

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**

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 7(4) thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE**1. Initiation**

- (1) On 8 October 2014, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain aluminium foils originating in Russia ('Russia' or 'the country concerned'). It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ ('the Notice of Initiation').
- (2) The proceeding was initiated 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.
- (3) On 4 October 2014, the Commission announced the initiation of an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 ('the basic Regulation') concerning definitive anti-dumping measures in force on imports of certain aluminium foils originating in the People's Republic of China ('China') and Brazil, by a Notice published in the *Official Journal of the European Union* ⁽³⁾.

2. Interested parties

- (4) In the Notice of Initiation, the Commission invited all interested parties to contact it in order to participate in the investigation. In addition, the Commission officially advised the complainants, the known exporting producer and the Russian authorities, known importers, users and traders known to be concerned of the initiation of the investigation and invited them to participate.
- (5) Interested parties were given an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (6) Interested parties were also given the opportunity to make their views known in writing and request a hearing within the time limit set in the Notice of Initiation. None of the interested parties requested a hearing before the Commission services and/or the Hearing Officer in trade proceedings.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ Notice of Initiation of an anti-dumping proceeding concerning imports of certain aluminium foils originating in Russia (OJ C 354, 8.10.2014, p. 14).

⁽³⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain aluminium foils originating in Brazil and the People's Republic of China (OJ C 350, 4.10.2014, p. 11).

3. Sampling

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

Sampling of exporting producers in Russia

- (8) Due to the fact that all the production of the product concerned in Russia is done by one group of companies, the Rusal group, no sampling was foreseen in the Notice of Initiation with regard to exporting producers.

Sampling of Union producers

- (9) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production. The sample consisted of six Union producers and their related companies, as the internal structure of the Groups was unclear at the beginning of the investigation as far as it concerns the functions of producing and reselling the product in question. The sampled Union producers accounted for over 70 % of total Union production. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample is considered representative of the Union industry.

Sampling of unrelated importers

- (10) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all unrelated importers to provide the information specified in the Notice of Initiation.
- (11) Fourteen known importers/users were contacted at the initiation stage and were invited to explain their activity and to fill in the sampling form attached to the Notice of Initiation, if applicable.
- (12) Three companies replied to the sampling form. They were, however, rewinders, i.e. industrial users which were importing the product concerned for further processing before re-selling it. No traders came forward. Therefore, sampling is not warranted.
- (13) Four other companies came forward and declared that they either did not import the product concerned from Russia or they were rewinders. A users' questionnaire was sent to all seven companies that came forward.

Replies to the questionnaire and cooperation

- (14) The Commission sent questionnaires to the six sampled Union producers and its related companies, one exporting producer group, and the seven users identified in the Union.
- (15) Questionnaire replies were received from all sampled Union producers, from the exporting producer group (which consists of two exporting producers, four related traders and eight related raw material suppliers all located in Russia with the exception of two traders, registered in Jersey and Switzerland,) and from four users. Following the request of the Commission revised questionnaire tables from Rusal group were received at a later stage.

Verification visits

- (16) The Commission sought and verified all the information deemed necessary for the purpose of a provisional determination of dumping, resulting injury and Union interest.
- (17) As one of the sampled companies produced during the period considered small quantities solely destined for captive use no verification visit was deemed necessary.

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

Union producers

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

Users

- Cofresco Frishhalteprodukte GmbH & Co KG, Minden, Germany
- CeDo Sp. z o.o., Kały Wrocławskie, Poland
- Sphere Group, Paris, France

Exporting producer in Russia

- the 'Rusal Group' including:
 - Ural Foil OJSC ('Ural Foil'), Sverdlovsk region, Russia
 - OJSC Rusal Sayanal ('Sayanal'), Khakassia region, Russia

together with the following related traders and suppliers of raw materials:

- Rusal Foil Ltd ('RF'), Moscow region, Russia
- United Company Rusal Trading House ('Trading House'), Moscow region, Russia
- Sayanogorsk Aluminium Smelter ('SAZ'), Khakassia region, Russia
- Novokuznetsk Aluminium Smelter (NKAZ), Kemerovo region, Russia.

4. Investigation period and period considered

- (19) 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 2011 to the end of the investigation period ('the period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

5. Product concerned

- (20) 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').

- (21) AHF is manufactured on the basis of pure aluminium, which is firstly cast into thick strips (of a thickness of several mm, i.e. up to 1 000 times thicker than the product concerned) and subsequently rolled in different stages into the desired thickness. Once rolled, the foil is annealed by a thermal process and is finally presented on reels (rolls).
- (22) These reels of AHF are further rewound into smaller rolls by downstream processors so-called rewinders. The obtained product (i.e. consumer rolls which is not product concerned) is used in multi-purpose short-life wrapping, mostly in households, catering, food and floristry retail business.

6. Like product

- (23) The investigation showed that the product concerned, the product produced and sold on the Russian domestic market and the product produced and sold in the Union by the Union industry have the same basic physical, chemical and technical characteristics as well as the same basic uses.
- (24) The Commission therefore concluded at this stage that these products are alike within the meaning of Article 1(4) of the basic Regulation.

7. Claims regarding the product scope

- (25) An importer claimed that the product scope should include AHF weighing 10 kg or less (so called 'consumer rolls'). This importer claimed that there were no differences in the physical, chemical and technical characteristics between consumer rolls and jumbo rolls. The importer further claimed that if anti-dumping duties were imposed only on jumbo rolls, this could give rise to exports of consumer rolls without anti-dumping duties from Russia.
- (26) The physical characteristic distinguishing the jumbo rolls on the one hand and consumer rolls on the other hand is the weight. In addition, this also corresponds to the CN code. Moreover, the Union industry as defined in recital 53 only produces jumbo rolls and does not produce consumer rolls. Jumbo rolls are bought and further processed into consumer rolls by rewinders that in turn resell the product to retailers and end users. Jumbo rolls and consumer rolls have therefore different physical characteristic, are not produced by the same producers, do not compete with each other and are not traded on the same market.
- (27) Therefore, the claim that consumer rolls should be included in the product scope of this investigation was rejected.
- (28) Regarding the effect of any anti-dumping duties on jumbo rolls on the downstream industry, this is addressed below in recitals 151 to 163 concerning the Union interest.

C. DUMPING

8. Normal value

- (29) The Commission first examined whether the total volume of domestic sales of each exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.
- (30) On this basis the total sales of one exporting producer were found to be not representative. For this cooperating exporting producer as the like product was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.

- (31) The normal value for this cooperating exporting producer was constructed by adding the following to its average cost of production of the like product during the investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producer on domestic sales of those types of the like product, in the ordinary course of trade, during the investigation period; and
 - (b) the weighted average profit realised by the cooperating exporting producer on domestic sales of those types of the like product, in the ordinary course of trade, during the investigation period.
- (32) With regard to the other exporting producer, it was found that its total domestic sales were representative in accordance with Article 2(2) of the basic Regulation (see recital 29 above).
- (33) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union. The Commission examined whether the domestic sales of this other exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established that in case of 5 product types out of 14 the exported product types matched with representative domestic sales.
- (34) Wherever there were no domestic sales of a particular product type and for product types where the volume of domestic sales was insufficient, the normal value was constructed in accordance with Article 2(3) and (6) of the basic Regulation, as described in recital 31 above.
- (35) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (36) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (37) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (38) The analysis of domestic sales showed that over 90 % of domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of the domestic sales during the investigation period for the five product types with representative domestic sales.

9. Export price

- (39) The cooperating exporting producers exported to the Union via a related trader RTI Ltd ('RTI') with corporate seat in Jersey. This trader buys the product concerned from the producers via two Moscow based related agents. Afterwards, it re-sells the product concerned to the final customers via another agent based in Switzerland. All three related agents carry out sales activities in the name of the producers or the related trader and are remunerated by monthly commission payments.

- (40) In accordance with Article 2(9) of the basic Regulation, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union. In this case, adjustments to the price were made for all costs incurred between importation and resale (namely transportation and insurance costs, credit costs, customs duties and customs administration fees) and including the corresponding SG&A expenses of the trader as well as a reasonable profit margin.
- (41) Indeed, with regard to SG&A expenses, the Commission, on the basis of the data submitted by Rusal group for its sales of the product concerned into the Union market, took the corresponding actual SG&A expenses amount. This was an amount that the related trader had already identified and allocated to the import activities for the product concerned to the Union, according to its own calculations and allocation principles. The Commission also ensured that there was no double counting of expenses and any costs not related to the importation of the product concerned were not included in that amount. Therefore, the amount for SG&A expenses, used by the Commission in the construction of the reliable export price, strictly related to the costs incurred between importation and resale of the product concerned into the Union as required by Article 2(9) of the basic Regulation.
- (42) With regard to profit, the profit realised by the related trader was regarded as unreliable because of the association with the exporting producers, as the price itself between them was not reliable. In the absence of information from independent importers in this investigation, a reasonable profit margin of 2 % used in the previous investigation covering the same product was used ⁽¹⁾.
- (43) With regard to these deductions for SG&A expense and profit, the Rusal group claimed that the related trader (RTI) should be treated as an internal export department of its exporting producers, as they all act as single economic entity (SEE) despite being separate legal entities. As a consequence, Rusal group claimed that no deduction should have been made for RTI's SG&A and profit.
- (44) However, it is considered that, where there is an association between the exporting producer and the importer or a third party, the export price is regarded as unreliable and a reliable one has to be constructed. For the construction of a reliable export price Article 2(9) of the basic Regulation clearly prescribes adjustments for all costs incurred between importation and resale and for profits accruing. These costs include the SG&A expenses. The rationale and the purpose of the adjustments is namely to render the export price reliable. Therefore, this claim had to be rejected.

10. Comparison

- (45) The Commission compared the normal value and the export price of the two cooperating exporting producers on an ex-works basis.
- (46) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation.
- (47) As regards export prices, adjustments were made for transport, insurance, handling, packing, export taxes and commissions. Concerning domestic prices, adjustments were made for domestic transportation costs, packing costs, credit costs, handling and commissions.

11. Dumping margin

- (48) For the two cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, on an ex-works basis, in accordance with Article 2(11) and (12) of the basic Regulation.

⁽¹⁾ OJ L 94, 8.4.2009, p. 17, recitals 72 and 80.

- (49) As these two cooperating producers are related, a single dumping margin was established for the two companies on the basis of the weighted average of their individual dumping margins.
- (50) On this basis, the provisional weighted average dumping margin expressed as a percentage of the CIF (cost, insurance, freight) Union frontier price, duty unpaid, is as follows:

Company	Provisional dumping margin
Rusal group: Ural Foil OJSC and OJSC Rusal Sayanal	34,0 %

- (51) The level of cooperation in this case is high since the sole existing producer of AHF in Russia responsible for 100 % of imports into the Union during the investigation period cooperated in the investigation. On this basis, the Commission decided to base the residual dumping margin at the level of the individual dumping margin established for the cooperating company.
- (52) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

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

D. INJURY

1. Definition of the Union industry and Union production

- (53) The like product was manufactured by 12 known Union producers during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (54) The total Union production during the investigation period was estimated at 47 349 tonnes. The Commission established the figure on the basis of Eurostat statistics, the verified questionnaire replies of the sampled Union producers and the estimated data related to the non-sampled producers and provided by the complainants. As indicated in recital 9, the Union producers selected in the sample represented over 70 % of the total Union production of the like product.
- (55) The exporting producer claimed that not all the complainants were active in the production of AHF. However, the investigation showed that all complainants and their related companies produced indeed, even in small quantities, the product in question and this claim was therefore rejected.

2. Union consumption

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

- (57) The Commission established the Union consumption on the basis of total estimated sales volume of the Union industry on the Union market and the total import volume based on Eurostat and corrected, where necessary, by the verified data provided by the exporting producer and the questionnaire replies submitted by the sampled Union producers.
- (58) As there is only one exporting producer in the country concerned, all figures related to it had to be given in a range for reasons of confidentiality.
- (59) On this basis, Union consumption developed as follows:

Table 1

Union consumption for AHF (tonnes)

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

Source: Eurostat, questionnaire replies and information provided by the complainants.

- (60) Union consumption increased between 2011 and 2013 but decreased between 2013 and the investigation period. Overall, consumption increased between 17 % and 28 % during the period considered. The increase in consumption between 2011 and the investigation period mainly reflects the increase of imports from Russia and other third countries, while the sales of the Union industry on the Union market only slightly increased (see recital 82).

3. Imports from the country concerned

Volume and market share of the imports from the country concerned

- (61) The Commission established the volume of imports from the country concerned on the basis of Eurostat and of the data submitted by the cooperating producer in the countries concerned.
- (62) Imports into the Union from the country concerned developed as follows:

Table 2

Import volume (tonnes)

	2011	2012	2013	Investigation period
Volume of imports from Russia	[19 532-26 078]	[23 243-34 422]	[27 345-39 116]	[26 368-37 812]
<i>Index (2011 = 100)</i>	100	[119-132]	[140-150]	[135-145]
Market share	29 %	34 %	34 %	34 %

Source: Eurostat, questionnaire replies and information provided by the complainants.

- (63) Import volume from Russia increased between 40 % and 50 % from 2011 until 2013 with a slight decrease in the investigation period.

- (64) The corresponding market share increased from 29 % in 2011 to 34 % in 2012 and then it remained constant by the end of the investigation period.

Prices of the imports from the country concerned and price undercutting

- (65) The Commission established the weighted average prices of imports on the basis of Eurostat and of the data submitted by the cooperating producer in the countries concerned. The price undercutting of the Union industry's prices by the imports from the country concerned was established on the basis of the questionnaire replies submitted by the cooperating Russian exporting producer and the sampled Union producers.
- (66) The average import price of AHF from Russia into the Union developed as follows:

Table 3

Import prices (EUR/tonne)

	2011	2012	2013	Investigation period
Import prices	[2 145-2 650]	[2 038-2 624]	[1 952-2 571]	[1 973-2 597]
<i>Index (2011 = 100)</i>	100	[95-99]	[91-97]	[92-98]

Source: Eurostat and the questionnaire reply.

- (67) The average import price of AHF from Russia to Union decreased during the period considered; overall it decreased between 2 % and 8 %.
- (68) The Commission determined the price undercutting during the investigation period by comparing: (a) the weighted average sales prices per product type of the Union industry charged to unrelated customers on the Union market, adjusted to an ex-works level; and (b) the corresponding weighted average prices per product type of the imports from the cooperating Russian producers to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs.
- (69) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary. The result of the comparison was expressed as a percentage of the Union industry's turnover during the investigation period. It showed a weighted average undercutting margin ranging between 3 % and 7 % by the imports from Russia on the Union market.
- (70) While significant as such, this price undercutting has to be seen in the light of the fact that the prices of the Union industry which were undercut during the investigation period by the dumped prices from Russia were below cost of production. As explained in recitals 177 and 179, the resulting price underselling exerted by Russian prices is of around 12 % on average.

4. Economic situation of the Union industry

4.1. General remarks

- (71) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (72) As mentioned in recital 9, sampling was used for the determination of possible injury suffered by the Union industry.

- (73) For the injury determination the Commission distinguished between macroeconomic and microeconomic injury indicators. As explained in recital 56, the Commission evaluated macroeconomic indicators relating to the whole Union industry on the basis of information provided by the complainants which was duly verified for the sampled companies. The Commission evaluated microeconomic indicators relating only to the sampled companies on the basis of data contained in the questionnaire replies of the sampled Union producers. Both sets of data were found representative of the economic situation of the Union industry.
- (74) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.
- (75) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.2. Macroeconomic indicators

4.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

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

Source: questionnaire replies, information provided by the complainants.

- (77) Production fluctuated during the period considered. While it increased between 2011 and 2013, it decreased between 2013 and the investigation period. Overall, the production volume increased by 7 % during the period considered.
- (78) The production capacity increased by 12 % during the period considered.
- (79) As a result of the higher increase in production capacity than in production volume, the capacity utilisation decreased by 5 % over the period considered.
- (80) The exporting producer claimed that all producers of AHF are able to produce also another type of foil, namely aluminium converter foil (ACF), and that they were using the same machinery for the production of both types of foil. On this basis the exporting producer claimed that the data of the Union industry relating to capacity and capacity utilisation of AHF would be distorted.

- (81) Although it is correct that several Union producers were producing both ACF and AHF, the investigation showed that the largest sampled Union producer was solely producing AHF. For the other sampled Union producers, production capacity and capacity utilisation were based on actual figures and therefore the fact that they were also producing ACF did not affect the reported total production capacity and capacity utilisation of AHF. Finally, the investigation showed that the sampled Union producers had a stable ratio of production between the two types of foils. Therefore, this claim was at this stage rejected.

4.2.2. Sales volume and market share

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

Table 5

Sales volume and market share on the Union market

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

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

- (83) Sales volume of AHF slightly increased over the period considered. Sales volume increased mostly from 2011 to 2013, i.e. between 4 % and 14 %. During the investigation period the sales volume decreased; overall, sales volume increased between 2 % and 10 % during the period considered. The increase in sales volumes, taking into account the parallel increase in consumption and the increase in imports, inter alia, from Russia, led, however, to a decrease in market share of the Union industry from 55 % in 2011 to 47 % in the investigation period, i.e. a decrease of 8 percentage points during the period considered. The decrease in market share of the Union industry coincided with an increase in market share of Russian imports as explained in recital 64.

4.2.3. Growth

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

4.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2011	2012	2013	Investigation period
Number of employees	769	787	758	781
Index (2011 = 100)	100	102	99	102
Productivity (tonnes/employee)	58	59	64	61
Index (2011 = 100)	100	102	112	105

Source: questionnaire replies, information provided by the complainants.

- (86) Employment of the Union industry fluctuated during the period considered and overall slightly increased by 2 %.
- (87) Between 2011 and 2013 productivity increased due to the higher increase in production than the increase in employment as shown in table 4 in recital 77. From 2013 to the investigation period, productivity decreased by 7 % but remained higher than at the beginning of the period considered in 2011.

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

- (88) The dumping margin is well above the *de minimis* level. The impact of the magnitude of the actual margin of dumping on the Union industry is substantial, given the volume and prices of imports from the country concerned.
- (89) The Union industry was still in a recovery process from past dumping caused by imports of the same product originating in China, Brazil and Armenia. These measures are currently subject to a parallel on-going review investigation in accordance with Article 11(2) of the basic Regulation, as mentioned in recital 3.

4.3. Microeconomic indicators

4.3.1. Prices and factors affecting prices

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

Table 7

Average sales prices

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

Source: questionnaire replies.

- (91) The Union industry's average unit selling price to unrelated customers in the Union decreased continuously and overall by 11 % over the period considered.
- (92) Despite this decrease, unit cost of production remained above the average selling price of the Union industry and the Union industry could not cover its production cost by the selling price with the exception of 2013. Indeed, the Union industry was not able to raise its selling price due to the price pressure of the dumped imports from Russia.
- (93) Several interested parties claimed that the development of Union industry's selling price followed the development of the aluminium price at the London Metal Exchange and that therefore the prices of Russian imports did not have any impact on the selling price of the Union industry. According to these parties it cannot therefore be considered that Russian import prices undercut the selling prices of the Union industry. The investigation showed that the selling price of the Union industry followed the same trend as the aluminium prices at

the London Metal Exchange. However, this did not have a bearing on the fact that Russian import prices were undercutting the Union industry's selling prices 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. Therefore, this argument should be rejected.

4.3.2. Labour costs

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

Table 8

Average labour costs per employee

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

Source: questionnaire replies.

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

4.3.3. Inventories

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

Table 9

Inventories

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

Source: questionnaire replies.

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

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

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

Table 10

Profitability, cash flow, investments and return on investments

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

Source: questionnaire replies.

- (100) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. During the period considered, the Union industry was loss-making with the exception of 2013, where it realised a profit margin slightly above break-even. Profitability decreased between 2011 and 2012, increased in 2013 but then decreased again in the investigation period where it reached a similar level as in 2011. Overall, profitability increased by 4 % during the period considered, which corresponds to an increase of 0,1 percentage points and which did not allow the Union industry to realise profits during the investigation period. This development was mainly due to the price pressure of the Russian imports which entered into the Union at dumped prices undercutting those of the Union industry and did not allow the Union industry to increase its selling prices as to cover its cost of production.
- (101) The net cash flow is the Union industry's ability to self-finance their activities. The cash flow fluctuated during the period considered with an increasing trend. Overall net cash flow increased by 30 % over the period considered. However, it should be noted that in absolute values the cash flow remained at low levels when compared to the total turnover of the product in question.
- (102) The investments increased by 47 % over the period considered. The investments increased by 65 % from 2011 to 2012, decreased during 2013 and increased again during the investigation period. They mainly represented investments necessary for new machinery and remained at rather low levels during the investigation period when compared to total turnover.

- (103) The return on investments is the profit in percentage of the net book value of investments. As the other financial indicators, the return on investment from the production and sale of the like product was negative as from 2011, with the exception of 2013 where it was 0 %, reflecting the trend in profitability. Overall, return on investments slightly increased by 8 % over the period considered.
- (104) As far as the ability to raise capital is concerned, the deterioration of the ability to generate cash for the like product of the sampled Union producers was weakening their financial situation by reducing the internally generated funds. The investigation found that, overall, the ability to raise capital deteriorated over the period considered.

5. Conclusion on injury

- (105) Several main injury indicators showed a negative trend. Regarding profitability, the industry was loss-making almost during the whole period considered, with the exception of 2013 where it reached a level only slightly above break-even; during the investigation period, the Union industry realised a negative profit of – 2,1 %. Sales prices decreased by 11 % during the period considered. The unit cost that also decreased by 11 % remained higher than the average sales price during the whole period considered, with the exception of 2013. The Union industry market share decreased by 8 percentage points, i.e. from 55 % in 2011 to 47 % in the investigation period.
- (106) Some injury indicators developed positively during the period considered. Production volume increased by 7 % and production capacity by 12 % during the period considered. These increases did however not match the increase in consumption, which was much higher, namely between 17 % and 28 % over the period considered. Sales volume increased between 2 % and 10 % during the period considered. However, in a market with increasing consumption, this did not translate in an increase of market share, but to the contrary to a loss of market share by 8 percentage points. Investments increased by 47 % during the period considered. They concerned new machinery and remained at rather low levels during the investigation period. Likewise cash flow increased by 30 % during the period considered but remained at low levels. These positive trends do not, therefore, preclude the existence of injury.
- (107) The Russian authorities claimed that according to the analysis of publicly available financial documents of the complainants there would be no material injury. This is contradicted by the results of the investigation which is based on actual verified data of the Union industry relating to AHF. Indeed, some of the Union producers did not produce exclusively AHF and therefore the publicly available financial documents cannot reveal the actual situation of the Union industry for AHF. Therefore, conclusions on the economic situation of the Union industry within the meaning of Article 3(5) of the basic Regulation should not be based on publicly available financial documents but on the more detailed and verified information available in the investigation. This claim was therefore rejected.
- (108) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

- (109) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from Russia was not attributed to the dumped imports. These factors are:
- (a) effect of imports from other third countries;
 - (b) development of Union consumption;(c) export performance of the Union industry;
 - (d) the activity of the Union industry in the aluminium converter foils ('ACF') market;
 - (e) Cost of the raw material.

1. Effects of the dumped imports

- (110) To establish the existence of a causal link between the dumped imports of AHF from Russia and the material injury suffered by the Union industry, the Commission analysed the volume and price levels of the imports under investigation and the extent to which these have contributed to the material injury suffered by the Union industry.
- (111) The investigation has shown that during the period considered the volume of low-priced dumped imports from Russia increased between 35 % and 45 %, and translated in an increase in market share of around 5 percentage points in the same period. This increase coincided with a loss of market share of 8 percentage points by the Union industry.
- (112) At the same time, Russian import prices exerted price pressure on the Union market and its prices decreased between 2 % and 8 % during the period considered and were undercutting the loss making Union industry sales prices on average between 3 % and 7 %, leading to an underselling margin of around 12 %. While significant as such, the price undercutting has to be seen in the light of the fact that the prices of the Union industry during the investigation period were mostly below cost of production. The Union industry had to decrease its prices over the period considered in order to avoid further loss of market share.
- (113) Nevertheless, the Russian imports took over to a large extent the market shares of Brazilian and Chinese imports after the imposition of measures against these countries and the Union industry could not fully recover from past dumping practices from these countries. This led to losses of the Union industry from 2011 until the investigation period, with the exception of 2013, where the profitability was slightly positive, however still below the target profit of 5 % (see recitals 176 and 177).
- (114) The exporting producer claimed that the increase of imports from Russia is due to the imposition of measures against China, Brazil and Armenia as these measures improved the access to the Union market by other third countries, including Russia.
- (115) The investigation showed that the Russian exports indeed substituted to a large extent Chinese and Brazilian market shares in the Union. However, Russian imports were made at dumped prices, undercutting the Union industry's sales prices and coincided with a deterioration of the situation of the Union industry. On this basis a clear causal link between the Russian imports and the material injury of the Union industry can be established and it is irrelevant whether Russian imports increased only due to the anti-dumping measures imposed on imports of other third countries. This argument was therefore at this stage rejected. In any event, even if the imposition of anti-dumping duties on imports from China, Brazil and Armenia had any impact on the situation of the Union industry, it would only be an indirect cause and cannot be regarded as 'other factors' within the meaning of Article 3(7) of the basic Regulation. The investigation showed that it is the dumped imports from Russia themselves which are causing injury. That interpretation is consistent with the judgment of the European Court of Justice C-638/11 P of 14 November 2013 *Council of the European Union v Gul Ahmed Textile Mills Ltd.*
- (116) On the basis of the above, the Commission concluded at this stage that the Union industry's injurious situation coincided with the substantial increase in imports at dumped prices originating in Russia and that imports from Russia had a determining role in the non-recovery and the material injury suffered by the Union industry during the investigation period.

2. Effects of other factors

2.1. Effects of imports from other third countries

- (117) The volume of imports from other third countries developed over the period considered as follows:

Table 11

Imports from other third countries

Country		2011	2012	2013	Investigation period
China	Volume (tonnes)	[2 843-3 205]	[967-1 378]	[1 137-1 603]	[1 222-1 699]
	<i>Index (2011 = 100)</i>	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
	<i>Index (2011 = 100)</i>	100	107	102	95
Turkey	Volume (tonnes)	[5 120-6 100]	[8 090-10 553]	[11 213-14 213]	[11 520-14 579]
	<i>Index (2011 = 100)</i>	100	[158-173]	[219-233]	[225-239]
	Market share	7 %	11 %	13 %	13 %
	Average price (EUR/tonne)	2 950	2 743	2 710	2 571
	<i>Index (2011 = 100)</i>	100	93	92	87
Other third countries	Volume (tonnes)	[3 100-3 750]	[279-750]	[1 891-3 000]	[3 162-4 313]
	<i>Index (2011 = 100)</i>	100	[9-20]	[61-80]	[102-115]
	Market share	4 %	1 %	2 %	4 %
	Average price (EUR/tonne)	2 878	2 830	2 687	2 406
	<i>Index (2011 = 100)</i>	100	98	93	84
Total imports	Volume (tonnes)	[31 200-38 900]	[33 696-45 513]	[42 120-58 325]	[42 744-60 684]
	<i>Index (2011 = 100)</i>	100	[108-117]	[135-150]	[137-156]
	Market share	45 %	47 %	51 %	53 %
	Average price (EUR/tonne)	2 512	2 452	2 399	2 360
	<i>Index (2011 = 100)</i>	100	98	95	94

Source: Eurostat and questionnaire reply.

- (118) Imports from China and Brazil are currently subject to anti-dumping duties. There were no imports from Brazil during the whole period considered. Import volumes from China decreased by between 47 % and 57 %, with a corresponding decrease in market share from 4 % to 2 %, namely a decrease of 2 percentage points, during the period considered. Both import volumes and market share remained at low levels during the whole period considered. Chinese prices decreased over the period considered by 5 %. It should be noted that about 75 % of the total imports from China during the investigation period entered the Union market under the inward processing scheme, thus without anti-dumping duties. These imports, corresponding to a market share of more than 1 %, were in direct competition with the Union industry sales and undercut the Union prices by around 13 %.

- (119) During the period considered import volumes from Turkey increased between 125 % and 139 % and their market share increased from around 7 % to 13 %. Turkish import prices decreased by 13 % over the period considered but remained above the price level of imports from other third countries, including Russia and China, and were at similar levels as the Union's industry prices during the investigation period.
- (120) Overall, imports from other third countries increased between 2 % and 15 %. However, as the Union consumption increased, their total market share decreased from 4 % in 2011 to around 2 % in 2013 and then increased to 4 % by the end of the investigation period; their prices were at lower levels than the Union industry's prices, with the exception of 2012.
- (121) On the basis of the above, it can be considered that imports from China, even at low levels, contributed in part to the injury suffered by the Union industry without however breaking the causal link between imports from Russia and the material injury suffered by the Union industry. Moreover, it is considered that imports from Turkey might have contributed in part to the injury suffered by the Union industry without however breaking the causal link between imports from Russia and the material injury suffered by the Union industry, taking into account their lower volumes and their higher prices compared to Russian exports.
- (122) One interested party claimed that the material injury suffered by the Union industry should be attributed to the imports of Turkey and South Korea. Regarding Turkey, it was concluded that imports might have contributed in part to the injury suffered by the Union industry without however breaking the causal link between the dumped imports from Russia and the material injury suffered by the Union industry. Regarding South Korea this party argued that imports were under the regime of the EU-South Korea Free Trade Agreement which entered into force in 2011 ⁽¹⁾. As far as South Korea is concerned, import volumes were almost inexistent during the whole period considered. On this basis, these claims were at this stage rejected.

2.2. *Development of Union consumption*

- (123) Union consumption increased significantly between 17 % and 28 % during the period considered. This increase can mainly be explained by the increase of imports as the Union industry's sales volumes only slightly increased during the period considered, with a loss of market share of around 8 percentage points. At the same time Russian imports were able to take over around 5 percentage points of market share. On this basis, it was concluded that the development in consumption did not contribute to the material injury suffered by the Union industry.
- (124) The exporting producer claimed that there is no substantial increase of imports from Russia or any injurious effects by these imports, as the Russian imports only followed the trend in consumption while the Union industry increased their sales of ACF to the detriment of AHF.
- (125) As explained in recital 132, the allegation that the Union industry increased its sales of ACF to the detriment of sales of AHF was not confirmed during the investigation and was therefore rejected. The investigation established an increase of dumped imports from Russia exerting a price pressure on the Union market. In this regard, it was considered irrelevant that the Russian imports followed the trend in consumption. Therefore, this claim was rejected.

2.3. *Export performance of the Union industry*

- (126) The exporting producer claimed that the material injury suffered by the Union industry was caused by the Union's industry poor export performance.

⁽¹⁾ The EU-South Korea Free Trade Agreement (OJ L 127, 14.5.2011).

(127) The volume of exports of the Union industry developed over the period considered as follows:

Table 14

Export performance of the Union industry

	2011	2012	2013	Investigation period
Export volume	813	1 351	1 159	1 182
<i>Index (2011 = 100)</i>	100	166	143	145
Average unit price (EUR/tonne)	3 061	2 810	2 897	2 806
<i>Index (2011 = 100)</i>	100	92	95	92

Source: questionnaire replies, information provided by the complainants.

(128) The investigation showed that exports of Union industry to other third countries remained at low levels in comparison to the sales of the Union industry on the Union market, albeit increasing during the period considered. Moreover, the investigation showed that for the sampled Union producers the prices of exports were higher than the average unit selling price in the Union and were covering their production cost. In addition, the profitability of the Union industry presented in recital 99 refers solely to the sales of the like product on the Union market and any impact of the Union industry's export sales to other third country markets were therefore not taken into consideration in this analysis. Therefore, this argument was rejected.

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

(129) A number of Union producers produced both AHF and ACF. ACF is a different product used in different applications than AHF. However, AHF and ACF, as mentioned in recital 80, were produced using the same manufacturing facilities and equipment. Some interested parties claimed that the Union industry increased production and sale of the more lucrative ACF to the detriment of AHF and therefore any loss of sales volume and market share of AHF would be due to this switch rather than the increase of imports of AHF from Russia.

(130) In addition, the exporting producer claimed that the material injury suffered by the Union industry was caused by the negative developments in ACF market, where the Union industry claimed to be injured by imports of this product from China and in relation to which the Commission initiated an anti-dumping proceeding in December 2014 ⁽¹⁾.

(131) The investigation has shown that although partly overlapping, the Union producers of ACF and AHF were not identical. Thus, the largest sampled Union producer of AHF of the current investigation was producing solely AHF, while the other sampled Union producers had a relatively stable ratio of production and sales between AHF and ACF during the period considered. The investigation thus did not confirm the allegations that the Union industry switched its production from AHF to ACF. Moreover, the investigation also showed that the 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.

(132) One interested party argued that Chinese imports of ACF had an impact on the overall situation of the Union industry and therefore caused the material injury of the Union industry of AHF. However, the injury picture

⁽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).

analysed in recitals 71 to 107 and the conclusion in recital 108 that the Union industry suffered material injury related exclusively to the production and sales of AHF. The impact of any alleged injury related to the production and sale of ACF of those Union producers manufacturing both ACF and AHF, if any, is therefore not reflected in the above injury picture. Therefore, this argument was rejected at this stage.

2.5. *Costs of raw material*

- (133) Aluminium is the main raw material for the manufacturing of AHF and represented around 75 % of the manufacturing cost of the Union industry during the investigation period.
- (134) The exporting producer claimed that the Union industry had a disadvantage as it was not vertically integrated and needed to purchase aluminium. Moreover, the exporting producer claimed that the price levels of aluminium in the Union are higher due to customs duties in force on unwrought aluminium, between 3 % and 6 %, which would increase the intra-EU premium for metal, which is part of the metal price and thus part of the aluminium price.
- (135) The worldwide reference for the price of primary aluminium is the quotation at the London's Metal Exchange (LME). Premiums are a surcharge paid on top of LME cash prices, which together is the all-in rate paid to smelters or traders to obtain aluminium. LME prices decreased during the period considered by more than 20 %. The premium more than doubled during the period considered. However, taking into account the LME and premium together as the total cost of aluminium, the cost decreased during the period considered by around 11 %.
- (136) The investigation showed that both the Union industry and the Russian exporting producer bore comparable costs when sourcing the raw material to manufacture AHF, as the market prices of this raw material in both the Russia and the Union market are directly linked to the LME. The claims contained in recital 134 should thus be rejected. 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 between 3 % and 7 % during the investigation period. As already mentioned in recital 92, the investigation showed that the Union industry sales prices of AHF could not cover the unit cost of production due to the price pressure exerted by the dumped imports even though unit cost of production decreased. Therefore, this argument should at this stage be rejected.

3. **Conclusion on causation**

- (137) The analysis above shows a substantial increase in volume and market share of the dumped imports originating in Russia in the period considered and a parallel decrease of import prices over the same period.
- (138) This increase in market share coincided with a significant drop in market share of the Union industry. The price pressure of the imports on the Union market did not allow the Union industry to raise its selling prices to profitable levels despite the decrease in their unit cost of production, which resulted in losses of the Union industry. As a consequence, the Union industry was not able to fully recover from the effects of past dumping practices by imports from of Brazil, China and Armenia and suffered material injury during the investigation period.
- (139) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports such as the effect of imports from other third countries, the development of Union consumption, the export performance of the Union industry, the activity of the Union industry in the ACF market and the cost of the raw material.
- (140) The examination of these other factors revealed that particularly imports from Turkey and China may have contributed to the injury suffered by the Union industry. However, taking into account the higher prices and the lower volume of Turkish imports in relation to the imports from Russia as well as the low levels of Chinese imports, it was concluded that these factors could not break the causal link established between the dumped imports from Russia and the injury suffered by the Union industry.

- (141) On the basis of the above, the Commission concluded at this stage that the material injury to the Union industry was caused by the dumped imports from the country concerned and the other factors considered individually or collectively did not break the causal link. The injury consists mainly of financial losses and loss of market share in the Union market.

F. UNION INTEREST

1. Preliminary remark

- (142) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, traders, importers and users.

2. Interest of the Union industry

- (143) The investigation established that the Union industry did not fully recover from past dumping and suffered material injury caused by the dumped imports from the country concerned during the investigation period. The main injury indicators showed negative trends, in particular market share and profitability.
- (144) Following the imposition of measures, import prices are expected to increase and the Union industry should be relieved from the price pressure currently exerted by the dumped imports. The Union industry should thus be able to raise its prices in order to cover its cost of production and gradually reach profitable levels. Moreover, the Union industry will be able to increase its sales volume and its market share in the Union market.
- (145) In the absence of measures the situation of the Union industry is very likely to further deteriorate, in particular given the losses suffered during the investigation period and the expected continued price pressure of the dumped imports from Russia. Further losses of market share will occur as Union industry's customers are expected to gradually switch to the low priced imports from Russia. In addition, the price pressure from the dumped imports will prevent the Union industry to raise its prices as the Union industry will be forced to match the low price levels of the Russian imports. Under such scenario the Union industry will continue to suffer significant losses.
- (146) The exporting producer claimed that without the competition from Russia, the Union industry is likely to become less efficient and will lose its competitiveness on the global market. Moreover, the exporting producer claimed that anti-dumping measures would result in a distortion of the global market.
- (147) Firstly, anti-dumping measures should only restore the level playing field in the Union, but not prevent Russian imports in the Union market at fair prices. Secondly, the exporting producer did not explain to what extent anti-dumping duties would distort global competition and did also not explain to what extent they could have an impact on the efficiency of the Union industry. These claims were therefore not sufficiently substantiated. To the contrary, the investigation showed that anti-dumping measures would allow the Union industry to increase its sales prices and profitability as well as its sales volume on the Union market. Therefore these arguments were at this stage rejected.
- (148) The exporting producer further claimed that the demand of AHF is highly elastic and in case of imposition of measures many consumers may switch to alternative products such as polyethylene household foil; therefore measures will not result in an increase but rather in a loss of sales volume for the Union industry. However the investigation showed that the substitution of AHF by alternative packaging is very difficult due to the specific characteristics of AHF such as heat resistance and light protection. Therefore, this argument should at this stage be rejected.
- (149) It was therefore concluded at this stage that the imposition of anti-dumping duties would be in the interest of the Union industry.

3. Interest of importers/traders

- (150) No company involved in the trading, i.e. importation and resale of AHF in its state, came forward following the publication of the Notice of Initiation. Indeed, the investigation showed that the Union industry and the exporting producer were selling AHF mostly directly to users. On these grounds, there are no indications that the imposition of measures would have an adverse effect on the situation of importers/traders.

4. Interest of users

- (151) The users in the Union are rewinders whose activities consist in trading wrapping material (aluminium foil, but also paper and plastic) after rewinding AHF into small rolls ('consumer rolls') and repacking it for industrial and retail sales business. Seven companies came forward and received a questionnaire. Four companies cooperated in the proceedings by submitting questionnaire replies. Three of the cooperating companies were verified on-the-spot.
- (152) The investigation showed that AHF is the main raw material of the rewinders, representing around 80 % of their total cost of manufacturing.
- (153) During the investigation period, the cooperating users had three main sources of supply of AHF that is the Union industry, Turkey and Russia. Three of the cooperating users purchased AHF mainly from the Union industry and imported it to a lesser extent; one of these three users did not import AHF from Russia, but only from Turkey. The fourth cooperating user purchased AHF mainly from Russia and sourced lesser quantities from the Union industry. All the cooperating companies imported AHF also from Turkey.
- (154) As rewinders are suppliers of a wide range of packaging products, for the three cooperating companies which purchased the product concerned from Russia, the activity incorporating AHF represented from less than one sixth to maximum one fourth of their total activity. For the company that did not purchase the product concerned from Russia the activity incorporating AHF represented less than one third of their total activity.
- (155) During the investigation period all cooperating companies reported to be overall profitable. Nevertheless, one company could not clearly allocate their SG&A costs to the activity incorporating AHF and therefore, no clear conclusion could be drawn for this company regarding its profitability.
- (156) Moreover, the investigation showed that there are multiple sources of supply and the rewinders are ready to change sources of supply if needed (see recitals from 165 to 168).
- (157) In addition, rewinders may still be able to pass the anti-dumping duty on to their customers, especially if prices of their main raw material continue the decreasing trend observed during the period considered.
- (158) On this basis, while it is not excluded that the rewinders' profitability might be negatively affected by the imposition of measures against Russia, the availability of other sources of supply, the possibility to pass on the duty to customers and in some cases the high profitability margins, would indicate that the possible impact of the measures on rewinders would be limited.
- (159) The exporting producer claimed that the imposition of anti-dumping duties will be detrimental for large retailers without however specifying this claim any further. In this regard, it should be noted that no large retailers came forward during the investigation.
- (160) Some interested parties also claimed that the imposition of measures would reduce the profitability of the rewinders. However, as already analysed in recitals from 153 to 160, the impact on the profitability of the rewinders is expected to be limited in particular when taking into consideration the various existing sources of supply and the possibility to pass on to their customers at least part of their cost increase from the imposition of duties.

- (161) In addition, as mentioned in recital 118, anti-dumping measures have been in place for the last 5 years against imports from China, Brazil and Armenia. During the investigation period of the investigation leading to these measures, the profitability of the rewinders was found to range between - 2 % and + 2 % ⁽¹⁾. Despite the imposition of measures, rewinders remained viable and in some cases even increased their profits, as the current investigation showed that all cooperating rewinders were profitable. Therefore, this argument was rejected.
- (162) Moreover, it was claimed that there was strong competition in the downstream market from imports of consumer rolls. Some interested parties claimed that any imposition of the anti-dumping measures on AHF would penalise rewinders in the Union which would have to pay an anti-dumping duty on their raw material and would thus not be able anymore to compete with imports of the downstream products. It was further claimed that the imposition of measures on AHF would give rise to exports of consumer rolls from Russia. The rewind operation would then take place in Russia instead of the Union and the rewinders would be severely hurt, also because they will have to compete with the low priced imports of consumer rolls. However, the risk that imports of the product concerned may be substituted by imports of the downstream products is not, in itself, a reason not to impose anti-dumping measures. In this regard, it should be noted that anti-dumping measures on imports of consumer rolls from China were imposed in 2013 ⁽²⁾ which has given the downstream industry relieve from dumped imports causing material injury. In addition, the investigation showed that imports of AFH from Russia cover only a part of the needs of the rewinders and that there are several other sources of supply with no anti-dumping measures. Therefore, these arguments were rejected.
- (163) In view of these findings, it is at this stage concluded that the impact on users would not be such that measures have to be considered to be against the overall Union interest.

5. Sources of supply

- (164) Several interested parties claimed that the imposition of anti-dumping duties against Russia may result in a shortage of supply in the Union market, as the Union industry has not sufficient capacity to cover the demand in the Union and, as mentioned above, rewinders would not have sufficient other sources of supply.
- (165) The investigation showed that the Union industry had excess capacity and is able to increase production and sales of AHF in the Union. Moreover, alternative sources of supply are available such as Turkey, Armenia and also South Africa and India, albeit to a lesser extent. In addition, the anti-dumping duties against China and Brazil are currently under review and findings will be published in January 2016 at the latest. Finally, anti-dumping measures aim to establish a level playing field in the Union and Russian imports will still be able to enter the Union market at fair price levels.
- (166) One interested party claimed that it is very likely that the Union industry will not increase its production and sales of AHF, but rather increase its activities in the ACF sector. This claim was based on the assumption that the Union industry increased its production of AHF due to the worldwide economic crisis and would resume production of ACF once the overall economic situation in the Union recovers. This party also noted that there was a parallel investigation concerning imports into the Union of ACF originating in China ongoing ⁽³⁾ and claimed that should this investigation result in the imposition of anti-dumping measures, the Union industry will likewise improve its economic situation with regard to ACF and as a consequence increase production of ACF to the detriment of an increase in production of AHF. However, as already analysed in recital 132, the investigation found no evidence to justify such claim. Moreover, the party did not provide any evidence regarding the link between the development of production of AHF and the economic crisis or the claim that the Union industry upon a possible imposition of measures against China will switch its production to ACF. Therefore, these arguments were at this stage rejected.

⁽¹⁾ Recital 159 of the Commission Regulation (EC) No 287/2009 of 7 April 2009 imposing a provisional anti-dumping duty on imports of certain aluminium foils originating in Armenia, Brazil and the People's Republic of China (OJ L 94, 8.4.2009, p. 17).

⁽²⁾ Council Implementing Regulation (EU) No 217/2013 of 11 March 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain aluminium foils in rolls originating in the People's Republic of China (OJ L 69, 13.3.2013, p. 11).

⁽³⁾ 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).

- (167) One interested party claimed that imports of AHF from Venezuela, Turkey and Armenia were not suitable to substitute imports of AHF from Russia as a number of key parameters such as production, technical specifications and supply availability would be different. The party concerned did not provide any evidence in support of this claim. Furthermore, the investigation did not bring into light any information which could have confirmed this claim. On the contrary, the investigation revealed that Turkey is a major supplier of the Union rewinders and therefore comparable in terms of availability and product specifications with Russian imports. Armenia is also a potential supplier for the Union market with no anti-dumping duties in place. Therefore, these arguments were at this stage rejected.
- (168) On the basis of the above, the claim that no alternative sources of supply existed, should be rejected.

6. Other arguments

- (169) The exporting producer claimed that the Union interest analysis should also take into account that the Union industry is protected by import duties of 7,5 % from Russia and the anti-dumping duties in force in relation of imports of the same product from China and Brazil.
- (170) It is noted that indeed, under the current Generalised Scheme of Preferences of the European Union ("GSP") which entered into force on 1 January 2014, Russia is no longer listed as a beneficiary country. Therefore, as of 1 January 2014, and until that situation persists, imports from Russia of AHF are subject to the import duty rate of 7,5 % (instead of the preferential duty rate of 4 % applicable until 31 December 2013).
- (171) Moreover, the anti-dumping measures against China and Brazil, which are currently under review, were imposed as a result of a separate proceeding which established injurious dumping with regard to these imports and which justified the imposition of the measures. Anti-dumping duties in place with regard to imports from other third countries cannot be considered per se as a valid reason not to impose anti-dumping duties with regard to imports from another third country. Indeed if following an anti-dumping investigation it is established that there is injurious dumping from this country's imports the imposition of such measures are justified, if there are no compelling reasons in terms of Union interest which would speak against such measures. In the current case, these conditions are at this stage fulfilled and this argument was therefore at this stage rejected.
- (172) The exporting producer finally claimed that as AHF and ACF are produced at the same production facilities, thus allegedly providing a high level of substitutability on the supply side, an additional anti-dumping duty on imports of AHF would create distortions in the market of ACF at the cost of the final customers in the Union. However, the exporting producer did not further specify this claim. As already explained in recitals 81 and 131 the largest producer in the sample did not produce at all ACF and the others who were producing ACF, had a stable ratio of production and sales between ACF and AHF. Therefore this argument should be rejected.

7. Conclusion on Union interest

- (173) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of AHF originating in Russia at this stage of the investigation.

G. PROVISIONAL ANTI-DUMPING MEASURES

- (174) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

1. Injury elimination level (Injury margin)

- (175) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.

- (176) The injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports. In this respect, a profit of 5 % was considered appropriate and confirmed during the investigation in view of the specific characteristics of this industrial sector. In addition, a profit of 5 % was also used in the proceeding which led to the parallel investigation against China and Brazil concerning the same product mentioned in recital 20 above. Furthermore, the Commission refers to recital 158 of Commission Regulation (EU) No 833/2012 which concerned a very similar product and where also a profit margin of 5 % was used.
- (177) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by adjusting the sales prices of the Union industry by deducting the amount of profit or adding the loss actually made during the investigation period and subsequently adding the above-mentioned profit margin of 5 %. The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the cooperating exporting producer in Russia, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

2. Provisional measures

- (178) Provisional anti-dumping measures should be imposed on imports of AHF originating in Russia, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and the injury margins.
- (179) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

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

- (180) The individual company anti-dumping duty rate specified in this Regulation was established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to this company. This duty rate is exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entity. Imports of the product concerned produced by any other company not specifically mentioned with its name and address in the operative part of this Regulation, including entities related to that specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (181) A company may request the application of this individual anti-dumping duty rates if it changes the name of its entity or sets up a new production or sales entity. The request must be addressed to the Commission ⁽¹⁾. The request must contain all the relevant information, including: modification in the company's activities linked to production; domestic and export sales associated with, for example, the name change or the change in the production and sales entities. The Commission will update the list of companies with individual anti-dumping duties, if justified.
- (182) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies will apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

H. FINAL PROVISIONS

- (183) The cooperating exporting producer claimed that they should have had access to the non-confidential file of the parallel on-going expiry review proceeding regarding the measures in force against imports of AHF originating in Brazil and China, mentioned in recital 3, on the grounds that for the purpose of the causation analysis in the current investigation the imports of AHF from Russia would be cumulated with imports of AHF from Brazil and China in order to investigate the impact of these imports on the situation of the Union industry. The exporting producer claimed that this would be a serious breach of its rights of defence and a breach of an essential procedural requirement which cannot be cured retroactively, as it affected the rights of defence in the period specified for comments, namely within 37 days of the date of publication of the notice in the *Official Journal of the European Union*. As a consequence the current investigation should be terminated. Alternatively, the exporting producer requested to be granted full access to the non-confidential file in the parallel expiry review proceeding.
- (184) The claim was based on the wrong assumption that imports from China and Brazil would be cumulated with imports from Russia. However, as described below, imports from China and Brazil were only taken into consideration in the causality analysis as 'other factors'. Although the sampled Union producers provided only one questionnaire reply covering both proceedings, this concerned only the analysis of the economic situation of the Union industry as in both proceedings the Union producers were identical and data collected referred to the same investigation period and the same period considered. By official letter, the Commission already informed the exporting producer of its intention to reject the above mentioned claims and invited the exporting producer to request the intervention of the Hearing Officer in trade proceedings, if it considered necessary.
- (185) Regarding the access to the non-confidential file in the parallel expiry review proceeding, the exporting producer is not an interested party in that proceeding and, as a consequence, the access to the relevant non-confidential file cannot be granted. Therefore the claims regarding the breach of the rights of defence and the breach of an essential procedural requirement were rejected.
- (186) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (187) The findings concerning the imposition of duties made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

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

Country	Company	Provisional anti-dumping duty	TARIC additional code
Russia	Ural Foil OJSC, Sverdlovsk region; OJSC Rusal Sayanal, Khakassia region Rusal Group	12,2 %	C050
Russia	All other companies	12,2 %	C999

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Within 25 days of the date of entry into force of this Regulation, interested parties may:
 - (a) request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;
 - (b) submit their written comments to the Commission; and
 - (c) request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
2. Within 25 days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EC) No 1225/2009 may comment on the application of the provisional measures.

Article 3

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

Article 1 shall apply for a period of 6 months.

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

Done at Brussels, 3 July 2015.

For the Commission
The President
Jean-Claude JUNCKER
