Commission Implementing Regulation (EU) 2020/1524 of 19 October 2020 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain heavyweight thermal paper originating in the Republic of Korea

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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 9(4) thereof,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 10 October 2019, the European Commission initiated an anti-dumping investigation with regard to imports into the Union of certain heavyweight thermal paper ('HWTP' or 'the product concerned') originating in the Republic of Korea ('Korea' or 'the country concerned') on the basis of Article 5 of the basic Regulation. The Notice of Initiation ('NoI') was published in the *Official Journal of the European Union*[(2)].

(2) The Commission initiated the investigation following a complaint lodged on 26 August 2019 by the European Thermal Paper Association ('the complainant') on behalf of producers representing more than 25 % of the total Union production of HWTP. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

(3) Since the conditions laid down in Article 14(5a) of the basic Regulation were not met, imports of the product concerned were not made subject to registration. No party made any comments on this point.

1.3. Provisional measures

(4) In accordance with Article 19a of the basic Regulation, on 6 May 2020, the Commission provided parties with a summary of the proposed duties and details about the calculation of the dumping margin and the margin adequate to remove the injury to the Union industry. Interested parties were invited to comment on the accuracy of the calculations within three working days. Comments were received from the complainant and the cooperating exporting producer.

(5) On 27 May 2020, the Commission imposed a provisional anti-dumping duty on imports into the Union of HWTP originating in Korea by Commission Implementing Regulation (EU) 2020/705[3] ('the provisional Regulation').

1.4. **Subsequent procedure**

(6) Following the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed ('provisional disclosure'), the complainant and the cooperating exporting producer made written submissions making their views known on the provisional findings.

(7) The parties who so requested were granted an opportunity to be heard. Hearings took place with the complainant and the cooperating exporting producer. Additionally, further to the request of the cooperating exporting producer, a hearing with the Hearing Officer in trade proceedings was held. The recommendations of the Hearing Officer made during that hearing are reflected in this regulation. In the course of June 2020, the Commission sent to the exporting producer three additional disclosures containing more details on the undercutting and underselling calculations.

(8) When reaching its definitive findings, the Commission considered the comments submitted by interested parties and revised its provisional conclusions where appropriate.

(9) The Commission continued seeking and verifying all information it deemed necessary for its final findings. The Commission cross-checked the questionnaire reply of the sole cooperating unrelated importer, Ritrama SpA, in a telephone call with the company.

(10) The Commission informed all interested parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports into the Union of certain heavyweight thermal paper ('final disclosure'). All parties were granted a period within which they could make comments on the final disclosure. Comments were received from the cooperating exporting producer and the complainant.

(11) Following the comments of the exporting producer, the Commission provided Hansol an additional disclosure on the calculation of the post-importation costs and the increase in imports during the pre-disclosure period, to which Hansol submitted comments.

(12) The exporting producer was afforded a hearing with the Commission services.

(13) The comments submitted by the interested parties were considered and taken into account where appropriate in this regulation.

1.5. **Sampling**

(14) In the absence of comments concerning sampling, recitals 7 to 13 of the provisional Regulation were confirmed.

1.6. **Investigation period and period considered**

(15) As stated in recital 19 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 July 2018 to 30 June 2019 ('the investigation period' or 'IP') and the examination of trends relevant for the assessment of injury covered the period from 1 January 2016 to the end of the investigation period ('the period considered').

(16) The cooperating exporting producer alleged that the Commission had deviated from its established case practice and claimed that the investigation period should end on 30 September 2019, i.e. a date closer to the date of initiation. According to the cooperating exporting producer, the IP chosen by the Commission did not allow taking into consideration recent developments such as the merger of two sampled EU producers in March 2019, the alleged reduction of raw material costs since mid-2019 and the fact that the Union industry changed to BPA free HWTP only in mid-2019. This claim was rejected. The Commission enjoys discretion in this choice, provided it complies with Article 6 of the basic Regulation that establishes that an investigation period shall, normally, cover a period of no less than six months immediately prior to the initiation of proceedings, which is the case for this investigation. Moreover, Hansol has provided no evidence that these developments would have impacted the injury or causality analysis and in any case, both the cost of raw material and the issue of BPA free supplies were taken into consideration in the provisional regulation under recitals 103 to 110 respectively 111 to 115.

(17) In the absence of any other comments concerning the investigation period and period considered, recital 19 of the provisional Regulation was confirmed.

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(18) In the absence of any comments with respect to the product concerned, the Commission confirmed the conclusions set out in recitals 20 to 22 of the provisional Regulation.

2.2. **Like product**

(19) In the absence of any comments with respect to the like product, the Commission confirmed the conclusions set out in recitals 23 and 24 of the provisional Regulation.

3. DUMPING

3.1. Normal value

(20) In the absence of any comments regarding the normal value, recitals 25 to 35 of the provisional Regulation were confirmed.

3.2. Export price

(21) The details for the calculation of the export price are set out in recitals 36 to 39 of the provisional Regulation.

(22) The Commission received no comments with regard to the calculation of the export price in case of Hansol's direct sales to independent customers. The export price for those sales, established in accordance with Article 2(8) of the basic Regulation, is thus confirmed.

(23) After provisional disclosure, Hansol contested two elements in the calculation of the export price for Hansol's sales of the product concerned to the Union through Hansol Europe B.V., acting as an importer. In accordance with Article 2(9) of the basic Regulation, those prices were established on the basis of the price at which the imported product was first resold to independent customers, adjusted backwards to an ex-works price by deducting, inter alia, the relevant selling, general and administrative costs ('SG&A') costs of the related party and a reasonable amount of profit.

(24) Firstly, Hansol claimed that the Commission should have allocated certain SG&A costs items of Hansol Europe BV differently to the product concerned. Subsequent to the claim, the Commission examined again the verified information in this regard and it accepted the claim, changing the allocation key.

(25) Secondly, Hansol claimed that the profit margin used by the Commission was not that of an importer of the product concerned but that of a user, and that it was therefore not appropriate to use for this purpose. Hansol submitted that the Commission should instead revert to the unrelated importer's profit rate used in the anti-dumping investigation concerning imports of certain lightweight thermal paper from the Republic of Korea[(4)]. The Commission contacted the company concerned to analyse Hansol's claim. The company concerned, which was the sole party that had completed an importer's questionnaire in this investigation, confirmed that it was indeed rather a user, converting HWTP into a downstream product, and not an importer of the product concerned. Hansol's claim was consequently accepted. In the absence of any alternative data on file, the Commission therefore replaced the profit

margin provisionally used by the profit margin used in the aforementioned lightweight thermal paper case.

3.3. **Comparison**

(26) In the absence of any comments, recitals 40 and 41 of the provisional Regulation were confirmed.

3.4. **Dumping margins**

(27) As detailed in recitals 22 to 24 above, following claims which were accepted by the Commission, certain elements of the export price were revised.

(28) Accordingly, the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin
Hansol Paper Co., Ltd	15,8 %
All other companies	15,8 %

4. **INJURY**

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

(29) In the absence of any comments with respect to this section, the Commission confirmed its conclusions set out in recitals 47 and 48 of the provisional Regulation.

4.2. **Union consumption**

(30) In the absence of any comments with respect to the Union consumption, the Commission confirmed its conclusions set out in recitals 49 to 51 of the provisional Regulation.

4.3. **Imports from the country concerned**

(31) Following provisional disclosure, the exporting producer made a number of comments concerning the Commission's provisional findings related to the analysis of prices of the imports, and more specifically regarding the price comparison between the EU and the dumped prices.

(32) First, Hansol contested the methodology used by the Commission to ensure a fair comparison between the product types exported to the Union and the product types sold by the Union industry. To that end, the Commission had identified different basic characteristics, which were communicated to interested parties in the questionnaires published on the website of DG TRADE on the date of initiation. Amongst different elements, the Commission identified by the 'so-called' surface weight of the product, expressed in (full) grams per square meter ('the grammage'), as one of these basic characteristics.

(33) In order to ensure a fair comparison, each product type was then attributed a specific Product Control Number ('PCN') depending on its own specific basic characteristics. However, to ensure a representative level of matching between exported HWTP and HWTP sold by the Union industry, the Commission adjusted the original PCN structure by grouping grammages in various ranges. Such ranges could extend, for instance, from 66 to 68 grams, or from 73 to 76 grams.

(34) Following provisional disclosure, the cooperating exporting producer opposed this approach for three reasons:

— HWTP models were defined by the producers on a gram-by-gram basis and each difference in grammage might affect the price;

— the comparison method used would breach WTO obligations[(5)], to compare like with like in comparing prices;

— the Commission would be bound to follow a PCN structure defined at initiation stage of an anti-dumping investigation. Furthermore, the regroupings were not adequately explained and not justified. The tolerance in surface weight used by the Commission for grouping PCNs was misplaced and irrelevant because sales invoices usually specify the grammage.

(35) These claims were rejected. In the current case, unit prices were calculated per weight (tonnes), and therefore the effect of grammage on prices and costs has already been taken into account by the calculation method chosen by the Commission.

(36) Moreover, both Article 2, and 2.6 in particular, of the WTO Anti-Dumping Agreement and Article 1(4) of the basic Regulation require to compare like with like, but they do not define any specific methodology to do this. It is established case practice of the Commission in trade defence investigations to use PCNs to identify different basic characteristics at the beginning of an investigation, but the Commission is not bound to them and may decide to modify the structure of the PCN during the course of the investigation to the extent it ensures a fair comparison. In this specific case, the Commission considered that grouping the PCNs was necessary to have a representative level of matching between exported HWTP and HWTP sold by the Union industry and thus ensure a fair comparison, and that the grouping is adequate since the industry itself – both in the Union and in Korea – operates with certain tolerances, i.e. a deviation from the standard grammage by 5 to 10 grams. In this light, the groupings applied by the Commission, as explained in recital 31, therefore followed a conservative approach.

(37) Following final disclosure, Hansol asked for a clarification whether the sales used to determine the undercutting and underselling margins included the top-coated product of one of the sampled Union producers.

(38) For the calculation of the undercutting and underselling margins the Commission compared the sales to the Union of the exporting producer to the sales of the like product sold by the sampled Union producers, as disclosed to Hansol and the complainant. In this calculation, the Commission did not make a differentiation between the three sampled Union producers. Indeed, as the product mix sold by these three sampled Union producers differs, certain product types sold by Hansol could not be compared to all the three sampled companies. Due to confidentiality reasons, the Commission cannot further specify which sampled Union producers sold which product types. In any event, the Commission confirmed that it matched Hansol's exports of top-coated product types with top-coated product types sold by the Union industry.

(39) Secondly, the exporting producer contested the Commission's calculation of post-importation costs. In its calculations, the Commission adjusted the values of Hansol's export transactions where appropriate, for post-importation costs and customs duty. 1 % of the CIF value was deemed reasonable to cover post-importation cost, i.e. cost for handling, port dues and customs clearance fees. Hansol disagreed, arguing that the Commission did not calculate the post-importation costs as 1 % of Hansol's CIF value, but as 1 % of Hansol's 'CIF EU border Export Value'. Hansol requested that the Commission calculates post-importation costs as 1 % of its CIF value.

(40) The Commission rejected this claim. Hansol's 'CIF EU border Export Value' is based on Hansol's export price including the adjustments done in accordance with Article 2(9) of the basic Regulation for the sales through its related trader. Post-importation costs have to be added or applied to this price to arrive at a 'landed' export price at the EU border that is comparable to the EU Industry's price and target price. This comparison is then expressed as a percentage of Hansol's declared CIF value in underselling calculations because any forthcoming anti-dumping duty would also be applied on such actual CIF-Union frontier values.

(41) However, the Commission re-examined post-importation costs based on Hansol's actual data instead of using 1 %. On this basis, post-importation costs amounted to a level of around [3-6] EUR/tonne. As this amount is based on a limited number of invoices, the Commission cross-checked it against the findings used in the anti-dumping investigation concerning imports of certain lightweight thermal paper from the Republic of Korea. Since both amounts are in the same range, the Commission considered using Hansol's data for this investigation appropriate.

(42) Following final disclosure, Hansol claimed that the post-importation costs, as calculated by the Commission, were underestimated and should have included not only the costs for customs clearance, but also the costs for handling, storage and documentary charges incurred at the port of entry. It provided an

alternative calculation, resulting in a post-importation cost ranging between 10 and 40 EUR/tonne.

(43) The calculation provided by Hansol after final disclosure included other costs than those the Commission had used, such as storage, warehousing, and administrative costs. The claim of Hansol that these additional costs should fall under the post-importation costs because of the specificities of its sales process, and not under standard services provided after the importation of the goods, is not substantiated with evidence on the file and cannot be verified in view of the late stage of the investigation. Therefore, the Commission decided to reject this claim.

(44) Finally, the exporting producer contested that the adjustment made under Article 2(9) of the basic Regulation for establishing the export price can be used for the calculation of the undercutting (and injury elimination level), basing itself on the Judgment of the General Court in Case T-383/17[(6)].

(45) The Commission rejected this claim. Firstly, this judgment is under appeal before the Court of Justice.[(7)] Therefore, the findings of the judgment regarding the issue subject to the claim made by Hansol are not final.

(46) Secondly, as far as undercutting is concerned, the basic Regulation does not provide any specific methodology for such calculations. The Commission therefore enjoys a wide margin of discretion in assessing this injury factor. That discretion is limited by the need to base conclusions on positive evidence and to make an objective examination, as requested by Article 3(2) of the basic Regulation.

(47) When it comes to the elements taken into account for calculation of undercutting (in particular the export price), the Commission has to identify the first point at which competition takes (or may take) place with Union producers in the Union market. This point is in fact the purchasing price of the first unrelated importer because that company has in principle the choice to source either from the Union industry or from overseas customers. Indeed, once the exporting producer has established its system of related companies in the Union, they have already decided that the source of their merchandise will be from overseas. Hence, the point of comparison should be right after the good crosses the Union border, and not at a later stage in the distribution chain, e.g. when selling to the final user of the good. This approach also ensures coherence in cases where an exporting producer is selling the goods directly to an unrelated customer (whether importer or final user) because under this scenario, resale prices would not be used by definition. A different approach would lead to discrimination between exporting producers based solely on the sales channel that they use.

(48) In this case, the import price for some of the exports sales cannot be taken at face value because the exporting producer and the importer are related. Therefore, in order to establish a reliable import price at arm's length basis,

such price has to be constructed by using the resale price of the related importer to the first independent customer as a starting point. In order to carry out this reconstruction, the rules on the construction of the export price as contained in Article 2(9) of the basic anti-dumping Regulation are pertinent, and are applied by analogy, just as they are pertinent for the determination of the export price for dumping purposes. The application by analogy of Article 2(9) of the basic anti-dumping Regulation allows arriving at a price that is fully comparable to the price that is used when examining sales made to unrelated customers and also comparable to the sales price of the Union industry.

(49) Therefore, in order to allow for a fair comparison, a deduction of SG&A and profit from the resale price to unrelated customers made by the related importer is warranted in order to arrive to a reliable price.

(50) The Commission also noted that in this particular case the majority of sales on both the Union industry side and the exporting producers' side are done directly (i.e. without traders or importers). These direct sales represented more than 96 % of sales of the sampled Union producers and almost 70 % of sales of the exporting producer.

(51) Whilst the Commission stands by the reasoning outlined above, for the sake of completeness the Commission considered alternative methodologies for the calculation of the undercutting margin.

(52) First, the Commission considered the need to calculate an undercutting margin taking into consideration the end customer type, in order to reflect any difference in level of trade between the Union industry and Korean sales transactions. In this respect, however, it was established that both the sampled Union producers and Hansol sold almost exclusively to converters (both around 98 % of their sales). It was therefore concluded that sales were generally made at the same level of trade and no additional undercutting calculation was necessary in this respect.

(53) Secondly, the Commission considered the possibility to calculate an undercutting margin based only on the direct sales made by the Union industry. As mentioned above, almost 97 % of the sampled Union producers were made to unrelated customers. Therefore, even deducting SG&A and profit for the limited number of transactions sold via a related company would hardly change the level of the undercutting.

(54) In conclusion, no matter how the undercutting margins are calculated, Hansol's exports to the Union would undercut Union's sales prices. This claim was therefore rejected.

(55) Finally, it should also be underlined that, in addition to the established price undercutting, which would reach 5,1 % after the revisions explained in recitals 35, 37 and 23[8], the investigation showed that, in any event, the effect of

the dumped imports was also to cause price suppression, within the meaning of Article 3(3) of the basic Regulation, on the Union market during the investigation period. Prices of the Union industry increased by 14 % during the period considered, while, under conditions of fair competition, they would have been expected to increase at a ratio comparable to rise of the cost of production, which increased by 23 %. As mentioned in recitals 76 and 82 of the provisional Regulation, and unlike in 2016 where the dumped imports did not exercise such pressure, the Union industry was not able to increase prices in line with the cost of production because of the price pressure resulting from the increasing volumes of dumped Korean imports on the Union market (+ 83 % during the period considered). This situation severely impacted the Union industry's profitability, which fell by almost 70 % over the period considered to end in very low levels during the IP.

(56) Therefore, regardless of the undercutting findings in this case, the dumped imports led to significant price suppression since they prevented price increases, where cost of production increased 9 percentage points more than the Union's sales prices during the investigation period.

(57) Following final disclosure, Hansol reiterated its claim, but provided no further elements, that the Commission should have calculated the undercutting and underselling margins for the sales made via the related importer on the basis of the weighted average sales price to the first independent customers on the Union market charged by the related importer. By not doing so, Hansol claimed that the Commission deliberately disregarded the findings of the General Court in Jindal Saw[(9)] and Kazchrome[(10)], resulting in a violation of the rule of law and the principle of legal certainty.

(58) This claim is rejected for the reasons already explained in recitals 45 to 49.

(59) Hansol furthermore claimed that, since the determination of the undercutting margin is in its view wrong, so is the Commission's finding of price suppression and therefore the whole injury and causation analysis. It also claimed that an error in the price undercutting and in the price suppression determinations leads to the determination of an anti-dumping duty higher than what is sufficient to remove the injury caused by the dumped imports under Article 9(4) of the Basic Regulation.

(60) This claim is rejected. Undercutting has been correctly calculated as explained in recitals 45 to 49. As set out in recitals 55 and 56, also price suppression has been properly established on the basis of the data in tables 2, 3, 7 and 10 of the provisional Regulation. In any event, as clearly explained in recital 54 above, the Commission found the existence of significant undercutting no matter the method used to calculate such price effects. The Commission further recalled that undercutting is only one of the many injury factors analysed by the Commission, and the conclusions on price suppression, injury and causation take into account this factor and all other relevant factors. Regarding

the determination of the final anti-dumping duty pursuant to the separate rules under Article 7(2) of the basic Regulation, the Commission recalled that neither the undercutting nor the price suppression determinations have any impact on it. In this case, the injury elimination level is based on the price underselling (by reference to a target price constructed in accordance with Articles 7(2c) and 7(2d) of the basic Regulation) and not on the level of price undercutting or price suppression.

(61) In the absence of any further comments with regard to imports from the country concerned, the Commission confirmed the conclusions set out in recitals 52 to 59 of the provisional Regulation.

4.4. Economic situation of the Union industry

4.4.1. *General remarks*

(62) In the absence of any comments, the Commission confirmed its conclusions set out in recitals 60 to 64 of the provisional Regulation.

4.4.2. *Macroeconomic indicators*

(63) In the absence of any comments with respect to the macroeconomic indicators, the Commission confirmed its conclusions set out in recitals 65 to 73 of the provisional Regulation.

4.4.3. *Microeconomic indicators*

(64) In the absence of any comments with respect to the microeconomic indicators, the Commission confirmed its conclusions set out in recitals 74 to 86 of the provisional Regulation.

4.4.4. *Conclusion on injury*

(65) In the absence of any comments with respect to the conclusion on injury, the Commission confirmed its conclusions set out in recitals 87 to 90 of the provisional Regulation.

5. CAUSATION

(66) In the absence of any comments with respect to the causal link between dumped imports from the country concerned and the injury suffered by the Union industry, the Commission confirmed its conclusions set out in recital 91 to 120 of the provisional Regulation.

6. UNION INTEREST

6.1. Interest of the Union industry

(67) In the absence of any comments regarding the interest of Union industry, the conclusions set out in recitals 123 to 126 of the provisional Regulation were confirmed.

6.2. Interest of unrelated importers and users

(68) In the absence of any comments regarding the interest of unrelated importers and users, the conclusions set out in recitals 127 to 134 of the provisional Regulation were confirmed.

6.3. Interest of other interested parties

(69) In the absence of any comments regarding the interest of other interested parties, the conclusions set out in recitals 135 to 138 of the provisional Regulation were confirmed.

6.4. Conclusion on Union interest

(70) On the basis of the above and in the absence of any other comments, the conclusions set out in recital 139 of the provisional Regulation were confirmed.

7. DEFINITIVE ANTI-DUMPING MEASURES

7.1. Injury elimination level

(71) The claims made by the exporting producer concerning post-importation costs, price comparability and adjustments under Article 2(9) of the basis Regulation in the undercutting calculations also apply to the calculation of the injury elimination level, but were rejected by the Commission in recitals 31 to 60 above.

(72) Following provisional disclosure, the exporting producer made comments on the target profit provisionally used for calculating the injury elimination level. As set out in recital 144 of the provisional Regulation, the Commission made use of the profit achieved by the Union industry in 2016 that was at a level of 8 to 11 %, on the ground that this profit had been realised before the surge of Korean imports. Hansol disagreed that the profit margin of 8 to 11 % of turnover could be regarded as a level of profitability to be expected under normal conditions of competition. Hansol argued that imports from Korea only started increasing as of 2018. In 2017, the Union industry's sales volume and market share were at their highest with imports from Korea and other countries at their lowest over the period concerned. Korean imports were 31 % lower in 2017 than in 2016. As a result, Hansol claimed that the profit level used to calculate the target price should not be higher than the profit level achieved by the Union industry in 2017, namely at a level of 5 to 8 %.

(73) The Commission rejected the claim. The profit realised by the Union industry in 2017 was already affected by Korean imports. Indeed, as set out in table 3 of the provisional Regulation, the Korean export prices fell by 5 % from 2016 to 2017, while the cost of production incurred by the Union industry rose from 2016 to 2017 by 5 % and its prices only rose by 1 %, as shown in Table 7 of the provisional Regulation. Due to the pressure from lower Korean

prices, the Union industry was not able to fully pass on cost increases to prices already in 2017, with the consequent impact on its profitability. Therefore, the Commission considered that basing the target profit on the profit level of 2017 would not take into consideration the level of profitability to be expected under normal conditions of competition.

(74) The complainant claimed that the Commission should have made adjustments for investments foregone under Article 7(2c) of the basic Regulation for two of the sampled Union producers.

(75) As set out in recital 145 of the provisional Regulation, the Commission rejected the claims as not sufficiently substantiated. The Commission has reviewed the claims after provisional disclosure and confirmed its provisional conclusion. The information provided did mention some investment projects and the Union producers also provided some purchase offers. However, the Union producers did not explain what eventually happened to these projects, the purchase offers could not be linked to the investment projects, and the figures provided in the questionnaire replies did not match with the documents submitted. On this basis, the Commission could not establish if these investments were genuinely planned.

(76) Following final disclosure, the complainant claimed that the burden of proof required by the Commission, showing that the investments were foregone as a result of the deteriorating financial position of the Union industry which in turn was caused by unfair imports, is too high. It further added that the companies concerned had given a clear explanation for the reasons why the investment projects were not implemented and that the documentation did match the questionnaire replies of the concerned companies and provided some further explanation of the calculations made by the two companies.

(77) With the complainant's explanation, the Commission was able to reconcile the figures provided in the questionnaire replies with the documentation provided. As these figures were only substantiated with more detailed evidence that proved that these investments were genuinely planned and foregone during the investigation period for one of the two companies, the Commission decided to accept the claim for that company and increased the target profit accordingly.

(78) The exporting producer also contested the Commission's addition of future environmental costs to the Union industry's target price, in accordance with Article 7(2d) of the basic Regulation arguing that, like the Union, Korea has its own ETS called the Korea Emissions Trading Scheme which was set up in 2015. Since Hansol, similarly to Union producers, will have to purchase pollutant emission allowances in the future, and the price of such allowances is expected to increase, Hansol's export prices will be affected by the ETS mechanisms to the same extent as Union producers' prices. Thus, by increasing the Union producers' target price by an amount of future costs resulting from the ETS while not adding a similar amount to Hansol's export

price in order to reflect Hansol's future costs to comply with the Korea Emissions Trading Scheme, the Commission did not compare prices which are comparable.

(79) The Commission rejected the claim. The fact that Korea applies its own ETS is irrelevant for the application of Article 7(2d) of the basic Regulation, according to which future environmental costs, inter alia, must be taken into account to establish the target price of the Union Industry.

(80) The adjustments explained in recitals 23 to 25, 41, and 76 to 77 resulted in a decreased injury elimination level of 16,9 %.

(81) As provided by Article 9(4), third subparagraph, of the basic Regulation, and given that the Commission did not register imports during the period of pre-disclosure, it analysed the development of import volumes to establish if there had been a further substantial rise in imports subject to the investigation during the period of pre-disclosure described in recital 4 and therefore reflect the additional injury resulting from such increase in the determination of the injury margin.

(82) Based on data from the Surveillance 2 database, import volumes from Korea during the three weeks period of pre-disclosure were 71 % higher than the average import volumes in the investigation period on a three-week basis. On that basis, the Commission concluded that there had been a substantial rise in imports subject to the investigation during the period of pre-disclosure.

(83) To reflect the additional injury caused by the increase of imports, the Commission decided to adjust the injury elimination level based on the rise in import volume, which is considered the relevant weighting factor based on the provisions of Article 9(4). It therefore calculated a multiplying factor established by dividing the sum of the volume of imports during the three weeks of the pre-disclosure period of [2 000 – 2 200] tonnes and the 52 weeks of the IP by the import volume in the IP extrapolated to 55 weeks. The resulting figure, 1,04, reflects the additional injury caused by the further increase of imports. The injury margin of 16,9 % was thus multiplied by this factor. Therefore, the final injury elimination level for Hansol and all other companies is 17,6 %.

(84) Following final disclosure, Hansol claimed that the Commission did not provide any evidence on which it based this increase in imports and whether these imports were produced by Hansol in Korea and sold to independent customers in the Union during the three-week pre-disclosure period, indicating that a portion of these imports could have been sold by any of the other producers of HWTP in Korea.

(85) This claim is rejected. Article 9(4), third subparagraph of the basic regulation requires the Commission to analyse all relevant information at its disposal when adopting definitive measures to determine whether a further substantial

rise in imports subject to the investigation occurs during the period of pre-disclosure. The Commission indeed analysed all relevant information at its disposal, namely the import volumes of the product concerned from Korea in the investigation period, as established in recitals 52 and 53 of the provisional regulation and confirmed at definitive stage, and statistics from the Surveillance 2 database to determine all imports of the product concerned from Korea during the pre-disclosure period, of which more details have been disclosed to Hansol. The analysis was done on a countrywide level and the additional injury from the increase of imports was also applied at a countrywide level, as required by Article 9(4) as all imports from Korea are imports subject to the investigation.

(86) Hansol furthermore claimed that the increase in import volume of HWTP from Korea to the Union is a direct result of the increased demand for HWTP because of the COVID-19 pandemic, since the label consumption increased. The economic shock caused by this pandemic represents a fundamental and exceptional change in circumstances that drastically impacted the functioning of the label market in the Union and worldwide and, therefore, the application of Article 9(4), third subparagraph, of the basic Regulation is not justified.

(87) This claim is rejected. Article 9(4), third subparagraph, requires the Commission to reflect the additional injury resulting from a further substantial rise in imports subject to the investigation, when no registration has taken place during the period of pre-disclosure, without making any reference of the cause of such increase. As the increase in imports from Korea during the period was objectively very significant, according to this provision the Commission adjusted the injury margins accordingly as the text of the Article reads 'shall reflect'. This is what the Commission did in this case. The Commission noted that no claim was made against the method used to reflect the additional injury resulting from the import increase.

(88) As provided for in Article 9(4), third subparagraph, of the basic Regulation, such increase in the injury margin shall apply for a period no longer than that referred to in Article 11(2).

7.2. **Definitive measures**

(89) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports of the product concerned.

(90) Definitive anti-dumping measures should be imposed on imports of certain heavyweight thermal paper originating in the Republic of Korea in accordance with the lesser duty rule in Article 7(2) and Article 9(4), second paragraph of the basic Regulation.

(91) In the absence of any comments regarding the residual anti-dumping duty applicable to companies other than Hansol, recital 153 of the provisional Regulation was confirmed.

(92) On the basis of the above, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country	Company	Dumping margin (%)	Injury margin (%)	Definitive anti-dumping duty (%)
The Republic of Korea	Hansol Paper Co. Ltd	15,8	17,6	15,8
	All other companies	15,8	17,6	15,8

(93) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the Korea and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'.

(94) A company may request the application of its individual anti-dumping duty rate if it changes subsequently the name of its entity. The request must be addressed to the Commission[(11)]. The request must contain all the relevant information 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*.

(95) 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 to the producers which did not export HWTP to the Union during the investigation period.

7.3. **Definitive collection of the provisional duties**

(96) In view of the dumping margins found and given the level of the injury caused to the Union industry, the amounts secured by way of the provisional anti-

dumping duty, imposed by the provisional Regulation, should be definitively collected.

(97) The definitive duty rates are lower than the provisional duty rates. Thus, the amounts secured in excess of the definitive anti-dumping duty rate on those imports should be released.

8. FINAL PROVISION

(98) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council[(12)], when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

(99) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

(**1**) OJ L 176, 30.6.2016, p. 21.

(**2**) Notice of initiation of an anti-dumping proceeding concerning imports of certain heavyweight thermal paper originating in the Republic of Korea (OJ C 342, 10.10.2019, p. 8).

(**3**) Commission Implementing Regulation (EU) 2020/705 of 26 May 2020 imposing a provisional anti-dumping duty on imports of certain heavyweight thermal paper originating in the Republic of Korea (OJ L 164, 27.5.2020, p. 28).

(**4**) 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 (OJ L 310, 17.11.2016, p. 1).

(**5**) WTO Panel Report, China – GOES, adopted on 16 November 2012, para. 7.530 as confirmed in WTO Appellate Body Report, China – GOES, adopted on 16 November 2012, para. 200

(**6**) Judgment of the General Court (Seventh Chamber) of 2 April 2020, Hansol Paper Co. Ltd v European Commission (ECLI:EU:T:2020:139).

(**7**) Commission v Hansol Paper, Case C-260/20 P.

(**8**) The Commission further notes that the price difference between the dumped imports and the Union sales as reflected in tables 3 and 7 of the provisional Regulation was around 30 % during the investigation period.

(**9**) Case T-301/16, Judgment of the General Court (First Chamber, Extended Composition) of 10 April 2019, Jindal Saw and Jindal Saw Italia v Commission (ECLI:EU:T:2019:234).

(**10**) Case T-107/08, Judgment of the General Court (Third Chamber) of 30 November 2011, Transnational Company 'Kazchrome' AO and ENRC Marketing AG v. Council of the European Union and European Commission (ECLI:EU:T:2011:704).

(**11**) European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

(**12**) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Changes to legislation:
There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1524, Introductory Text.