

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2016/2005

of 16 November 2016

imposing a provisional anti-dumping duty on imports of certain lightweight thermal paper originating in the Republic of Korea

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 18 February 2016, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain lightweight thermal paper originating in the Republic of Korea ('the country concerned') on the basis of Article 5 of Council Regulation (EC) No 1225/2009 ⁽²⁾. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽³⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 4 January 2016 by the European Thermal Paper Association (ETPA) ('the complainant') on behalf of producers representing more than 25 % of the total Union production of certain lightweight thermal paper. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Interested parties

- (3) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the known Union producers, the known exporting producers and the Korean authorities, known importers, users and traders about the initiation of the investigation and invited them to participate.
- (4) Interested parties had 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 ('the Hearing Officer').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) was repealed by Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation').

⁽³⁾ OJ C 62, 18.2.2016, p. 7.

- (5) Two hearings were held with the Hearing Officer upon request of the Hansol group, to which the two related cooperating exporting producers belong. During the first hearing in March 2016, exemption from replying to the questionnaire was requested for a number of related converters. Following the hearing and a verification visit to one of the related converters to ascertain the arguments underlying the exemption request, the Commission maintained that the questionnaire needed to be completed by one of the related converters and granted exemption to three other related converters. At the second hearing in September 2016, the two cooperating exporting producers, a number of unrelated importers and users, and representatives of the Korean government raised a number of claims as regards the definition of the product concerned, the complaint, injury, the causal link and Union interest.

(a) *Sampling*

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

Sampling of Union producers

- (7) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the highest representative sales volume while ensuring a geographical spread. This sample consisted of three Union producers in two different Member States. The sampled Union producers accounted for between 75 % and 95 % ⁽¹⁾ of the sales volumes to unrelated customers in the Union of the companies that came forward in the standing exercise and of the estimated total sales volume to unrelated customers in the Union. The Commission invited the interested parties to comment on the provisional sample. No parties made comments on the provisional sample, thus the provisional sample was confirmed. The sample is representative of the Union industry.

Sampling of importers

- (8) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (9) One unrelated converter with importing activities provided the requested information and agreed to be included in the sample. In view of the low number of replies, the Commission decided that the sampling was not necessary. No comments were made.

(b) *Replies to the questionnaire*

- (10) The Commission sent questionnaires to two related exporting producers, namely Hansol Paper Co., Ltd ('Hansol Paper') and Hansol Artone Paper Co., Ltd ('Artone'), both belonging to the Hansol group as well as to their related trader Hansol Europe B.V. ('Hansol Europe') and related converter Schades Ltd ('Schades'). Questionnaires were also sent to the three sampled Union producers, and around 50 parties (26 users, 21 intermediaries, two associations and one unrelated importer) who expressed an interest in the investigation.
- (11) Questionnaire replies were received from the two exporting producers and their related trader and converter, the three sampled Union producers, nine unrelated converters, two traders at different levels, one unrelated converter with importing activities and one association. Moreover, eleven parties responded with free format submissions.

(c) *Verification visits*

- (12) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

— Union producers:

- Lecta Group/Torraspapel SA, Barcelona, Spain
- Mitsubishi HiTec Paper Europe GmbH, Bielefeld, Germany
- Papierfabrik August Koehler SE, Oberkirch, Germany

⁽¹⁾ This information is in ranges because of the risk that a sampled company reverse-engineers its competitors' data.

- Importer/User:
 - Papiery Powlekane 'PASACO' sp. z o.o., Solec Kujawski, Poland
- Exporting producers in the Republic of Korea:
 - Hansol Group (Hansol Paper and Artone), Seoul, the Republic of Korea
- Trader related to exporter producers of the Hansol group:
 - Hansol Europe, Hoofddorp, the Netherlands
- Converter related to exporter producers of the Hansol group:
 - Schades, Ripley, the United Kingdom

(d) *Presentation of data*

- (13) Given the limited number of parties that submitted some data, some of the figures presented below are in the form of ranges.

1.3. Investigation period and period considered

- (14) The investigation of dumping and injury covered the period from 1 January 2015 to 31 December 2015 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2012 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (15) The product concerned is lightweight thermal paper ('LWTP') weighing 65 gr/m² or less; in rolls of a width of 20 cm or more, a weight of the roll (including the paper) of 50 kg or more and a diameter of the roll (including the paper) of 40 cm or more ('jumbo rolls'); with or without a base coat on one or both sides; coated with a thermo-sensitive substance (that is a mixture of dye and a developer that react and form an image when heat is applied) on one or both sides; and with or without a top coat, originating in the Republic of Korea, currently falling within CN codes ex 4809 90 00, ex 4811 90 00, ex 4816 90 00 and ex 4823 90 85 ('the product concerned').
- (16) LWTP can be produced with several types of developers: with developers containing bisphenol A and bisphenol S (LWTP containing phenol), or with developers that do not contain any phenol (phenol-free LWTP). Both types of LWTP are concerned by the present investigation.
- (17) Lightweight thermal paper is used in point-of-sale (POS) applications such as the receipts issued by retail.

2.2. Like product

- (18) The investigation showed that the following products have the same basic physical and technical characteristics as well as the same basic uses:
- the product concerned,
 - the product produced and sold on the domestic market of the Republic of Korea, and
 - the product produced and sold in the Union by the Union industry.
- (19) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

- (20) The cooperating exporting producer requested the exclusion of phenol-free LWTP from the product scope on the grounds that phenol-free LWTP is neither produced nor exported from the Republic of Korea and that it is different from LWTP containing phenol, because of its chemical composition, consumer perception, production processes, end-uses and market price. The same party also requested the exclusion of LWTP weighing less than 44 gr/m².
- (21) In this respect, the investigation showed that there are several types of LWTP — including those with or without phenol and those of less than 44 gr/m² — and that all form one single product, because they all share similar basic characteristics, similar production processes, identical end-uses and are interchangeable from the point of view of users and consumers. Indeed, the investigation showed that all product types consist of a base paper with a thermo-sensitive coating and that in essence all products are the result of similar production processes. Furthermore, all types of LWTP have similar properties and are used for printing with a thermal printer. Therefore, from the point of view of the user and the consumer, they all have similar end-results.
- (22) In addition, it should be noted that the request for exclusion of the LWTP weighting less than 44 gr/m² was in any event not substantiated with evidence.
- (23) Although the exporting producer claimed that there might be different consumer perception between LWTP containing phenol or not, no substantiate evidence was put forward to justify that claim and the investigation confirmed that the vast majority of consumers is not aware of the particular composition of LWTP and therefore do not make any difference between LWTP containing phenol or not. In addition, market prices do not significantly differ between LWTP containing phenol or phenol-free LWTP. Therefore, it is provisionally concluded that all types of LWTP compete between each other, albeit with some price differences. The price competition amongst product types is further developed in section 5.2.4.
- (24) For the reasons above, products weighing less than 44 gr/m² and phenol-free LWTP cannot be excluded from the definition of the like product at this stage. Both claims were thus provisionally rejected.

3. DUMPING

3.1. Preliminary remark

- (25) In the investigation period, the Hansol group sold between 15 and 25 % of its total Union sales volume of the product concerned either directly to unrelated parties or indirectly for re-sales via related parties; the bulk of its Union sales (between 75 % and 85 %) were sales to related parties destined for conversion into small rolls. The ranges are given for reasons of confidentiality. In order to arrive at a representative calculation of dumping, both sales channels have been included in that calculation and given the appropriate weight.

3.2. Normal value

- (26) The Commission first examined whether the total volume of domestic sales for the cooperating exporting producers 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. On this basis, the total sales by the exporting producers of the like product on the domestic market were representative.
- (27) The Commission subsequently identified the product types sold domestically that were identical or closely resembling the product types sold for export to the Union for the exporting producers with representative domestic sales.
- (28) The Commission then examined whether the domestic sales by the exporting producers 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 three products were sold at volumes less than 5 % of the total volume of export sales to the Union. These product types were considered to be comparable product types to those sold in the domestic market, the only differences being the weight of the paper and in one instance, the type of phenol used. For these product types, the normal value was constructed.

- (29) 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.
- (30) 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.
- (31) 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.
- (32) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (33) The analysis of domestic sales showed that most of the 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 all domestic sales during the investigation period.
- (34) For those product types with no or insufficient sales of the like product 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.
- (35) Normal value was constructed by adding the following to the average cost of production of the like product of the cooperating exporting producers during the investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producers on domestic sales 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 producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (36) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.3. Export price

- (37) As explained in recital 25, the Union sales of the Hansol group during the investigation period consisted of jumbo rolls sold to unrelated parties as well as jumbo rolls sold to related parties for re-sales, but the vast majority of the sales to the Union were sales of the product concerned to related companies for conversion into small rolls that were subsequently resold to unrelated customers.

- (38) For sales of the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (39) For sales of the product concerned to the Union through related companies acting as an importer/trader and/or as a converter, the export price was established on the basis of the price at which the imported product or imported and converted product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. The sales price by the related party to unrelated customers was adjusted backwards to an ex-works price by deducting the SG&A of the related party, a reasonable amount of profit and other allowances whenever applicable. If the sale concerned a small roll, the reported and verified conversion costs were deducted in addition.
- (40) With respect to the profit margin used, in line with established case-law of Union courts, the Commission did not use profit margins of the related companies as they are considered unreliable. One unrelated importer cooperated but its profitability was confidential and cannot be disclosed. Therefore, in the absence of any other information, a reasonable profit margin used in a previous proceeding concerning another paper product (coated fine paper) manufactured by a similar industry was used⁽¹⁾. As both products and industries are very similar (both are capital intensive industries, and in addition some producers of LWTP also produce coated fine paper), this method for determining a reasonable profit margin was found to be reasonable. The profit margin used, in the absence of any other available information, is 4,5 %.

3.4. Comparison

- (41) The Commission compared the normal value and the export price of the exporting producers on an ex-works basis.
- (42) 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.
- (43) As the origin of the jumbo rolls used for the production and sales of the small rolls was untraceable, the export price of jumbo rolls sold to related parties for conversion into small rolls has been compared to a normal value established at an aggregate level, i.e. based, for each product type, on an average domestic sales price and cost of production for both Hansol Paper and Artone.
- (44) The dumping margin for the export prices for direct sales of jumbo rolls to unrelated parties and sales of jumbo rolls via related parties was established by comparing the Hansol Paper export price per product type with the Hansol Paper normal value per product type and the Artone export price per product type with the Artone normal value per product type.

3.5. Dumping margin

- (45) The dumping margin thus calculated is 10 %-15 % for sales of jumbo rolls which are subsequently converted into small rolls for sales to unrelated parties and 0,5-5 % for sales of jumbo rolls to unrelated parties and related parties.
- (46) As explained in recital 25, 15 %-25 % of the Hansol group's exports to the Union were (direct or indirect) sales of jumbo rolls during the investigation period, whereas the remaining sales were sales of jumbo rolls to related parties that were converted and resold as small rolls. The above dumping margins have been weighted accordingly. This was done by applying the share of the jumbo rolls sales for direct or indirect sales to unrelated parties (i.e. 15 %-25 %) to the dumping margin calculated for jumbo rolls (0,5 %-5 %) and by applying the share of the jumbo rolls sales to related parties for conversion into and subsequent resale as small rolls to unrelated parties (i.e. 75 %-85 %) to the dumping margin calculated for jumbo rolls converted into small rolls (10 %-15 %).
- (47) For the 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, in accordance with Article 2(11) and (12) of the basic Regulation.

⁽¹⁾ Recital 73 of Council Implementing Regulation (EU) No 451/2011 (OJ L 128, 14.5.2011, p. 1).

- (48) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin
Hansol group (Hansol Paper Co., Ltd and Hansol Artone Paper Co., Ltd) (%)	12,1
All other companies (%)	12,1

- (49) For all other exporting producers in the Republic of Korea, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.
- (50) The level of cooperation in this case is high because the imports of the cooperating exporting producers constituted the total exports to the Union during the investigation period. On this basis, the Commission decided to base the residual dumping margin at the level of the cooperating company.

4. INJURY

4.1. Definition of the Union industry and Union production

- (51) The like product was manufactured by five producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (52) The total Union production during the investigation period was established at around 372 645 tonnes. The Commission established the figure on the basis of the questionnaire reply submitted by the complainant, cross-checked against the individual questionnaire replies of the sampled Union producers. As indicated in recital 7, three Union producers were selected in the sample representing between 75 and 95 % of the total Union production of the like product.

4.2. Union consumption

- (53) The Commission established the Union consumption on the basis of sales to unrelated customers in the Union by the Union industry (source: questionnaire reply submitted by the complainant and verified individual questionnaire replies of the sampled Union producers), the complainant's estimates of LWTP imports from the United States of America (USA) and the People's Republic of China (PRC) and the sales in the Union of the exporting producer (source: dumping questionnaire).
- (54) Union consumption developed as follows:

Table 1

Union consumption (tonnes)

	2012	2013	2014	Investigation period
Total Union consumption	163 000-168 000	178 000-183 000	178 000-183 000	189 000-194 000
<i>Index</i>	100	109	108	115

Source: injury and dumping questionnaires.

- (55) Over the period considered Union consumption increased by 15 %, mainly in the period 2012-2013 and then in the period 2014-2015.

4.3. Imports from the country concerned

4.3.1. Volume and market share of the imports from the country concerned

- (56) The Commission established the volume of imports on the basis of the questionnaire reply submitted by the exporting producer. The market share of the imports was established on the basis of Union consumption (see recital 53).
- (57) Imports into the Union from the country concerned developed as follows:

Table 2

Import volume (tonnes) and market share

	2012	2013	2014	Investigation period
Volume of imports from the country concerned (tonnes)	1 000-2 000	12 000-17 000	19 000-25 000	23 000-28 000
<i>Index</i>	100	1 268	1 949	2 279
Market share (%)	0,7	8,0	12,4	13,6
<i>Index</i>	100	1 169	1 801	1 975

Source: dumping and injury questionnaires.

- (58) In 2015 imports from the Republic of Korea were 22,8 times bigger than in 2012. Their market share increased from 0,7 % in 2012 to 13,6 % in the investigation period.

4.3.2. Prices of the imports from the country concerned and price undercutting

- (59) The Commission established the prices of imports on the basis of the questionnaire reply submitted by the exporting producer.
- (60) The average price of imports into the Union from the country concerned developed as follows:

Table 3

Import prices (EUR/tonnes)

	2012	2013	2014	Investigation period
Average price of Korean imports	1 400-1 500	1 450-1 550	1 300-1 400	1 200-1 300
<i>Index</i>	100	103	92	85

Source: dumping questionnaire.

- (61) The average price of imports into the Union from the country concerned decreased by 15 % overall. It is noted that the price in 2012 is based on a very low level of imports. There is a clear coincidence in time between the increase in market shares and the price drop.

- (62) The Commission determined the price undercutting during the investigation period by comparing:
- (a) the weighted average sales prices per product type of the sampled Union producers 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 producer to the first independent customer on the Union market, established on a Cost, Insurance, Freight (CIF) basis, with appropriate adjustments for post-importation costs.
- (63) In line with the methodology explained in recital 25, the Commission took into consideration the sales volume of the product concerned either directly to unrelated and sales to related parties in the Union destined for conversion into small rolls.
- (64) The price comparison was made on a type-by-type basis. Transactions were duly adjusted where necessary. Rebates and discounts were deducted. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the investigation period. It showed a weighted average undercutting margin of 8,1 % by the imports from the country concerned on the Union market. Some 84 % of the import volumes were found to be undercutting.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (65) 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.
- (66) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the questionnaire reply and subsequent submissions from the complainant. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies submitted by the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.
- (67) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin and recovery from past dumping.
- (68) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2012	2013	2014	Investigation period
Production volume (tonnes)	376 150	344 525	349 601	372 645
Index	100	92	93	99

	2012	2013	2014	Investigation period
Production capacity (tonnes)	393 333	404 080	401 142	402 997
<i>Index</i>	100	103	102	102
Capacity utilisation (%)	96	85	87	92
<i>Index</i>	100	89	91	97

Source: injury questionnaires and information submitted by the complainant.

- (70) Production of the product under investigation is a high fixed cost enterprise. During the period considered, the Union industry's production volume decreased by one per cent. A lower production level is observed in 2013 and 2014, when one sampled Union producer experienced certain difficulties.
- (71) Overall production capacity was relatively stable. The figure in 2012 was abnormally low and reflects the fact that one Union producer ceased temporarily production of this product for exceptional circumstances. That producer operated normally in 2013. It is further noted that another Union producer, the smallest one, has been phasing out the production of the product in question over the period considered.
- (72) The overall decrease of the capacity utilisation rate is linked to the decrease in the production volume. As explained in recital 125 below, the high capacity utilisation rate shown in table 4 does not mean that the industry cannot produce more.

4.4.2.2. Sales volume and market share

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

Table 5

Sales volume and market share

	2012	2013	2014	Investigation period
Sales volume on the Union market (tonnes)	159 000-164 000	160 000-165 000	153 000-158 000	160 000-165 000
<i>Index</i>	100	101	97	101
Market share (%)	96,9	90,3	86,7	85,1
<i>Index</i>	100	94	90	88

Source: injury questionnaires and information submitted by the complainant.

- (74) The Union industry sales volume on the Union market increased by 1 % during the period considered.
- (75) During the period considered, the Union industry's market share decreased from 96,9 % to 85,1 % since it could not benefit from the increase in consumption. In order to maintain its level of sales and to avoid an even stronger shrinking of its market share, the Union industry was forced to lower its sales prices due to the continuous price pressure exerted by the imports concerned.

4.4.2.3. Growth

- (76) The Union consumption increased by 15 % during the period considered, while the sales volume of the Union Industry on the Union market stagnated. The Union industry thus lost market share, contrary to imports from the country concerned, whose market share increased during the period considered capturing almost all the increase in consumption.

4.4.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2012	2013	2014	Investigation period
Number of employees	851	784	797	842
<i>Index</i>	100	92	94	99
Productivity (unit/employee)	442	439	439	443
<i>Index</i>	100	99	99	100

Source: injury questionnaires and information submitted by the complainant.

- (78) The employment level of the Union industry did not change significantly in the period considered. The employment level follows closely production. The Union industry endeavoured to keep jobs despite shrinking profitability.
- (79) The productivity of the Union industry's workforce, measured as output per person employed per year, did not vary a lot. The production process was already optimised to a significant extent.

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

- (80) The dumping margin was significantly above the *de minimis* level. The impact of the magnitude of the actual margin of dumping on the Union industry was not negligible, given the increasing volume and the shrinking prices of imports from the country concerned.
- (81) This is the first anti-dumping investigation regarding the product concerned. Therefore, no data were available to assess the effects of possible past dumping.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

- (82) The average unit sales prices of the sampled Union producers to unrelated customers in the Union developed over the period considered as follows:

Table 7

Sales prices in the Union

	2012	2013	2014	Investigation period
Average unit sales price in the Union on the market (EUR/tonnes)	1 316	1 297	1 181	1 176
<i>Index</i>	100	98	90	89
Unit cost of production (EUR/tonnes)	1 177	1 176	1 155	1 215
<i>Index</i>	100	100	98	103

Source: injury questionnaires.

- (83) During the period considered, sales prices have on average decreased (– 11 %), unlike the corresponding cost (+ 3 %). In the investigation period, sales prices were on average lower than the unit cost of production.
- (84) In order to limit the loss in market share, the Union producers followed the downward price trend of imports and reduced their sales price significantly. The increase in cost of production can be partly explained by the fact that LWTP production is a high fixed costs enterprise correlated with the drop in production (– 3 % amongst sampled Union producers). Union producers partly offset raw materials' cost increases derived from a disadvantageous exchange rate USD/EUR (paper pulp is traded in USD) by keeping a tight grip on other costs and rationalisation.

4.4.3.2. Labour costs

- (85) The average labour costs of the sampled Union producers developed over the period considered as follows:

Table 8

Average labour costs per employee

	2012	2013	2014	Investigation period
Average labour costs per employee (EUR)	64 244	63 424	65 919	67 047
<i>Index</i>	100	99	103	104

Source: injury questionnaires.

- (86) During the period considered, overall the average wage per employee went up by 4 %. This is in line with the overall increase in prices in the Union due to inflation.

4.4.3.3. Inventories

- (87) Stock levels of the sampled Union producers developed over the period considered as follows:

Table 9

Inventories

	2012	2013	2014	Investigation period
Closing stocks (tonnes)	24 000-29 000	15 000-20 000	23 000-28 000	23 000-28 000
<i>Index</i>	100	65	94	93
Closing stocks as a percentage of production (%)	7,9	5,9	8,3	7,6
<i>Index</i>	100	74	105	96

Source: injury questionnaires.

- (88) During the period considered the level of closing stocks decreased by 7 %. In general the like product is produced on the basis of specific orders of the users. Stocks are not considered to be an important injury indicator for this type of industry because in general they follow production and are not bigger than the production of one month. Closing stocks as a percentage of production shows a similar percentage in the beginning and the end of the period considered.

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

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

Table 10

Profitability, cash flow, investments and return on investments

	2012	2013	2014	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	13,0	11,5	5,3	- 0,5
<i>Index</i>	100	89	41	- 4
Cash flow (EUR)	80 000 000-100 000 000	45 000 000-65 000 000	10 000 000-30 000 000	10 000 000-30 000 000
<i>Index</i>	100	64	19	21

	2012	2013	2014	Investigation period
Investments (EUR)	1 500 000- 6 500 000	2 000 000- 7 000 000	6 000 000- 11 000 000	4 500 000- 9 000 000
<i>Index</i>	100	116	280	203
Return on investments (%)	203,93	132,56	58,28	57,17
<i>Index</i>	100	65	29	28

Source: injury questionnaire.

- (90) 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.
- (91) Profitability developed negatively over the period considered from a profit situation in 2012 to losses in the investigation period (– 0,5 %). While the trend is partly linked to rationalisation within some Union producers, the considerable price and volume pressure exerted on the Union industry by the increasing imports from the country concerned over the period 2013-2015 have not allowed the Union industry to benefit from the increasing Union consumption.
- (92) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow followed a deep downward trend, mainly due to the shrinking profitability.
- (93) The return on investments is the profit in percentage of the net book value of investments. It went down (– 72 %), in line with profitability. Except for a specific investment to improve efficiency by one Union producer in the period 2014-2015, the sampled producers kept their level of investment to the amounts absolutely necessary to keep on running.
- (94) The ability to raise capital has been affected by the shrinking profitability, as can be seen from the low level of investments for this type of industry.

4.4.4. Conclusion on injury

- (95) Over the period considered, the Union industry's injury is material and patent in terms of price-related injury indicators such as sales price depression (– 11 %), decreasing profitability (from + 13 % to – 0,5 %), cash flow and return on net assets. Due to the drop in selling prices, concrete actions to improve efficiency and keep a tight grip on costs could not prevent Union producers from becoming loss-making in the investigation period. Moreover, when it comes to volume-related injury indicators, the Union industry was unable to benefit from the increase in the Union consumption. Indeed, the market share of Union producers decreased by 12 percentage points during the period considered.
- (96) Due to the specificities of this type of industry (capital intensive and working basically non-stop), volume-related indicators such as production or sales volume showed a rather stable trend in absolute terms. However, this has to be seen in a context of a growing demand, thus in relative terms the situation deteriorated.
- (97) Despite concrete actions (such as in view of further optimising internal processes) by the Union industry during the period considered to improve its overall performance, its situation deteriorated significantly namely as regards profitability and loss of market share. The difficulties to raise capital put certain investments on hold.
- (98) 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.

5. CAUSATION

- (99) 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 the country concerned was not attributed to the dumped imports. These factors are: other imports, the effects of phenol-free LWTP prices, anti-dumping duties in the USA, the export performance of Union producers, the increasing competition amongst them, a series of cost issues, global internet and increased digitalisation (i.e. more paperless payments), price pressure from large retail chains and rationalisation within the Union industry.

5.1. Effects of the dumped imports

- (100) Sales prices of the exporting producers decreased on average by 15 % over the period considered. By continuously lowering their unit sales price at dumped level during the period considered, the producers from the countries concerned were able to significantly increase their market share from 2012 (0,7 %) to the investigation period (13,6 %).
- (101) The continuous increase in imports from the Republic of Korea following the capacity expansion of the exporting producer at undercutting prices had a clear negative impact on the performance of the Union industry. Dumped imports forced the Union industry to decrease its Union sales prices to limit its loss of market share, which translated into losses in the investigation period. Furthermore, the Union industry's sales volume remained stable, thus it was unable to benefit from the increase in Union consumption and hence lost market share by almost 12 %.
- (102) In view of the clearly established coincidence in time between, on the one hand, the ever-increasing level of dumped imports at continuously decreasing prices — which were also found to undercut Union prices — and, on the other hand, the Union industry's stagnation of sales volume, loss of market share and price depression resulting in a loss-making situation amongst sampled producers, it is concluded that the dumped imports were responsible for the injurious situation of the Union industry.

5.2. Effects of other factors

5.2.1. Imports from third countries

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

Table 11

Imports from third countries

		2012	2013	2014	Investigation period
Total of all third countries except the country concerned	Volume (tonnes)	3 500-5 000	2 000-3 500	1 500-3 000	2 000-3 500
	<i>Index</i>	100	75	44	63
	Market share (%)	2,4	1,7	1,0	1,3
	Average price (EUR)	799	631	677	1 147
	<i>Index</i>	100	79	85	143

Source: dumping questionnaire and ETPA's estimates.

- (104) Imports from the country concerned are almost all imports into the Union. Other imports (from the USA and the PRC) decreased by 37 % during the period considered. The market share of such imports was 1,3 % in the investigation period, thus below *de minimis* and unlikely to have caused any injury to Union producers and break the causal link.

5.2.2. Export performance of the Union industry

- (105) The volume of exports (unrelated sales) of the sampled Union producers developed over the period considered as follows:

Table 12

Export performance of the sampled Union producers

	2012	2013	2014	Investigation period
Export volume (tonnes)	70 000-90 000	90 000-110 000	100 000-120 000	95 000-115 000
<i>Index</i>	100	125	135	127
Average price (EUR/tonnes)	1 234	1 177	1 127	1 211
<i>Index</i>	100	95	91	98

Source: injury questionnaires.

- (106) The volume of exports to unrelated customers increased by 27 % over the period considered. As to prices, they fell over the period considered (– 2 %), but less than the price on the Union market (– 11 %). In view of the fact that profitability on export markets, even if declining, was better than in the Union, Union producers seized certain export opportunities in order to maximise capacity utilisation and dilute fixed costs.
- (107) On the basis of the above, the export performance of the Union industry is unlikely to have caused injury to Union producers and break the causal link.

5.2.3. Anti-dumping duties in the USA

- (108) The exporting producer claimed that the Union industry suffered injury because one sampled producer could not sell LWTP in the USA due to high anti-dumping duties affecting this product.
- (109) These circumstances had some impact on one Union producer as regards production volume (see above recital 70). However, those circumstances would have no effect on most of the data relating to that Union producer, such as the profitability of sales in the Union and cash flow.
- (110) In any case the impact is limited as regards the Union industry as a whole. The reasons are manifold. First, the issue concerns only one of the Union producers — it should be noted that the other two sampled producers, not subject to measures, increased their sales to the USA. Second, the producer in question managed to partially compensate by increasing exports to other markets. Last, the USA lifted the anti-dumping duties in question in February 2015. The overall impact in the investigation period is therefore almost inexistent.
- (111) On the basis of the above, the impact of the anti-dumping duties in the USA is not deemed significant for the overall Union industry so as to break the causal link.

5.2.4. Price depression of phenol-free LWTP

- (112) The exporting producer claimed that the Union's price depression was not caused by Korean imports but rather by a price decrease in phenol-free LWTP, a product produced and sold by the Union industry, but not exported from the Republic of Korea. This allegation is based on the purchase price of some companies related to the exporting producer (purchases from two Union producers).
- (113) In this respect it should first be noted that, as explained above (see recital 20 and following), phenol-free LWTP is interchangeable and competes with phenol-containing LWTP, thus its prices can also be influenced by Korean imports and the overall market, where phenol-containing LWTP is predominant (84 % of the Union consumption). Moreover, the Union industry data showed that over the period considered the unit sales prices of phenol-free LWTP dropped less than the unit sales prices of phenol-containing LWTP. So in fact the price depression is even more important when disregarding the impact of the phenol-free LWTP sales of the Union industry. Furthermore, the undercutting calculation based on a comparison of similar product types, i.e. excluding phenol-free types which were not imported, was found to be significant.

5.2.5. Other reasons

- (114) According to some parties, Union producers suffered because of increasing competition amongst them (for capacity utilisation), high costs (due to a worldwide increase in raw materials prices linked to the USD/EUR exchange rate & increasing labour and energy costs), global internet and increased digitalisation (i.e. more paperless payments) and price pressure from large retail chains (such as petrol stations and supermarkets). However, none of these factors was found to break the causal link between material injury and dumped imports from the Republic of Korea.
- (115) There is no evidence of any anti-competitive practices. Nothing on file showed that competition amongst Union producers (for capacity utilisation) was unfair.
- (116) As regards the allegation of high costs, it is noted that Union producers kept a tight grip on costs during the period considered, their increase being minor (+ 3 %). Such an increase includes any changes in paper pulp prices (representing around one third of total LWTP costs), energy costs and labour costs, the latter being analysed in more detail in recitals 85-86.
- (117) The investigation could not confirm that global internet and increased digitalisation (i.e. more paperless payments) could be a source of injury to the Union industry. On the contrary, Union consumption of LWTP was found to be increasing steadily.
- (118) As to the allegation that there would be some price pressure from large retail chains (such as petrol stations and supermarkets), the interested parties did not provide any substantiate evidence and the investigation could not confirm it.
- (119) It is further noted that the investigation showed that some Union producers underwent restructuring and reorganisation processes in the recent past with a view to improve their competitiveness. Some of these processes are still on-going and some of the concrete actions foreseen, such as specific investments, were hindered by the effect of dumped imports on those producers' profitability, therefore affecting their ability to raise capital. This factor was thus not found to break the causal link between material injury and dumped imports from the Republic of Korea.

5.3. Conclusion on causation

- (120) 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.
- (121) 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. The other identified factors such as the export performance of Union producers, the anti-dumping duties in the USA, higher costs and a series of rationalisation processes were provisionally not found to break the causal link, even considering their possible combined effect.

6. UNION INTEREST

- (122) 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 on various levels and users.

6.1. Interest of the Union industry

- (123) The Union industry consists of five producers located in three Member States (Germany, Spain and Finland). None opposed the initiation of the investigation.
- (124) All Union producers participated actively to the investigation and argued that the imposition of measures could safeguard employment, promote larger investments and contribute to the reversing trend of decreasing profitability observed since the Korean exporter entered the EU market.
- (125) The Union industry underwent already significant restructuring in the past and is constantly attentive to improve its efficiency in the production process. The comparison of the production volume figures in Table 4 above with the Union consumption depicted in recitals 53-55 shows that, contrary to what a party claimed, the Union industry can meet demand in the Union. The high capacity utilisation rate shown in Table 4 above does not mean that the Union industry cannot produce more. On the one hand, Union producers have multi-purpose equipment with 'swing capacity', namely the capacity to turn the production to a different product. On the other hand, the smaller Union producer that has been phasing out the production of the product in question could reconsider this choice if there is a fair competition.
- (126) It is expected that the imposition of measures will restore a level playing field and a fair price level on the Union market, and improve the Union industry's profitability to levels considered normal for this capital intensive industry. If there were no duties, some of the Union producers might have to reduce their LWTP activities, or even dismantle them, and cut jobs. This might leave the market with less competition and many users with even more limited sources of supply.
- (127) In the absence of measures, the situation of the Union industry is very likely to further deteriorate. Further losses of profit and market share are likely to happen since there are no grounds to establish that price depression will stop without measures.
- (128) The Commission therefore concluded at this stage that the imposition of anti-dumping duties would be in the interest of Union industry.

6.2. Interest of other interested parties

- (129) The Commission services sent questionnaires to 50 interested parties. However, not all of them replied to the questionnaires: 25 converters, traders at different level and one association (the Confederation of European Paper Industries, 'CEPI') made representations, but only 14 parties did actually reply to the questionnaire. Those responses were however not always exhaustive, some of them being mere allegations not confirmed by verifiable evidence.
- (130) Three of the converters who did reply to the questionnaire, expressed to be in favour of the measures, mainly on the ground that measures would restore fair conditions of competition in the EU market. In terms of purchase volume of LWTP, these converters weigh more than the ones that did not express views or were opposing the measures. Also CEPI was in favour of the measures, and claimed that general upstream industries, unrelated converters and end-consumers would be negatively affected by Korean dumped imports.
- (131) The parties opposing the imposition of measures fear a shortage of paper and price increases, a lack of alternative sources of supply, anticompetitive practices by the Union producers, and, ultimately, the end of some converting activities and/or converters. However, the investigation showed that there are several available sources of supply in the European Union, there is no indication of anti-competitive practices from Union producers and that the imposition of measures would not entail significant price increases, bearing also in mind the level of the dumping margin.

- (132) Finally, both the exporting producer and the Government of the Republic of Korea claimed that the Union interest analysis should take into account the investments made by the Hansol group in the Union in the period 2013-2016 and of number of jobs pertaining to the related converters. However, they did not provide any evidence specific to the production of LWTP.
- (133) Moreover, since the measure would only restore fair competition in the Union market, it is considered that anti-dumping measures will entail that imports of the product concerned will enter the Union at non-injurious prices. This should benefit independent converters.
- (134) The Commission therefore concluded at this stage that the impact of anti-dumping duties on the parties opposing measures that does not outweigh the positive effect of measures to the Union industry. As to parties that made unsubstantiated representations, the investigation could not show that the imposition of measures would have a significant impact, if at all, on them.

6.3. Conclusion on Union interest

- (135) 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 LWTP originating in the Republic of Korea at this stage of the investigation.

7. PROVISIONAL ANTI-DUMPING MEASURES

- (136) 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.

7.1. Injury elimination level (Injury margin)

- (137) 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.
- (138) 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.
- (139) In the complaint the complainant requested the Commission to use 'around 10 %' of turnover as reasonable non-injurious profit margin. The investigation showed that the actual profitability of the Union industry before the surge of Korean imports had a major impact was 13 % in 2012 and 11,5 % in 2013. On these grounds, the Commission therefore considers that the profit margin achieved by the industry in the most recent representative year, i.e. the year 2013, is an appropriate basis for a target profit.
- (140) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by adding the above-mentioned profit margin of 11,5 % to the cost of production during the investigation period of the sampled Union producers.
- (141) 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 the country concerned, 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. The injury margin was provisionally established at 35,8 %.

7.2. Provisional measures

- (142) Provisional anti-dumping measures should be imposed on imports of certain lightweight thermal paper originating in the Republic of Korea, 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, i.e. at the level of the dumping margin.
- (143) 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
The Republic of Korea	Hansol group (Hansol Paper Co., Ltd and Hansol Artone Paper Co., Ltd) (%)	12,1	35,8	12,1
	All other companies (%)	12,1	35,8	12,1

- (144) As also explained in recital 50, the level of cooperation in this case is high as the imports of the cooperating exporting producers constituted the total exports to the Union during the investigation period. Therefore, the residual anti-dumping duty is based at the level of the cooperating company.
- (145) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽¹⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (146) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

8. FINAL PROVISIONS

- (147) 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.
- (148) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of certain lightweight thermal paper weighing 65 gr/m² or less; in rolls of a width of 20 cm or more, a weight of the roll (including the paper) of 50 kg or more and a diameter of the roll (including the paper) of 40 cm or more ('jumbo rolls'); with or without a base coat on one or both sides; coated with a thermos-sensitive substance on one or both sides; and with or without a top coat, originating in the Republic of Korea, currently falling within CN codes ex 4809 90 00, ex 4811 90 00, ex 4816 90 00 and ex 4823 90 85 (TARIC codes: 4809 90 00 10, 4811 90 00 10, 4816 90 00 10, 4823 90 85 20).

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, BELGIUM.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 shall be 12,1 %.
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 calendar 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 calendar days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EU) 2016/1036 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 six months.

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

Done at Brussels, 16 November 2016.

For the Commission
The President
Jean-Claude JUNCKER
