41) No interested party commented on the appropriateness of that basis for determining normal value.

3.3.1.2. Normal value

- (42) Pursuant to Article 2(7) of the basic Regulation and as explained in recitals (34) to, (41) normal value was established using the price actually paid or payable in the Union for the like product which were found to be in the ordinary course of trade.
- (43) As a result, normal value was established as the weighted average domestic sales price to unrelated customers of the sampled Union producers.
- (44) It was first established whether the domestic sales of the like product to independent customers of the sampled Union producers were representative in accordance with Article 2(2) of the basic Regulation, i.e. whether the total volume of such sales represented at least 5 % of the total sales volume of the product concerned exported to the Union. Given the lack of cooperation from exporting producers in the PRC, information in relation to the total sales volume exported to the Union had to be determined according to facts available. As mentioned in recital (29), Eurostat and other statistics were considered unsuitable for the purposes of establishing a continuance of dumping. However, they can be used to indicate the level of imports of the product concerned into the Union. On this basis, the domestic sales of the sampled Union producers were considered to be overall sufficiently representative during the review investigation period while taking account of the confidentiality of the data as explained in recital (63). In view of the lack of cooperation from exporters in the PRC, it was not possible to analyse representativity on a type-per-type basis.
- (45) The Commission subsequently examined whether the domestic sales of each sampled Union producer could be considered as having been made in the ordinary course of trade, i.e. whether for each sampled Union producer the average sales prices were equal or above the average costs of production and therefore profitable.
- (46) Therefore, it was established that sales of the Union producers were on average profitable and normal value was consequently determined on the basis of the weighted average sales prices of all sales of LAM made by the sampled Union producers on the Union market during the review investigation period.

3.3.1.3. Export price

- (47) In the absence of cooperation from exporting producers, the Commission concluded that the information on the export prices from the PRC to third countries contained in the request for review was the most appropriate basis for the calculation of the export price of the product concerned to the Union.

3.3.1.4. Comparison

- (48) The comparison between the weighted average normal value and the weighted average export price was made on an ex-works basis. In this regard, adjustments were made to the normal value and to the export price for differences in domestic freight and ocean freight costs under Article 2(10)(e) of the basic Regulation based on the elements contained in the request for review. That comparison showed that the export price to third countries in the request for review was between 22,1 % and 32,2 % lower than the normal value. This indicates that prices to the Union will be very likely dumped should the anti-dumping measures be repealed.

3.4. Development of imports should the anti-dumping measures be repealed

3.4.1. Production capacity and spare capacity in the PRC

- (49) Since no cooperation from exporting producers was forthcoming, the following conclusions rely mainly on the information contained in the request for review, information provided by the Union industry in the course of the investigation, cross-checked where possible against publicly available information.
- (50) On this basis, it was found that the PRC production capacity of LAM is estimated to be within a range of 600 million and 850 million pieces; which is similar to production capacity estimated in the previous expiry review ⁽¹⁾ investigation (600 to 700 million pieces).
- (51) In addition, as already established in the previous expiry review ⁽²⁾, given the nature of the manufacturing process in the PRC (mainly labour), the production capacity in the PRC for LAM can be easily increased, inter alia, through the employment of additional workforce with only limited investment in equipment.

⁽¹⁾ Recital (40) of Implementing Regulation (EU) No 796/2012.

⁽²⁾ Recital (41) of Implementing Regulation (EU) No 796/2012.

- (52) Therefore, production capacity in the PRC is around 240 % to 340 % higher than the Union consumption during the review investigation period and significantly more than the Union production during that same period.
- (53) In the request for review, production of LAM in the PRC was estimated at approximately 350 million pieces and therefore the conservative estimate of spare capacity to be in excess of 260 million pieces. This spare capacity corresponds roughly to the entire Union consumption during the review investigation period.
- (54) Consequently, it can reasonably be concluded that substantial spare capacity exists in the PRC. As explained in recitals (49) to (53), there is a strong likelihood that such spare capacity would be directed towards the Union market should the anti-dumping measures be repealed.

3.4.2. *Attractiveness of the Union market*

- (55) Despite the declining consumption of LAM in the Union market, the Union demand for LAM remains substantial and accounts for around 45 % of the world market. The Union market remains the largest worldwide market for LAM.
- (56) There is only a limited number of other markets where LAM is used. Furthermore, those markets have a much lower size than the Union market and, therefore, they would not be able to absorb the large excess PRC capacity. In addition, based on the information available, LAM consumption in the PRC is very low and not expected to increase in any significant way.
- (57) As described in recital (48), a comparison between the export prices from the PRC to third countries with prices in the Union market showed that the prevailing prices were generally higher in the Union market. This fact makes the Union market more attractive for such low-priced imports as they can generate more profits.
- (58) Therefore, it was concluded that the Union market would be an attractive market for Chinese exports, should the anti-dumping measures be repealed.
- (59) Given these considerations, if the measures were repealed, it is likely that exports of the product under review from the PRC would be directed to the Union market in significant quantities. As demonstrated in recitals (34) to (48), those imports would in all likelihood be made at dumped prices.

3.4.3. *Conclusion*

- (60) Given the important overcapacity in China, the limited size of the Chinese domestic market, and the attractiveness of the Union market, it was concluded that Chinese imports of the product under review to the Union would increase in significant quantities should anti-dumping measures be allowed to lapse. The Commission found in addition that those imports would likely be made at dumped prices. There is therefore a strong likelihood of recurrence of dumping.

4. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF INJURY

4.1. **Definition of the Union industry and Union production**

- (61) LAM was manufactured in the Union by six known producers during the period considered. Three of those producers are represented by the applicant. Those six Union producers constitute the 'Union industry' within the meaning of Articles 4(1) and 5(4) of the basic Regulation. The three Union producers, represented by the applicant, were sampled, as described in recitals (13) to (21). The sample accounts for more than 75 % of the total Union production and sales volume as described in recital (13).
- (62) One of the non-sampled producers, Mi.me.ca. Srl, Italy, was declared bankrupt ⁽¹⁾ during the review investigation period in January 2017. Two other non-sampled Union producers, EJA International, Netherlands and Technosteel, Italy, ceased to produce LAM after the period considered in 2018.
- (63) Considering that from the three sampled companies two are related, data used for the injury analysis is provided in indexed form in this Regulation, so as to preserve confidentiality of business-sensitive information pursuant to Article 19 of the basic Regulation.
- (64) The total Union production during the review investigation period was established to be within the range of 270 and 330 million pieces on the basis of the evidence provided in the request for review, additional data provided by the applicant, and the questionnaire replies of the sampled Union producers.

⁽¹⁾ <http://www.portalecreditori.it/procedura?id=6rKz4dlB2Y>; accessed 16 August 2018.

- (65) The Commission estimated the volume of imports of the product under review from the PRC on the basis of the data from Article 14(6) database during the period considered, by applying a conversion factor to the total volumes in kilograms. The Commission also used that conversion factor in the previous expiry review, to translate the statistics on imports (set out in kilograms) into pieces, by pegging conversion against the average weight of the most representative type.
- (66) The applicant proposed that another conversion factor be used, which was slightly lower than the one used in the previous expiry review. The Commission dismissed that suggestion on the basis that no evidence was furnished pointing in direction of a change of the import trends and/or Union consumption. Accordingly, the Commission kept the conversion factor used in the previous expiry review.

4.2. Union consumption

- (67) Union consumption was established on the basis of sales volume of the Union industry in the Union market and the volume of imports from third countries into the Union based on the data reported to the Commission by the Member States in accordance with the Article 14(6) database.
- (68) Sales volume of the Union industry on the Union market was based on information provided by the Union producers at pre-initiation stage and the verified information provided by the three sampled Union producers in their replies to the questionnaire.
- (69) As indicated in recital (63), confidential data from the three sampled companies cannot be disclosed in the following tables. Therefore, where necessary, indexes were used to show the trends during the period considered.

Table 1

Union Consumption

	2014	2015	2016	RIP
<i>Index (2014 = 100)</i>	100	91	93	89

Source: Information provided by the Union producers at pre-initiation stage, Article 14(6) database, verified questionnaire replies from the Union producers.

- (70) As shown in Table 1, Union consumption declined by 11 % during the period considered which is explained by the continuous digitalisation of the office management and electronic filing which led to less paper copy filing and consequently declining consumption of the product under review.

4.3. Imports from the PRC

4.3.1. Volume and market share of the imports from the PRC

- (71) The Commission established the volume of imports from the PRC on the basis of the data from the Article 14(6) database during the period considered, as indicated in recital (67).

On that basis, imports into the Union from the PRC and its market share developed as shown in Table 2:

Table 2

LAM Import Volume from PRC and PRC Market Share

	2014	2015	2016	RIP
<i>Imports from PRC Index (2014 = 100)</i>	100	55	15	0,13
Market share PRC imports of Union market	5,6 %	3,2 %	0,9 %	0,0 %

Source: Information provided by the Union producers at pre-initiation stage, Article 14(6) database, verified questionnaire replies from the Union producers.

- (72) During the period considered, the import volume of LAM from the PRC dropped considerably year to year to reach an insignificant level by the end of the review investigation period. In 2015, imports for LAM from China dropped by 45 % and the following year by more than 70 %. Finally in the review investigation period, the volume of imports was reduced to only a few thousand pieces.
- (73) Consequently the market share of the PRC also dropped significantly over the period considered. It decreased from 5,6 % in 2014 to almost 0 % at the end of the review investigation period.

4.3.2. Trend in prices of the imports from the PRC and price undercutting

- (74) Due to the lack of cooperation of the Chinese exporting producers and lack of alternative sources, it was not possible to establish an accurate import price. This is because, as explained in recital (29), statistics were considered unsuitable in so far as one of the sources also covered imports other than the product concerned and the other source did not allow for the possibility to compare export prices with those of the Union industry on a type-per-type basis.
- (75) Nevertheless, it was considered that import prices recorded in the Article 14(6) data base were suitable to identify the overall trend in import prices from the PRC. The trend in import prices into the Union from the PRC developed as shown in Table 3:

Table 3

Average Price of LAM Imports from the PRC

	2014	2015	2016	RIP
<i>Index (2014 = 100)</i>	100	113	109	157

Source: Article 14(6) database.

- (76) As shown in Table 3, import prices increased by 13 % in 2015 and decreased by 3,5 % in 2016. The price level increased by 46 % during the review investigation period. However, this overall trend should be assessed against the very small import quantity during the review investigation period, which cannot be considered representative of the price levels in the absence of measures.
- (77) Due to the lack of cooperation from the Chinese exporting producers and the lack of alternative sources of information, no undercutting margin during the review investigation period could be calculated.

4.4. Imports from third countries other than the PRC

- (78) The imports of LAM from third countries other than the PRC were mainly from India. There were also small import quantities from Egypt, Israel, Japan, Serbia Switzerland, Taiwan, Ukraine and the USA.
- (79) The aggregated volume of imports into the Union as well as the market share and the price trends for imports of LAM from the other third countries are shown in Table 4.

Table 4

Imports from third countries other than the PRC

	2014	2015	2016	RIP
<i>Imports Index, (2014 = 100)</i>	100	121	122	149
Market share	3,8 %	5,0 %	5,0 %	6,3 %
<i>Average price, Index (2014 = 100)</i>	100	140	165	148

Source: Information provided by the Union producers at pre-initiation stage, Article 14(6) database, verified questionnaire replies from the Union producers.

- (80) Overall, import volume from the other third countries increased considerably over the period considered by 49 %.

- (81) Since the total Union consumption decreased over the period considered, this increase translated in an increase of their market share over the same period from 3,8 % in 2014 to 6,3 % during the review investigation period.
- (82) As explained in recital (29), available statistical data were not suitable to establish export prices to the Union. Therefore, as for imports of LAM from the PRC, only import price trends could be established for imports from other third countries. During the period considered, the average price of the product imported from other third countries increased continuously. The sharpest increase was in 2015 when prices increased by 40 %. In 2016, the prices further increased by 17,5 %, while they decreased again by 10,3 % during the review investigation period. Overall, the prices increased by 48 % during the period considered.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (83) In accordance with Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Union industry during the period considered.
- (84) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission assessed macroeconomic indicators relating to the whole Union industry on the basis of data obtained from the applicant, cross-checked with the information provided by a number of Union producers at pre-initiation stage and the verified questionnaire replies of the sampled Union producers. The Commission assessed the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers, which were verified. Both sets of data were found representative of the economic situation of the Union industry. It is to be noted that, as set out in recital (61), the sampled Union producers represented a major proportion of the Union production.
- (85) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (86) The microeconomic indicators are: average unit prices, average unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.
- (87) As mentioned in recital (63), considering that two of the three sampled companies are related, data is provided in Table 5 in indexed form so as to preserve confidentiality of business-sensitive information pursuant to Article 19 of the basic Regulation.

4.5.2. Macroeconomic indicators

4.5.2.1. Union production, production capacity and capacity utilisation

- (88) Table 5 sets out the total Union production, production capacity and capacity utilisation over the period considered:

Table 5

LAM Union Production, Production Capacity and Capacity Utilisation

	2014	2015	2016	RIP
<i>Production, Index (2014 = 100)</i>	100	97	102	102
<i>Production capacity, Index (2014 = 100)</i>	100	100	100	100
<i>Capacity utilisation, Index (2014 = 100)</i>	100	97	102	102

Source: Applicant, information at pre-initiation stage and verified questionnaire replies.

- (89) The total Union production volume increased only slightly during the period considered and reached a 2 % higher level during the review investigation period.
- (90) The Union's production capacity remained stable during the period considered.

- (91) Consequently, the Union's capacity utilisation rate followed the trend of the production volume during the period considered. Overall, the capacity utilisation rate increased by 2 % during the period considered, following the 2 % increase of production volume.

4.5.2.2. Union sales volume and market share

- (92) The Union industry's sales volume and market share developed over the period considered as shown in Table 6:

Table 6

LAM Union Sales Volume and Market Share of Union industry

	2014	2015	2016	RIP
Sales volume, Index (2014 = 100)	100	91	95	91
Market share	91,9 %	92,3 %	94,3 %	93,6 %
Index (2014 = 100)	100	100	103	102

Source: Applicant, information at pre-initiation stage and verified questionnaire replies.

- (93) While the production volume of Union producers remained relatively stable as indicated in Table 5, the sales volume of the Union producers on the Union market decreased by 9 % during the period considered. However, the market share of the Union industry increased by 2 %, mainly due to the declining Union consumption and the decrease in imports from the PRC.

4.5.2.3. Growth

- (94) During the period considered the production of the Union industry increased by 2 % while, as mentioned in recitals (70) and (93), Union consumption decreased by 11 % and sales volume of the Union industry on the Union market decreased by 9 %. This increase in production is explained by the increase of export sales of the Union producers.

4.5.2.4. Employment and productivity

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

Table 7

Employment and Productivity in Union LAM Industry

	2014	2015	2016	RIP
Number of employees Index (2014 = 100)	100	97	99	102
Productivity, Index (2014 = 100)	100	101	103	100

Source: Applicant, information at pre-initiation stage and verified questionnaire replies.

- (96) The number of employees in the Union industry increased slightly over the period considered by 2 % and the productivity remained stable.

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

- (97) As explained in recital (31), it was not possible to establish an affirmative determination of dumping. The investigation therefore focused on the likelihood of a recurrence of dumping should the anti-dumping measures be repealed.
- (98) In the previous expiry review the Union industry showed signs of recovery from the effects of past dumping. During the period considered of the current investigation, the recovery process continued as demonstrated by a favourable trend for the Union industry of the main injury indicators. Furthermore, a lower demand on the Union market, causing consumption to decline by 11 % during the period considered (see Table 1), was compensated by an increase of export sales as mentioned in recital (94).

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

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

Table 8

Union Average Sales Prices and Unit Costs

	2014	2015	2016	RIP
Average unit selling price in the Union, Index (2014 = 100)	100	97	96	95
Unit cost of production in the Union, Index (2014 = 100)	100	97	93	96

Source: Verified questionnaire replies.

- (100) The Union industry's average unit sales price to unrelated customers in the Union decreased by 5 % over the period considered.
- (101) Over the same period, the average unit cost of production decreased by 4 %.

4.5.3.2. Labour costs

- (102) The average labour costs of the Union producers developed over the period considered as shown in Table 9:

Table 9

Average Labour Costs per Employee in Union LAM Industry

	2014	2015	2016	RIP
Average labour costs per employee, Index (2014 = 100)	100	99	102	104

Source: Verified questionnaire replies.

- (103) Overall, the average labour costs of the Union industry increased by 4 % during the period considered.

4.5.3.3. Inventories

- (104) Stock levels of the Union producers developed over the period considered as shown in Table 10:

Table 10

Inventories of LAM in Union Industry

	2014	2015	2016	RIP
Closing stocks, Index (2014 = 100)	100	109	111	185
Closing stocks as a percentage of production	7,4 %	8,3 %	8,1 %	13,5 %
Index (2014 = 100)	100	112	108	182

Source: Verified questionnaire replies.

- (105) The level of inventories increased by 8 % until 2016 and by 82 % over the period considered. This sharp increase of stocks at the end of the period considered was explained by the Union industry as a seasonal sales effect which only occurred due to the fact that the review investigation period ends in July because the peak of the sales for LAM traditionally take place in December while production is stable throughout the year.

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

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

Table 11

Profitability, Cash Flow, Investments and Return on Investment

	2014	2015	2016	RIP
<i>Profitability of total sales in the Union to unrelated customers, Index (2014 = 100)</i>	100	105	134	90
<i>Cash flow, Index (2014 = 100)</i>	100	107	120	42
<i>Investment, Index (2014 = 100)</i>	100	87	91	103
Return on investment	42 %	47 %	63 %	36 %
<i>Index (2014 = 100)</i>	100	113	151	87

Source: Verified questionnaire replies.

- (107) Profitability of the Union industry increased over the first two years by 34 % and declined sharply during the review investigation period. Overall it decreased by 10 % during the period considered, but it remained above the target profit of 5 % as established in the previous expiry review.
- (108) It increased from 2014 to 2016 by 20 % and declined sharply during the review investigation period. Overall it decreased by 58 % during the period considered.
- (109) The investments of the Union industry in the production of the like product decrease by 13 % in 2015, then slightly increased again by 4 % in 2016 and increased further by 12 % during the review investigation period. Resulting in a modest 3 % increase over the period considered.
- (110) The return on investment measures the gain or loss generated on an investment relative to the amount of money invested. During the period considered it started at 42 % and increased by 51 % after two years in 2016. However, during the review investigation period the return on investment decreased to a level lower than at the beginning of the period considered, but still remained at 36 %.

4.5.4. Conclusion on injury

- (111) The investigation showed that during the period considered, due to the anti-dumping duties in place, the Union industry was able to continue to recover from the injury previously suffered. Injury indicators like production, capacity utilisation and market share all showed positive trends and profitability remained the whole period above the target profit. This enabled the Union industry to invest in productivity increasing measures, to reduce the unit cost of production while average labour costs increased.
- (112) LAM imports from the PRC during the period considered only had a limited impact on the Union industry's situation. Due to the measures in force, their market share was low throughout the whole period. Nevertheless, Chinese LAM imports remained present in the Union market, except during the review investigation period, indicating a continued interest.
- (113) The Commission thus concludes that the Union Industry has benefitted from the anti-dumping measures in place, as it continued to recover from the effect of past injurious dumping.

4.6. Likelihood of recurrence of injury

4.6.1. Preliminary remarks

- (114) As mentioned in recital (31), it was not possible to establish an affirmative determination of dumping. It was however established that there was a likelihood of recurrence of dumping should the anti-dumping measures be allowed to lapse (see recital (60)).

- (115) In accordance with Article 11(2) of the basic Regulation, the Commission therefore examined whether material injury would recur should measures against the PRC be allowed to lapse.
- (116) To establish the likelihood of recurrence of injury, the following elements were analysed: (i) the production capacity and spare capacity available in the PRC, (ii) possible price levels of Chinese imports should measures be allowed to lapse, (iii) the behaviour of Chinese exporting producers in other third countries, (iv) the attractiveness of the Union market and (v) the impact of Chinese imports on the situation of the Union industry should measures be allowed to lapse.

4.6.1.1. Production capacity and spare capacity available in the PRC

- (117) As explained in recitals (52) and (53), producers in the PRC have significant production capacity in China and, as a result, spare capacity which largely exceeds the total Union consumption during the review investigation period.
- (118) In addition, there were no elements found that could indicate any significant increase of domestic demand of LAM in the PRC or in any other third country market in the near future. Considering the decline of the Union LAM consumption during the period considered, the Commission concluded that domestic demand in China or in other third country markets could not absorb the available spare capacity.

4.6.1.2. Possible price levels of Chinese imports

- (119) As mentioned in recital (47) there was no cooperation from exporting producers in China. For this reason, the most appropriate basis for possible price levels of Chinese imports was found to be the export prices from the PRC to third countries contained in the request for review.
- (120) The price levels of these exports were also considered to be a reasonable estimate for possible future price levels to the Union if measures were allowed to lapse.
- (121) As explained in recitals (42) and (48), the Chinese export prices to third countries were between 22,1 % and 32,2 % lower than the prices of the Union industry during the review investigation period. Likewise, undercutting margins were found to be between 8,9 % and 17,8 %.
- (122) On this basis, it is concluded that imports from China will very likely exert high price pressure on the Union industry, should the anti-dumping measures be repealed.

4.6.1.3. Attractiveness of the Union market

- (123) As mentioned in recitals (55) to (57), the Union market is the largest single market for LAM and additionally, the prices are attractive for Chinese producers. There are no other major export markets to absorb the Chinese excess capacity because LAM are only used in a limited number of markets. Those reasons are a high incentive for Chinese exporting producers to divert their exports to the Union where they would achieve higher prices, while still being able to significantly undercut the Union industry sales price. In addition, they would have an incentive to export at least part of their spare capacities at low prices to the Union market.
- (124) It is therefore concluded that the exporting producers in the PRC have the potential and incentive to substantially raise the volume of their exports of LAM to the Union at dumped prices and substantially undercutting the prices of the Union industry, should the anti-dumping measures be allowed to lapse.

4.6.2. Impact on the Union industry

- (125) An increase of low priced imports would create significant price pressure on the Union market which is price sensitive. The Union industry, under the scenario that it keeps the current price level, will not be able to maintain their sales volume and market share against the low priced imports from China. It is highly likely that the Chinese market share would increase rapidly if the measures were allowed to lapse. This would be most likely at the expense of the Union industry. Losing sales volume would lead to a lower utilisation rate and an increase in the average cost of production. This would lead to a deterioration of the financial situation of the Union industry and to a decrease of its profitability which, while being above the target profit throughout the period considered had decreased between 2016 and the review investigation period by more than 40 %. Under this scenario, any increase in cost would lead the profitability to fall below the target profit in the short term which would remove the past recovery efforts made by the Union industry which up to now has been able to maintain the required level of investments to remain competitive.

- (126) However, should the Union industry decide to lower its price levels in an attempt to keep its sales volume and market share the deterioration of its financial situation would occur almost immediately. Indeed, if the Union industry would have to lower its sales prices on the Union market by 8,9 %, the lower range of the undercutting found (see recital (121)) in order to match the prices of the incoming Chinese products, they would immediately become loss making.
- (127) Also under this scenario, the expiry of the measures is likely to have a direct negative impact on the Union industry, because it would directly lead to a loss making situation. In the mid-term, this would not be sustainable and lead to closures of the production sites and eventually to the disappearance of the Union industry. It has to be noted that already during the period considered, the number of Union producers has decreased from six to three.
- (128) Therefore, it can be concluded that there is a strong likelihood that the expiry of the existing measures would lead to a recurrence of injury from Chinese imports of LAM and that the economic situation of the Union industry would likely deteriorate and lead to material injury.
- (129) The fact that Chinese LAM imports are currently entering the Union market in much lower numbers than before the imposition of measures shows that the current anti-dumping duties successfully re-established undistorted competitive conditions between Chinese exporters of the product under review and the Union industry. However, as set out in recital (128) and (130), the Commission concluded that there is a strong likelihood that the expiry of the measures would lead to recurrence of injury.

4.6.3. Conclusion

- (130) The Commission concludes that a repeal of the measures would in all likelihood result in a significant increase of Chinese dumped LAM imports at prices undercutting the Union industry prices and resulting in re-establishing the injurious situation suffered by the Union industry at the time when measures were first implemented. As a consequence, the viability of the Union industry would be at serious risk.

5. UNION INTEREST

- (131) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all interests involved, including those of the Union industry, importers and users.
- (132) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.
- (133) It should be recalled that, in the previous expiry review, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that this investigation is an expiry review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (134) On that basis, it was examined whether, despite the conclusions on the likelihood of a recurrence of dumping and recurrence of injury, compelling reasons existed which would lead to the conclusion that it is not in the Union interest to maintain measures in this particular case.

5.1. Interest of the Union industry

- (135) The investigation has shown that should the measures expire, this would likely have a significant negative effect on the Union industry. This would shortly lead to a decrease in profitability and even in a loss making situation of Union industry, having also a negative impact on other injury factors such as production volume, utilisation rates, investments and employment. In the longer term, such situation will not be viable, forcing the Union producers to close their operations in the Union market.
- (136) In the past, the Union industry proved to be a viable industry with positive economic and financial results. In the virtual absence of dumped imports from China, it managed to remain profitable with profit margin exceeding the target profit.
- (137) Therefore, maintaining the anti-dumping measures in force is in the interest of the Union industry.

5.2. Interest of importers

- (138) As indicated in recital (16) no importer cooperated in this investigation nor provided the requested information. It is recalled that in the previous investigations it was found that the impact of the imposition of measures on importers would not be significant. In the absence of evidence suggesting otherwise, it can accordingly be confirmed that the measures currently in force had no substantial negative effect on their financial situation and that the continuation of the measures would not unduly affect importers.

5.3. Interest of users

- (139) LAM importers are usually also LAM users, since they import it to produce lever arch files. As mentioned in recital (15), 26 known importers/users were contacted at initiation, but none replied to the sampling form or came forward with comments.
- (140) The previous investigations established that the cost of LAM in the retail price of lever arch files only represented a very small percentage and therefore the impact of the duties (if any) was not considered significant.
- (141) Moreover, the investigation has shown that it is likely that without any measures against dumped imports the Union industry would lose most of its market presence and in the longer run could even disappear. This would certainly lead to the dependence of lever arch files producers on imports and to a significant reduction of competition on the Union market.
- (142) On this basis, it can be concluded that the measures on LAM are not against the overall Union interest.

5.4. Conclusion on Union interest

- (143) Therefore, the Commission concludes that there are no compelling reasons of Union interest against the maintenance of the definitive anti-dumping measures on imports of LAM originating in the PRC.

6. ANTI-DUMPING MEASURES

6.1. Measures

- (144) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained on imports of LAM originating in the PRC. They were also granted a period to make representations subsequent to this disclosure. No comments were received.
- (145) In view of the recent case-law of the Court of Justice ⁽¹⁾ it is appropriate to provide for the rate of default interest to be paid in case of reimbursement of definitive duties, because the relevant provisions in force concerning customs duties do not provide for such an interest rate, and the application of national rules would lead to undue distortions between economic operators depending on which Member State is chosen for customs clearance.
- (146) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion on the measures provided for in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of lever arch mechanisms, currently falling within CN code ex 8305 10 00 (TARIC codes 8305 10 00 50) and originating in the People's Republic of China.
2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union frontier price, before duty, of the products described in paragraph 1, and manufactured by the companies listed below, shall be as follows:

Manufacturer	Anti- dumping duty	TARIC additional code
DongGuan Humen Nanzha World Wide Stationery Mfg. Co., Ltd,	27,1 %	A729
All other companies	47,4 %	A999

⁽¹⁾ Judgment of the Court (Third Chamber) of 18 January 2017, C-365/15, Wortmann v Hauptzollamt Bielefeld, EU:C:2017:19, paragraphs 35 to 39.

Article 2

1. Unless otherwise specified, the relevant provisions in force concerning customs duties shall apply.
2. The default interest to be paid in case of reimbursement that gives rise to a right to payment of default interest shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the deadline falls, increased by one percentage point.

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, 8 November 2018.

For the Commission
The President
Jean-Claude JUNCKER
