COUNCIL OF THE EUROPEAN UNION

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ANTIDUMPING 13
COMER 28

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING REGULATION 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

COUNCIL IMPLEMENTING REGULATION
(EU) No …/2013

of

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

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[1] (the 'basic Regulation'), and in particular Article 9(4) thereof,

Having regard to the proposal submitted by the European Commission (the 'Commission') after having consulted the Advisory Committee,

[1] OJ L 343, 22.12.2009, p. 51.

Whereas:

1. PROCEDURE

1.1. Provisional measures

(1) The Commission, by Regulation (EU) No 833/2012[1] (the 'provisional Regulation') imposed a provisional anti-dumping duty (the 'provisional measures') on imports of certain aluminium foils in rolls originating in the People's Republic of China (the 'PRC').

(2) The proceeding was initiated following a complaint lodged on 9 November 2011 by the European association of Metals (Eurométaux) ('the complainant') on behalf of producers representing more than 50 % of the total Union production of certain aluminium foil in rolls. The complaint contained prima facie evidence of dumping of the product and of material injury resulting from the dumping, which was considered sufficient to justify the initiation of a proceeding. As set out in recital 17 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2010 to 30 September 2011 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2008 to the end of the IP (the 'period considered').

[1] OJ L 251, 18.9.2012, p. 29.

1.2. Subsequent procedure

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures (the 'provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted the opportunity to be heard. In particular, one exporting producer requested and was afforded hearings in the presence of the Hearing Officer of the Directorate-General for Trade.

(4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

(5) Following the publication of the provisional Regulation, three of the cooperating Chinese exporting producers stated that their names were incorrectly spelt in Article 1(2) of the provisional Regulation. Accordingly, a corrigendum to the provisional Regulation was published in the *Official Journal of the European Union*[1], in which the correct names of these companies were set out.

[1] OJ L331, 01.12.2012, p. 56.

2. PRODUCT CONCERNED AND LIKE PRODUCT

(6) The product concerned is aluminium foil of a thickness of 0,007 mm or more but less than 0,021 mm, not backed, not further worked than rolled but whether or not embossed, in low weight rolls of a weight not exceeding 10 kg (the 'product concerned' or 'aluminium foil in rolls' or 'AHF'). The product concerned currently falls within CN codes ex 7607 11 11 and ex 7607 19 10.

(7) The product concerned is generally used as a consumer product for packaging and other household/catering applications. The product definition was not contested.

(8) The investigation has shown that aluminium foil in rolls produced in and exported from the PRC, aluminium foil in rolls produced and sold in the Union by the Union producers and aluminium foil in rolls produced and sold in Turkey (the analogue country) by the cooperating Turkish producer have the same basic physical and technical characteristics as well as the same basic uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(9) In the absence of any comments regarding the product concerned and the like product, recitals 18 to 20 of the provisional Regulation are hereby confirmed.

3. SAMPLING

(10) In the absence of any comments on sampling, recitals 21 to 26 of the provisional Regulation are hereby confirmed.

4. DUMPING

4.1. Market economy treatment ('MET')

(11) After the provisional disclosure, comments were received from CeDo (Shanghai) Ltd. ('CeDo') concerning the findings in regard to the criterion laid down in the third indent of point (c) of Article 2(7) of the basic Regulation. The company in its comments and during a hearing with the Hearing Officer contested the finding that its decisions on obtaining financing from abroad were subject to approval of the State and thus created a distortion in its financial situation. CeDo claimed that the Chinese 'Rules for the Implementation of Registration of External Debts' did not have a distortive effect on its financial situation as its loan concerned an intra-group loan from a related company outside China and was based solely on intra-group financial considerations. The company further claimed that the approval to transfer interest and principal was automatically granted.

(12) Having re-examined the additional information provided by the company and the arguments put forward following the provisional disclosure, it was considered that, despite the existence of loan registration and repayment approval requirements, it could be established in this particular case of an intra-group loan that the financial situation of the company was not subject to significant distortions given that the company was found to have repaid the interest and principal sum in line with the terms of the loan agreement. In these circumstances, the company is found to meet the criterion laid down in the third indent of point (c) of Article 2(7) of the basic Regulation.

(13) In the absence of any other comments concerning MET, recitals 27 to 53 of the provisional Regulation are, subject to the above modification, hereby confirmed.

4.2. Individual treatment ('IT')

(14) In the absence of any comments on IT, recitals 54 to 56 of the provisional Regulation are hereby confirmed.

4.3. Analogue country

(15) No party disputed the selection of Turkey as an analogue country for the definitive determination.

(16) In the absence of any comments concerning the selection of the analogue country, recitals 57 to 64 of the provisional Regulation are hereby confirmed.

4.4. Normal value

(17) The normal value was calculated on the basis of the data provided by the sole cooperating producer in the analogue country (i.e. Turkey). Thus, normal value was established on the basis of prices of domestic sales and constructed normal value of one Turkish producer of the like product.

(18) The company Ningbo Favored Commodity Co., Ltd ('Ningbo Favored') questioned how the data of a single Turkish producer could be sufficiently representative to establish a dumping margin for the entirety of all Chinese exporting producers, and considered it to be surprising that the domestic prices in Turkey were significantly higher than in the Union. In regard to the Turkish market for aluminium foil, as mentioned in recital 63 of the provisional Regulation, Turkey was considered a suitable analogue country based on volumes and values of domestic production, import and export. With regard to the fact that the prices on the Turkish market are higher than in the Union, this is not a decisive factor in selecting a suitable analogue country market. In any event, the price difference can be partly explained by the fact that the Union industry was close to breakeven during the IP. If the Union industry is put in a position whereby it can achieve a reasonable profit (i.e. 5 % as mentioned in recital 158 of the provisional Regulation), the price gap between Turkish prices and prices on the Union market will narrow.

(19) Ningbo Favored also submitted that the institutions did not provide sufficient information on the constructed normal value.

(20) In this respect it is noted that, as explained under recital 70, the Commission provided to the party all relevant information concerning the data used to calculate normal value that could be released without infringing the provisions of Article 19 of the basic Regulation, i.e. assuring at the same time that any confidential data provided by the sole Turkish producer is treated as such and is not disclosed to other parties. The information provided to the exporting producer was meaningful and offered it the possibility to understand the methodology used in line with the provisions of Article 2 of the basic Regulation. In addition, during a hearing which took place at the request of Ningbo Favored, the company was informed that for the purpose of the dumping calculation, full product control numbers ('PCNs') had been used and that in situations where the Turkish producer did not sell the exact same product type, the normal value was established by adjusting the closest PCN sold by the Turkish producer. Finally, Ningbo Favored and the other sampled Chinese exporters were provided with additional information regarding the establishment of the constructed normal value at the time the disclosure of the final findings was made. The above claims therefore had to be rejected.

(21) In the absence of any other comments, recitals 65 to 72 of the provisional Regulation are hereby confirmed.

4.5. Export price

(22) Ningbo Favored requested that the values of the export sales in the transaction-by-transaction listing should be converted from US dollars into Chinese currency using the monthly exchange rate supplied in the questionnaire, rather than the actual exchange rate at the time of the various transactions. In this respect, in accordance with Article 2(10)(j) on currency conversions of the basic Regulation, when the price comparison requires a conversion of currencies, such conversion shall be made using the rate of exchange on the date of sale. It is also noted that the instructions to the questionnaire provide explicitly that the amounts to be used are those in the accounting currency as booked in the accounting records of the respondent. The company had thus been duly informed of the exchange rate to be used. This claim could therefore not be accepted.

(23) Following the imposition of the provisional measures, an additional verification visit was carried out at the premises of one of the unrelated importers for whom the profit mentioned in recital 75 of the provisional Regulation was established. As a result, the profit margin used in constructing the export prices under Article 2(9) of the basic Regulation decreased.

(24) In the absence of any other comments, recitals 73 to 75 of the provisional Regulation, subject to the above modification, are hereby confirmed.

4.6. Comparison

(25) No pertinent comments were received with respect to the comparison. In the absence of any other comments, recitals 76 to 78 of the provisional Regulation are hereby confirmed.

4.7. Dumping margins

(26) No pertinent comments with respect to the dumping margins were submitted. In the absence of any other comments, recitals 79 to 81 of the provisional Regulation are hereby confirmed.

(27) As a result of the revision of the unrelated importers' profit as mentioned in recital 23, as well as following the correction of some clerical errors, the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company Name	Dumping margin
CeDo (Shanghai) Ltd.	37,4 %
Ningbo Favored Commodity Co., Ltd.	30,6 %
Ningbo Times Aluminium Foil Technology Co., Ltd.	32,9 %
Other co-operating companies	34,9 %
Countrywide dumping margin	45,6 %

(28) On the basis of the facts stated in recital 81 of the provisional Regulation, the country-wide definitive dumping margin for the PRC was established using the most dumped transactions of the cooperating exporters. On this basis, the definitive dumping margin was found to be 45,6 %.

5. INJURY

5.1. Union production and Union Industry

(29) In the absence of comments on Union production and Union industry, recital 83 of the provisional Regulation is hereby confirmed.

5.2. Union consumption

(30) In the absence of comments on Union consumption, recitals 84 to 86 of the provisional Regulation are hereby confirmed.

5.3. Imports into the Union from the PRC

5.3.1. Volume and market share

(31) In the absence of comments on the level of imports into the Union from the PRC and market share, recitals 87 to 89 of the provisional Regulation are hereby confirmed.

5.3.2. Prices of dumped imports and price undercutting

(32) As duly explained in recital 47, after analysis of the comments received following provisional disclosure, it was found appropriate not to apply a level of trade adjustment for the comparison between prices of the product concerned and aluminium foil produced by Union industry. This change of method slightly affected the undercutting margins.

(33) Furthermore, the undercutting margin of the CeDo group was reduced by the revision of the unrelated importers' profit margin (see recital 23). However, the weighted average undercutting margin of the sampled exporting producers remains above 7 %.

(34) With the exception of the above changes and in the absence of any other comment concerning prices of dumped imports and price undercutting, the methodology described in recital 90 to 94 of the provisional Regulation to establish price undercutting is hereby confirmed.

5.4. Economic situation of the Union industry and the representative Union producers

5.4.1. Preliminary remarks and data relating to the Union industry

(35) In the absence of any comments in this regard, the provisional findings set out in recitals 95 to 107 of the provisional Regulation are hereby confirmed.

5.4.2. Magnitude of the actual dumping margin

(36) In the absence of comments in this regard, recital 108 of the provisional Regulation is hereby confirmed.

5.5. Conclusion on injury

(37) Based on the above, the provisional findings set out in recitals 109 to 112 of the provisional Regulation are hereby confirmed.

6. CAUSALITY

(38) The Commission received no comments on the provisional findings concerning the causal link between dumping and injury. It is consequently confirmed that the dumped imports from the PRC caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation and that there are no other known factors which are as such as to break the causal link between the dumped imports from the PRC and the injury suffered by the Union industry. Therefore, the conclusions as set out in recitals 113 to 136 of the provisional Regulation are hereby confirmed.

7. UNION INTEREST

7.1. Union industry

(39) In the absence of any comments with regard to the interest of the Union industry, recitals 138 to 142 of the provisional Regulation are hereby confirmed.

7.2. Importers/wholesalers

(40) Co-operation from the importing sector was very low and, as already mentioned in recital 146 of the provisional Regulation, only two importers had submitted a questionnaire reply. As mentioned in recital 23, after the imposition of provisional measures, the largest importer (Robinson Young, UK) was visited to verify its questionnaire response. The verification resulted in a correction of the reported profitability of this company on its relevant activities. As a consequence, the weighted average profit margin of the two cooperating sampled importers went down. However, the reduction in profit of the co-operating importers was not considered to be significant in terms of the Union interest analysis because both profit rates (before and after the correction) were moderate.

(41) One of the sampled importers contested the preliminary conclusion summarized in recital 148 of the provisional Regulation that the impact of the measures on the importing sector as a whole would not be disproportionate as it could be forced to exit the market if the measures would be confirmed. However, in the provisional Regulation it was indeed concluded that the Union industry might win back some contracts to the detriment of the importing sector. However, there is no doubt that imports of the product concerned will continue to serve the Union market, albeit now on the basis of fair competition and, therefore, possibly on a smaller scale. In view of that, it is confirmed that the overall impact on the importing sector is not disproportionate.

(42) No further comments or information were received regarding the interests of importers or wholesalers. Therefore the provisional findings in recitals 143 to 149 of the provisional Regulation on the interest of those groups are hereby confirmed.

7.3. Retailers and Consumers

(43) In the absence of comments concerning the interest of retailers and consumers, recitals 150 to 153 of the provisional Regulation are hereby confirmed.

7.4. Conclusion on Union interest

(44) In view of the above, the provisional findings concerning Union interest are confirmed, i.e. there are no compelling reasons against the imposition of definitive measures on imports of certain aluminium foils in rolls originating in the PRC.

8. DEFINITIVE ANTI-DUMPING MEASURES

8.1. Injury elimination level

(45) After disclosure of the provisional findings, Ningbo Favored made a submission concerning the methodology employed to calculate the injury margins. The company claimed that the adjustments made to the PCN structure had created an imbalance. In particular, it claimed that packaging costs were probably responsible for distorting the data. A second issue concerned the method employed to ensure fair comparison in terms of level of trade. At the provisional stage the Union data was split between retail and wholesale sales channels, however, Ningbo Favored argued that this created two target prices per product type which it said would be unlawful.

(46) With reference to the claim on the adjustment made to the PCN structure, simulations have shown that there would be distortions if no adjustment was made. Those changes to the PCN structure (which were in effect a consolidation of data to improve matching rates and representativity) had removed distortions and improved the reliability of the calculations. Therefore, this claim has to be rejected.

(47) The second issue raised by the Ningbo Favored, regarding the method provisionally employed to ensure fair comparison in terms of level of trade, was also duly analysed. In this respect it was found that although prices usually differed between the two sales channels, no identifiable or consistent pattern was present in the current case. Indeed, in certain instances, the producer sale prices to retailers would be lower than those to wholesalers, whereas in other cases the opposite would be the case. It was therefore decided to accept this claim that no level of trade adjustment should be made because the conditions for such adjustment were not met. Consequently, the definitive calculations of the injury elimination levels have been done on the basis of consolidated prices of both the exporting producers and the Union industry, making no adjustment for level of trade. This change in methodology slightly affected the injury margins.

(48) In response to the definitive disclosure, Ningbo Favored argued that the method used to calculate underselling was flawed and unreliable because, on the Union industry side, its starting point was the Union sales price per PCN rather than the cost of production per PCN. Ningbo Favored concluded that the COP per PCN was not used because the Commission officials "did not urge" the company to provide the relevant data and the proceeding should therefore be terminated because of a "lack of evidence".

(49) However, the basic Regulation does not prescribe how Union industry's target price should be established. It is common practice to do this either on the basis of cost of production per PCN plus target profit, or by using the ex-works sales prices per PCN to unrelated customers on the Union market and adjusting those by the actual profit/loss made during the IP and by adding the established target profit. Both methods are reliable and they may be used interchangeably (depending on the circumstances). In the investigation, the second method (i.e. on the basis of actual Union sales prices to unrelated customers) was employed because not all the sampled Union producers were able to calculate a reliable COP per PCN.

(50) In view of the above, the allegation that the method adopted is unreliable and the claim that the proceeding should therefore be terminated are rejected.

(51) The CeDo Group claimed that the methodology used for calculating its provisional injury margins was not correct because it did not fully take into account the structure of the CeDo Group. Indeed the importer CeDo UK, related to a sampled co-operating exporting producer ("CeDo (Shanghai)"), supplies the Union market with foil produced in both the PRC and the Union, all channelled via a related importer/trader. The company claimed that SGA of this related importer and a profit margin should not have been deducted from CeDo resales price as competition takes place at the level of customers in the Union. CeDo sales prices at customers' level, it claimed, would not be injurious to the Union industry.

(52) CeDo's assertion regarding its sales prices vis-à-vis those of the Union industry was challenged by several submissions from complaining Union producers. However, this issue could not be further investigated because the information submitted by the parties could not be verified at such a late stage in the investigation.

(53) On substance, it should be noted that the purpose of calculating an injury margin is to determine whether applying to the CIF price of the dumped imports a lower duty rate than the one based on the dumping margin would be sufficient to remove the injury caused by the dumped imports. This assessment should be based on the CIF price of the imports in question, which is considered to be a level comparable to the Union industry ex-works price. In the case of imports made via related importers, by analogy with the approach followed for the dumping margin calculations, which the injury margin calculations could subsitute for the determination of the duty rate in application of the lesser-duty rule, the CIF price is constructed on the basis of the resales price to the first independent customer duly adjusted pursuant to Article 2(9) of the basic Regulation. Second and without prejudice to the latter observations, it should be noted that the methodology advocated by CeDo would lead to the inevitable use of prices relating to the Union production by CeDo of aluminium foil since, as mentioned above, the related importer/trader supplied the Union market with aluminium foil produced both in China and the Union.

(54) CeDo returned to the above issue at the definitive stage. It also requested to be heard by the Hearing Officer of the Directorate-General for Trade and a hearing was organised to discuss the matter. CeDo reiterated its previous arguments and also challenged the above explanation concerning Article 2(9), stating that Article 2(9) appears under the dumping provisions of the basic Regulation and could not be used by analogy for calculating injury. The institutions pointed out that although Article 2 deals with dumping issues, Article 2(9) thereunder falls under the "export price" subchapter and it gives guidance for calculating an export price in case of Union sales via a related importer. No other provision in the basic Regulation gives more specific guidance in this regard.

(55) CeDo raised the issue of the Kazchrome[1] judgment of the General Court which it alleged provided guidance in this respect by stating that the most accurate way of calculating price undercutting would be to compare import prices with the prices of goods of the Community industry by including all the costs incurred up until the customers' premises. However, it should be noted that the Court also acknowledged that this approach is not practical and the judgment makes clear that CIF prices are an acceptable methodology in calculating injury margins. In addition, the Kazchrome case related to a special situation involving goods which entered the EU market first through Lithuania (in transit) and then to Rotterdam where they were customs cleared. In that case, the Commission had decided to calculate undercutting and underselling on the basis of the price at the point of transit, as opposed to the price after customs clearance. This is not the case in the current investigation where it is not disputed that the underselling and the undercutting calculations are based on CeDo's CIF price after customs clearance. Furthermore, in the Kazchrome judgment the Court clearly restricted its conclusions to that specific case.

[1] Case T-107/08 *Transnational Company 'Kazchrome' AO and ENRC Marketing AG v. Council of the European Union and European Commission* [2011] (not yet published in ECR).

(56) CeDo also raised the issue of fair comparison and quoted two WTO Panel Reports[1]. The institutions are satisfied that CeDo's prices as established by the Commission services and the ex-works Union industry prices (both for undercutting and underselling) provide the basis of a fair and reasonable comparison. It should be remembered that a perfect comparison would mean that only bids for the same contract should be taken into account because only then would the conditions of sale be identical. As a perfect comparison is not possible here the institutions are satisfied that a methodology which uses average prices collected for similar products over the period of a one year IP is fair. That methodology has been clearly communicated by disclosure.

[1] WTO Panel Report, China – CVD and AD Duties on Grain Oriented Flat-Rolled Electrical Steel from USA – WT/DS414/R and AD Measure on Farmed Atlantic Salmon from Norway – WT/DS337/R

(57) Furthermore, it is considered that the method advocated by CeDo would lead to unequal treatment in the calculation of its margins and those of other sampled exporting producers selling to independent importers. The methodology employed for the other sampled exporting producers was based on an export price at CIF level which of course excludes Union SGA and profit for resale in the Union after customs clearance. The Commission considers that the establishment of the relevant import price for undercutting and underselling calculations should not be influenced by whether the exports are made to related or independent operators in the Union. The methodology followed by the Commission ensures that both circumstances receive equal treatment. Lastly, as already mentioned in recital 53, the approach requested by CeDo would, in particular in the circumstances of this company, confuse and blur the two distinct qualities in which CeDo operates as a supplier of aluminium foil to the Union market. Indeed, CeDo supplies the Union market, first, as a producer located in the Union and, second, as a reseller of aluminium foil imported from China. The purpose of the injury margin calculations is not to measure to what extent the sales of CeDo UK, as a Union importing producer, are causing injury to the Union producers, but rather whether the exports from CeDo Shanghai have such effect through undercutting and underselling the prices of Union producers. To that end, the relevant price to be taken into account is the price at which the product concerned is sold to the Union, and not the price at which the imported materials are then resold by importing producers in the Union. This is consistent with the approach taken when calculating the injury margin attributable to imports made by domestic producers in the Union.

(58) Finally, it should be stated that the Union producers' prices have been adjusted to an ex-works level by deducting mot only credit notes, discounts and rebates but also commissions (a form of selling cost) and transport related expenses. Hence comparing the importer's resale price with a Union ex-works price would not be a fair comparison.

(59) For the reasons stated above, it was mantained that the claim to revise the methodology to calculate CeDo's injury margin could not be accepted.

(60) However, the revised unrelated importers profit margin (modified for the reasons explained in recital 23) had an impact on the injury margin of CeDo, as this is deducted from its resales price. Finally, all underselling margins were affected by the correction of a minor clerical error in the application of the target profit at the provisional stage.

(61) On the basis of the above, the definitive injury margins are as follows:

Company Name	Underselling
CeDo (Shanghai) Ltd.	14,2 %
Ningbo Favored Commodity Co. Ltd.	14,6 %
Ningbo Times Aluminium Foil Technology Co., Ltd	15,6 %
Weighted average for other co-operators	14,6 %
Residual	35,6 %

8.2. Definitive measures

(62) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed on imports of certain aluminium foils in rolls originating in the PRC at the level of the lower of the dumping and injury margins found, in accordance with the lesser duty rule. In this case, the duty rate should accordingly be set at the level of the injury margins found.

(63) On the basis of the above, the rate at which such duties will be imposed are set as follows:

Company Name	Dumping margin	Injury elimination margin	Anti-dumping Duty Rate
CeDo (Shanghai) Ltd.	37,4 %	14,2 %	14,2 %
Ningbo Favored Commodity Co. Ltd.	30,6 %	14,6 %	14,6 %
Ningbo Times Aluminium Foil Technology Co. Ltd.	32,9 %	15,6 %	15,6 %
Other co-operating companies	34,9 %	14,6 %	14,6 %
Countrywide dumping margin	45,6 %	35,6 %	35,6 %

(64) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation in respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of the products originating in the PRC and produced by the companies and thus by the specific legal entities mentioned. Imports of the product concerned manufactured by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(65) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. These special measures include the presentation to the Customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters.

(66) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rates and the consequent imposition of a country-wide duty.

(67) Any claim requesting the application of an individual anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission[1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, this Regulation will then be amended accordingly by updating the list of companies benefiting from individual anti-dumping duty rates.

(68) In order to ensure a proper enforcement of the anti-dumping duty, the country-wide duty level should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Union during the IP.

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[1] European Commission, Directorate-General for Trade, Directorate H, Office: NERV-105, 08/020, 1049 Brussels, BELGIUM.

(69) In order to ensure equal treatment between any new exporters and the cooperating companies not included in the sample, listed in the table at Article 1(2) at the sample average duty rate of 14,6 %, provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporters which would otherwise be entitled to a review pursuant to Article 11(4) of the basic Regulation as that Article does not apply where sampling has been used.

(70) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain aluminium foils in rolls originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty (final disclosure). All parties were granted a period within which they could make comments on this final disclosure.

(71) The oral and written comments submitted by the interested parties were considered and taken into account where appropriate.

9. DEFINITIVE COLLECTION OF THE PROVISIONAL DUTY

(72) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected.

(73) Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected, while the amounts secured in excess of the definitive rate of anti-dumping duties should be released,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of aluminium foil of a thickness of 0,007 mm or more but less than 0,021 mm, not backed, not further worked than rolled but whether or not embossed, in low weight rolls of a weight not exceeding 10 kg, currently falling within CN codes ex 7607 11 11 and ex 7607 19 10 (TARIC codes 7607 11 11 10 and 7607 19 10 10) 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 product described in paragraph 1 and manufactured by the companies listed below, shall be as follows:

Company	Duty	TARIC additional code
CeDo (Shanghai) Ltd., Shanghai	14,2 %	B299
Ningbo Favored Commodity Co. Ltd., Yuyao City	14,6 %	B301
Ningbo Times Aluminium Foil Technology Co. Ltd., Ningbo	15,6 %	B300
Able Packaging Co.,Ltd., Shanghai	14,6 %	B302
Guangzhou Chuanlong Aluminium Foil Product Co. Ltd., Guangzhou	14,6 %	B303
Ningbo Ashburn Aluminium Foil Products Co. Ltd., Yuyao City	14,6 %	B304
Shanghai Blue Diamond Aluminium Foil Manufacturing Co. Ltd., Shanghai	14,6 %	B305
Weifang Quanxin Aluminum Foil Co. Ltd., Linqu	14,6 %	B306
Zhengzhou Zhuoshi Tech Co. Ltd., Zhengzhou City	14,6 %	B307
Zhuozhou Haoyuan Foil Industry Co. Ltd., Zhouzhou City	14,6 %	B308
Zibo Hengzhou Aluminium Plastic Packing Material Co.,Ltd., Zibo	14,6 %	B309
Yuyao Caelurn Aluminium Foil Products Co. Ltd., Yuyao	14,6 %	B310
All other companies	35,6 %	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. If no such invoice is presented, the duty applicable to "all other companies" shall apply.

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

Article 2

The amounts secured by way of provisional anti-dumping duty pursuant to Regulation (EU) No 833/2012 shall be definitively collected. The amounts secured in excess of the amount of the definitive anti-dumping duties shall be released.

Article 3

Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

– it did not export to the Union the product described in Article 1(1) during the investigation period (1 October 2010 to 30 September 2011),

– it is not related to any of the exporters or producers in the People's Republic of China which are subject to the measures imposed by this Regulation,

– it has actually exported to the Union the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(2) by adding the new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty rate of 14,6 %.

Article 4

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,

For the Council
The President

ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

(1) the name and function of the official of the entity issuing the commercial invoice;

(2) the following declaration:

"I, the undersigned, certify that the (volume) of certain aluminium foils in rolls, sold for export to the European Union covered by this invoice, was manufactured by (company name and registered seat) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.

Date and signature".