# 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

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 10 October 2019, the European Commission initiated an anti-dumping investigation with regard to imports into the Union of certain heavyweight thermal paper 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 certain heavyweight thermal paper ('HWTP' or 'the product concerned'). The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

(3) Pursuant to Article 14(5a) of the basic Regulation, the Commission should register imports subject to an anti-dumping investigation during the period of pre-disclosure unless it has sufficient evidence that certain requirements are not met. One of these requirements, as mentioned in Article 10(4)(d) of the basic Regulation, is that there is a further substantial rise in imports in addition to the level of imports which caused injury during the investigation period. The imports of HWTP from Korea showed a sharp decrease by 81 % in the four months following initiation as compared to the same period during the investigation period. The data following initiation was based upon the TARIC codes created for the product concerned at initiation. This was compared to the average imports from the sole Korean exporter during four months in the IP. Therefore, the conditions to register in accordance with Article 14(5a) of the basic Regulation were not met. The Commission did not make imports of the product concerned subject to registration under Article 14(5a) of the basic Regulation, as the condition of Article 10(4)(d), i.e. a further substantial rise in imports, was not met.

#### 1.2. Interested parties

(4) 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 complainant, known Union producers, the known (exporting) producers and the authorities of the Republic of Korea, known importers, users and associations known to be concerned, about the initiation of the investigation and invited them to participate.

(5) 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.

([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).

(6) Two hearings were held with the Commission. During the hearing held on 5 December 2019 upon request of the cooperating exporting producer, the Hansol group, its related importer in the Union, a number of users and representatives of the Korean government raised issues related to the Union HWTP market, injury, causation, legal matters and/or Union interest. During the hearing held on 7 January 2020 upon request of the complainant, the latter and some of its members developed issues related to injury, causation and Union interest. The claims made during these hearings are included in this Regulation.

### 1.3. **Sampling**

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

#### 1.3.1. *Sampling of the Union producers*

(8) In the Notice of Initiation, the Commission stated that it had decided to limit to a reasonable number the Union producers that would be investigated by applying sampling and that it had provisionally selected a sample of Union producers. The Commission selected the provisional sample on the basis of the production and Union sales volume reported by the Union producers in the context of the pre-initiation standing analysis. The provisional sample thus established consisted of three Union producers in two different Member States that accounted for 58,2 % of estimated total Union production and 57,5 % of total Union sales according to the information available. The Commission made details of this provisional sample available in the file for inspection by interested parties and invited interested parties to comment.

(9) Two interested parties submitted comments with regard to the provisional sample. The complainant fully supported the proposed sample. The exporting producer Hansol Paper Co., Ltd. submitted that the proposed sample was not representative as it included two related companies located in the same country. Hansol Paper Co., Ltd. further claimed that the provisional sample did not ensure a proper geographical spread and proposed to include Ricoh, based in France, in the sample.

(10) The Commission considered that the two producers located in Germany were the largest producers of the like product in the European Union (together they represented circa 47 % of the total production and 44 % of the total sales of the like product in the Union in the investigation period) and that Germany had the highest production and the largest concentration of producers of the like product. Furthermore, Ricoh had indicated that, although it supported the complaint, it was unable to cooperate in the investigation.

(11) The provisional sample consisting of three Union producers was thus confirmed. The final sample, made up of Kanzan Spezialpapiere GmbH and Mitsubishi HiTec Paper Europe GmbH in Germany and Jujo Thermal Ltd. in Finland, was considered representative of the Union industry.

#### 1.3.2. *Sampling of importers*

(12) 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.

(13) Two unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number of replies received, the Commission decided that sampling was not necessary. No comments were made to this decision.

### 1.4. **Replies to the questionnaire**

(14) The Commission invited the three sampled Union producers, the two unrelated importers that replied to the sampling form and the known exporting producer in Korea, the Hansol group, to fill in the relevant questionnaires made available online.

(15) On 20 October 2019, the exporting producer requested an exemption for three related converters to fill in the annex I to the main questionnaire. In light of the information provided, on 24 October 2019 the Commission provisionally agreed to the request.

(16) Questionnaire replies were received from the three sampled Union producers, one unrelated importer, Ritrama S.p. A., the exporting producer Hansol Paper Co., Ltd ('Hansol Paper') and its related importer Hansol Europe B.V. ('Hansol Europe'). Moreover, two users sent a reply.

### 1.5. **Verification visits**

(17) 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/entities:

a) Union producers:

— Jujo Thermal Ltd., Kauttua, Finland

— Mitsubishi HiTec Paper Europe GmbH, Bielefeld, Germany

— Kanzan Spezialpapiere GmbH, Düren, Germany

b) Exporting producer:

— Hansol Paper Co. Ltd, Seoul and Seocheon-gun, Chungcheongnam-do, the Republic of Korea

c) Related importer:

— Hansol Europe B.V., Hoofddorp, the Netherlands

### 1.6. **Presentation of data**

(18) Given the limited number of parties that submitted some data, some of the figures presented below are in the form of ranges for reasons of confidentiality ([3]).

### 1.7. **Investigation period and period considered**

(19) The investigation of dumping and injury covered the period from 1 July 2018 to 30 June 2019 ('the investigation period' or 'IP'). 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').

## 2. **PRODUCT CONCERNED AND LIKE PRODUCT**

### 2.1. **Product concerned**

(20) The product concerned is certain heavyweight thermal paper, defined as thermal paper which weighs more than 65 g/m$^2$; which is sold on rolls of a width of 20 cm or more, weighing 50 kg or more (including paper) and with a diameter of 40 cm or more (jumbo rolls); with or without base coat on one or both sides; coated with a thermo-sensitive substance (i.e. a mixture of dye and a developer that reacts and forms an image when heat is applied) on one or both sides; and with or without top coat originating in the Republic of Korea, currently falling under CN codes ex 4809 90 00, ex 4811 59 00 and ex 4811 90 00 (TARIC codes 4809 90 00 20, 4811 59 00 20 and 4811 90 00 20) ('the product concerned').

(21) HWTP is a specialty paper. It has a thermal active coating which reacts to form an image when heat is applied by printers with thermal printheads. HWTP is mainly used for self-adhesive labels for e-commerce packaging, tickets and tags.

([3]) The data from the sampled Union companies in this regulation is presented in ranges because of the risk that any sampled company reverse-engineers its competitors' data, especially given that two of the three sampled companies are related since 29 March 2019 and that they started to operate as intra-group companies as from 6 August 2019. The data from the sole cooperating exporting producer are given in ranges as it is the only company that cooperated.

(22) HWTP can be produced with several types of developers: with developers containing (bis)phenolic substances such as bisphenol A and bisphenol S (HWTP containing (bis)phenol), or with developers that do not contain any phenol (phenol-free HWTP). All types are concerned by the present investigation. The Commission notes however that since 2 January 2020 HWTP with bisphenol A is banned in the Union ([4]).

### 2.2. **Like product**

(23) The investigation showed that the following products have the same basic physical and chemical 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.

(24) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1 (4) of the basic Regulation.

## 3. **DUMPING**

### 3.1. **Normal value**

(25) Hansol Paper appeared to be the only exporting producer of the product concerned in the country concerned during the investigation period.

(26) The Commission first examined whether Hansol Paper's total volume of domestic sales 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 represent 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 of Hansol Paper of the like product on the domestic market were representative.

(27) The Commission subsequently identified the product types sold domestically by Hansol Paper that were identical or comparable with the product types sold for export to the Union with representative domestic sales.

(28) The Commission then examined whether the domestic sales of Hansol Paper on its domestic market for each product type that is identical or comparable with the 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 one product type (representing 25-45 % of the total domestic sales of Hansol Paper on its domestic market) was sold at volumes less than 5 % of the total volume of export sales to the Union. For this product type, the normal value was constructed as explained in recitals 33 to 34 below.

(29) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for the product type in question 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, represents 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.

([4]) Commission Regulation (EU) 2016/2235 of 12 December 2016 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards bisphenol A. OJ L 337, 13.12.2016, p. 3.

(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 60 to 80 % ([5]) of all domestic sales of the product type that is identical or comparable with the product type sold for export to the Union 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 profitable sales only.

(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.

### 3.2. **Export price**

(36) Hansol Paper exported to the Union either directly to independent customers or indirectly through Hansol Europe, a related importer in the Union

(37) 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.

(38) For sales of the product concerned to the Union through Hansol Europe acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in 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 transport costs.

(39) With respect to the profit margin used, in line with established case-law of Union courts ([6]), the Commission did not use the profit margin of the related company as it is considered unreliable. Only one party had filled in a questionnaire intended for unrelated importers in the Union and agreed to disclose the profit margin it achieved on its activities related to the product concerned. The profit of Hansol Europe was therefore provisionally replaced by the profit margin of that party.

### 3.3. **Comparison**

(40) The Commission compared the normal value and the export price on an ex-works basis.

(41) 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. The normal value was adjusted for transport, packing expenses and credit costs. The export price for handling, loading and ancillary costs, transport, insurance, packing expenses, credit costs, bank charges, commission and year-end rebates when they were found to be reasonable, accurate and supported by verified evidence.

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([5]) The exact figure is not provided as this is company-specific data.

([6]) See for example paragraph 68 of Judgment of the General Court (Second Chamber), 17 March 2015 in Case T-466/12, RFA International, LP v European Commission.

### 3.4. **Dumping margin**

(42) The Commission compared the weighted average normal value of the respective 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.

(43) On that basis, the provisional weighted average dumping margin expressed as a percentage of the CIF Union frontier price, duty unpaid, amounts to 22,3 % for the sole cooperating exporting producer.

(44) For all other exporting producers in the Republic of Korea, should there be any, 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.

(45) The level of cooperation in this case is high because Hansol Paper's exports constituted 100 % of the total exports from the country concerned to the Union during the investigation period. On this basis, the Commission decided to set the residual dumping margin at the same level as that of the cooperating exporting producer.

(46) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

| *Company* | *Provisional dumping margin* |
|---|---|
| Hansol Paper Co., Ltd | 22,3 % |
| All other companies | 22,3 % |

## 4. **INJURY**

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

(47) The like product was manufactured by seven known producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(48) The total Union production during the investigation period was established at 214 227 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 recitals (8) and (11), three Union producers were selected in the sample representing 58,2 % of the total Union production of the like product.

### 4.2. **Union consumption**

(49) The Commission established the Union consumption on the basis of sales in the Union by the Union industry, the complainant's estimates of HWTP imports from other countries and the sales in the Union of the sole Korean exporting producer, as provided in its questionnaire reply.

(50) Union consumption developed as follows:

*Table 1*

**Union consumption (tonnes)**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Total Union consumption | 178 000 – 184 000 | 182 000 – 188 000 | 188 000 – 192 000 | 180 000 – 186 000 |
| *Index* | *100* | *102* | *105* | *101* |

*Source:* Sampled Union producers, exporting producer, complaint and Eurostat.

(51) During the period considered, the Union consumption slightly increased by 1 %. It increased by 5 % in the period between 2016 and 2018 and then decreased by 4 % in the investigation period.

### 4.3. **Imports from the country concerned**

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

(52) The Commission established the volume of imports on the basis of the questionnaire reply submitted by the sole Korean exporting producer. The market share of the imports was established by comparing the volume of imports with the Union consumption.

(53) Imports into the Union from the country concerned developed as follows:

*Table 2*

**Import volume (tonnes) and market share**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Volume of imports from the country concerned (tonnes) | 9 500 – 11 500 | 6 500 – 8 500 | 15 500 – 17 500 | 18 500 – 20 500 |
| *Index* | *100* | *69* | *155* | *183* |
| Market share (%) | 5,5 – 6,5 | 3,5 – 4,5 | 8 – 9 | 10 – 11 |
| *Index* | *100* | *68* | *149* | *180* |

*Source:* Exporting producer.

(54) Overall, the Korean imports increased by 83 % during the period considered. After a decrease by 31 % in 2017, imports from the Republic of Korea increased significantly by 165 % from 2017 to the investigation period. Overall, their market share increased by 80 % during the whole period and the most significant increase took place between 2017 and the investigation period (+ 165 %).

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

(55) The Commission established the prices of imports on the basis of the questionnaire reply submitted by the exporting producer.

(56) The average price of imports into the Union from the country concerned developed as follows:

*Table 3*

**Import prices (EUR/tonne)**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Average prices of Korea imports | 1 050 – 1 150 | 1 000 – 1 100 | 1 180 – 1 280 | 1 420 – 1 520 |
| *Index* | *100* | 95 | 112 | 134 |

*Source:* Exporting producer.

(57) Import prices from the country concerned increased suddenly in 2018 by 17 percentage points compared to the year before, and by an overall 34 % over the period considered.

(58) The Commission determined the price undercutting during the investigation period by comparing:

— the weighted average prices per product type of the imports from the cooperating exporting producer in the country concerned to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for post-importation costs; and

— the corresponding 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.

(59) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' hypothetical turnover during the investigation period. It showed a weighted average undercutting margin of 11,1 % for imports from the country concerned. Some 99,4 % of the import volumes were found to be undercutting.

### 4.4. **Economic situation of the Union industry**

#### 4.4.1. *General remarks*

(60) 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.

(61) As mentioned in recital 11, sampling was used for the determination of possible injury suffered by the Union industry.

(62) 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 from the complainant. These data related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

(63) The macroeconomic indicators are production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, and magnitude of the dumping margin.

(64) The microeconomic indicators are average unit prices, unit costs, 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

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

*Table 4*

**Production, production capacity and capacity utilisation**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Production volume (tonne) | 219 069 | 228 616 | 221 717 | 214 227 |
| *Index* | *100* | *104* | *101* | *98* |
| Production capacity (measuring unit) | 380 906 | 375 058 | 391 499 | 404 863 |
| *Index* | *100* | *98* | *103* | *106* |
| Capacity utilisation (%) | 58 % | 61 % | 57 % | 53 % |
| *Index* | *100* | *106* | *98* | *92* |

*Source*: Questionnaire reply submitted by the complainant.

(66) Production of HWTP is a high fixed cost enterprise. During the period considered, the Union industry's production volume decreased by 2 %, with an even stronger decrease by 6 percentage points since 2017. The production capacity increased by 6 %. The decrease of the capacity utilisation rate by 8 % on the whole period is linked to the combination of both the decrease of the production volume and the increase of the production capacity.

4.4.2.2. Sales volume and market share

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

*Table 5*

**Sales volume and market share**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Sales volume on the Union market (tonnes) | 150 000 – 160 000 | 170 000 – 180 000 | 160 000 – 170 000 | 150 000 – 160 000 |
| *Index* | *100* | *109* | *104* | *98* |
| Market share (%) | 85 – 90 | 90 – 95 | 85 – 90 | 80 – 85 |
| *Index* | *100* | *107* | *99* | *97* |

*Source:* Injury questionnaires and information submitted by the complainant.

(68) Although the sales volume of the Union industry increased by 9 % from 2016 to 2017, it showed a steady decrease since, resulting in a decrease by 2 % over the period considered, in line with the decrease of its production volume.

(69) During the period considered, the Union industry's market share in sales volume showed a similar trend. It decreased by 3 %.

4.4.2.3. Growth

(70) The Union consumption increased slightly by 1 % during the period considered, while the sales volume of the Union industry slightly decreased by 2 %. The Union industry lost market share, contrary to imports from the country concerned, whose market share increased considerably during the period considered capturing all the increase in consumption.

4.4.2.4. Employment and productivity

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

*Table 6*

**Employment and productivity**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Number of employees | 1 213 | 1 241 | 1 224 | 1 232 |
| *Index* | *100* | *102* | *101* | *102* |
| Productivity (tonne/employee) | 181 | 184 | 181 | 174 |
| *Index* | *100* | *102* | *100* | *96* |

*Source:* Information submitted by the complainant.

(72) The employment level of the Union industry remained fairly stable throughout the period considered, increasing slightly by 2 %. This trend is to be explained by the continuous nature of the HWTP production process, which is highly automated, continuous and has been rationalised to a significant extent. Thermal paper production involves high fixed costs. Machines cannot be easily stopped without significantly impacting the production process. Therefore, instead of reducing the number of employees on any given machine, producers shift production to another type of paper. Employment levels therefore follow production of different types of paper and the allocation between those types. The Union industry endeavoured to keep jobs despite shrinking profitability.

4.4.2.5. Magnitude of the dumping margin

(73) 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 of imports from the country concerned.

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

(74) The weighted 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**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Average unit EXW sales price in the Union to unrelated customers (EUR/tonne) | 1 800 – 1 810 | 1 825 – 1 835 | 1 985 – 1 995 | 2 060 – 2 070 |
| *Index* | *100* | *101* | *110* | *114* |
| Unit cost of production EXW (EUR/tonne) | 1 530 – 1 540 | 1 600 – 1 610 | 1 845 – 1 855 | 1 880 – 1 890 |
| *Index* | *100* | *105* | *120* | *123* |

*Source:* Sampled Union producers.

(75) During the period considered, the average unit sales price increased by 14 % and the unit cost of production by 23 %. This increase in production costs was most notably due to the increased costs of the chemical leuco-dye ('ODB2') to be applied on the coating in the HWTP production process. At the end of 2017 and during 2018, temporary closures of production plants of ODB2 in the People's Republic of China ('PRC') caused an acute worldwide shortage of this chemical. As a result, production prices spiked as of the fourth quarter of 2017 throughout 2018, impacting therefore the IP.

(76) The difference between the average unit sales price and the unit production cost shows that the Union industry was not been able to recoup the increasing production costs increase completely, because of the price pressure resulting from the dumped Korean imports.

4.4.3.2. Labour costs

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

*Table 8*

**Average labour costs per employee**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Average labour costs per employee (EUR) | 55 000 – 56 000 | 57 000 – 58 000 | 56 500 – 57 500 | 57 000 – 58 000 |

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| *Index* | *100* | *104* | *103* | *104* |

*Source:* Verified questionnaire replies of the sampled Union producers.

(78) The average labour costs per employee of the sampled Union producers increased by 4 % over the period considered. Labour costs per employee increased especially in 2017 when production and productivity increased.

4.4.3.3. Inventories

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

*Table 9*

**Inventories**

| | 2015 | 2016 | 2017 | IP |
|---|---|---|---|---|
| Closing stocks (tonnes) | 13 100 – 13 200 | 14 350 – 14 450 | 13 800 – 13 900 | 15 650 – 15 750 |
| *Index* | *100* | *110* | *105* | *119* |
| Closing stocks as a percentage of production (%) | 9,5 – 10,5 | 10,5 – 11,5 | 10 – 11 | 12 – 13 |
| *Index* | *100* | *107* | *105* | *122* |

*Source:* Verified questionnaire replies of the sampled Union producers.

(80) During the period concerned, the closing stocks levels of the Union industry have increased significantly, to reach a 19 % growth during the IP compared to 2016.

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

(81) 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**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Profitability of sales in the Union to unrelated customers (% of sales turnover) | 8 – 11 | 5 – 8 | 2 – 5 | 2 – 5 |
| *Index* | *100* | *70* | *36* | *31* |
| Cash flow (EUR) | 28 000 000 – 30 000 000 | 16 500 000 – 18 500 000 | 4 000 000 – 5 000 000 | 2 000 000 – 3 000 000 |
| *Index* | 100 | *61* | *16* | *8* |
| Investments (EUR) | 2 500 000 – 3 000 000 | 3 000 000 – 3 500 000 | 5 000 000 – 5 500 000 | 6 500 000 – 7 000 000 |
| *Index* | *100* | *119* | *176* | *237* |
| Return on investments (%) | 48 – 52 | 30 – 34 | 7 – 11 | 16 – 20 |
| *Index* | *100* | *64* | *18* | *35* |

*Source:* Verified questionnaire replies of the sample of Union producers.

(82) 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. Profitability fell drastically over the period considered by almost 70 %, as the industry was not able to compensate the increasing cost of production with higher sales prices. The considerable price pressure exerted on the Union industry by the increasing imports from Korea, especially over the period from 2017 until the IP, have not allowed the Union industry to benefit from the slightly increasing Union consumption.

(83) 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.

(84) The level of yearly investments, that are also for products other than HWTP, increased over the period considered by 137 %. However, the increased investment levels did not translate into corresponding capacity increases for HWTP (see table 4). The investments in HWTP merely aimed at retaining the existing capacities and making due replacements of necessary production assets. The production of HWTP is an asset-intensive industry. The Union industry must regularly replace machinery that is worn or has become unusable. Only one Union producer has been investing in a new production line (paper mill and coating machine) in additional capacity, which is mainly to be used for other products than HWTP.

(85) The total level of investments has been insignificant with regard to the total cost of building a new production line. In the sampled companies, investments remained lower than the depreciation rate. In its decision on lightweight thermal paper ([7]) ('LWTP'), the Commission considered that 'despite the fact that the investments d*oubled, the absolute level of investments remained limited, in particular considering the fact that, for example, the value of a new production line of LWTP is estimated at 120 Million EUR*'. Given that HWTP is produced on the same machines as LWTP and that overall investment levels for HWTP have been even lower than the levels observed during the Commission's investigation in LWTP (during the IP, investments in HWTP amounted to 6,5 – 7,0 Mio EUR compared to 4,5 – 9,0 Mio EUR of investments for LWTP in 2015, *i.e.* during the IP of the LWTP investigation), it can be concluded that the Union industry's level of investments has been at an injuriously low level.

(86) The return on investments is the profit in percentage of the net book value of investments. It developed negatively over the period considered, reflecting the trend in profitability and cash flow. Overall, the sampled producers kept their level of investment to the amounts necessary to keep on running.

4.4.4. *Conclusion on injury*

(87) Over the period considered, the Union industry's injury was material and patent in terms of price-related injury indicators such as profitability or cash flow.

(88) Moreover, when it comes to volume-related injury indicators, the sales volume and the market share of the Union producers decreased by 10 percentage points since 2017, to reach an even lower sales volume during the IP compared to 2016. By contrast, during the period considered, the sole Korean exporter managed to almost double its exports, and significantly increased its market share by almost 5 percentage points. The increase in the period 2017-IP was particularly remarkable. The Korean exporter almost tripled its exports and market share. The position of the Union industry substantially deteriorated as the result of increasing dumped imports.

(89) The difficulties to raise capital have put the ability to invest in new and innovative production processes for HWTP under pressure. During the period considered, the Union industry invested at the minimum required level in order to modernize and replace obsolete equipment and implement the technical upgrades required by the environmental legislation. Despite concrete actions in view of 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.

(90) On the basis of the above, the Commission therefore concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

([7]) Commission Implementing Regulation (EU) 2017/763 of 2 May 2017 imposing a definitive antidumping duty and collecting definitively the provisional duty imposed on imports of certain lightweight thermal paper originating in the Republic of Korea (OJ L 114, 3.5.2017, p. 3), recital 91.

## 5. CAUSATION

(91) 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 imports from other third countries, export performance of the Union industry, increase in raw material prices, alleged incapacity of the Union industry to satisfy the demand of products free from Bisphenol A ('BPA-free') and domestic competition among Union producers.

### 5.1. **Effects of the dumped imports**

(92) There has been a clear correlation between the rise of imports from Korea and the deteriorating situation of the Union industry. The imports from Korea increased by 83 % during the whole period considered. The substantial increase in market share of the imports from Korea was clearly at the detriment of the Union industry, whose market share went down by 3 % during the whole period considered and by 10 % since 2017.

(93) Korean prices were consistently and significantly below Union prices. Prices of Korean imports undercut the Union industry's prices, with an undercutting margin of 11,1 % during the IP. The Union industry was unable to account for the increase in cost of production in its Union sales prices, which demonstrates the price pressure exerted by the imports concerned. This situation had a serious impact on the Union industry's profitability, which went down to very low levels during the IP.

(94) In view of the clearly established coincidence in time between, on the one hand, the ever-increasing level of dumped imports at prices which were found to undercut Union prices and, on the other hand, the Union industry's stagnation of sales volume, loss of market share and decreasing profitability, 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 other third countries*

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

*Table 11*

**Imports from other third countries**

| | | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|---|
| Total of third countries except the country concerned | Volume (tonne) | 12 000 – 13 000 | 4 000 – 5 000 | 8 000 – 9 000 | 8 000 – 9 000 |
| | *Index* | *100* | *38* | *69* | *69* |
| | Market share (%) | 6,5 – 7,5 | 2 – 3 | 4 – 5 | 4 – 5 |
| | *Index* | *100* | *38* | *66* | *68* |
| | Average price | 1 800–1 900 | 1 600–1 700 | 1 700–1 800 | 2 000 – 2 100 |
| | *Index* | *100* | *92* | *97* | *113* |

*Source:* Complaint, Eurostat and Commission's estimates.

(96) With regard to the years before the investigation period, the import volumes from third countries were based upon the complaint. For the IP, the volume was calculated by multiplying the 2018 complaint data by the variance between 2018 and the IP (-0,1 %) from Eurostat data on CN codes 4809 90 00, 4811 59 00 and 4811 90 00. The

price throughout the period considered was based upon Eurostat, where as a closest proxy the Korean price differentiation between the product concerned and the other products falling under the same CN codes was taken. Therefore, an adjustment was made on the basis of the ratio in price between the prices in Eurostat for Korea and the actual sale prices of the Korean exporting producer.

(97) Imports from other third countries decreased by 31 % in terms of volumes over the period considered and their market share into the Union by 32 %. These import volumes were made at slightly lower prices than the Union industry sales prices but far above the average price practised by the Korean exporter. Imports from other third countries therefore also suffered from the increase of Korean imports.

(98) The exporting producer claimed that imports from the PRC would have contributed to lower prices and would have exacerbated the downward price pressure already caused by the aggressive pricing policies of certain Union producers. Imports from the PRC were at very low levels, between 1 500 and 2 500 tonnes in 2018 ([8]). The market share of these imports was estimated to have amounted to approximately 1 % of Union consumption. In comparison, imports from Korea, as verified, amounted to between 15 500 and 17 500 tonnes in that year. At such low levels, the Chinese imports did not have a noticeable effect on the situation of the Union industry during the period concerned. Moreover, the prices of those imports into the Union following the method described in recital (96) were much higher than the import prices from Korea and at a similar level as those of the Union Industry.

(99) It was therefore provisionally concluded that imports from third countries are unlikely to have caused any injury to Union producers and they do not attenuate the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.2. Export performance of the Union industry

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

*Table 12*

**Export performance of the Union industry**

| | 2016 | 2017 | 2018 | IP |
|---|---|---|---|---|
| Export volume (tonne) | 38 591 | 39 545 | 36 234 | 33 336 |
| *Index* | *100* | 102 | 94 | 86 |
| Average price (EUR/tonne) | 1 650 – 1 750 | 1 650 – 1 750 | 1 800 – 1 900 | 1 950 – 2 050 |
| *Index* | *100* | 99 | 107 | 116 |

*Source:* Complainant's estimates and verified questionnaire replies of the sample of Union producers.

(101) Over the period considered, the volume of exports to unrelated customers from the Union industry decreased by 14 %. Prices went up by 16 %. The share of exports of the Union industry on their total sales volume decreased by circa 10 % over the period considered, to reach 17,7 % during the IP. The impact of the Union industry's export performance was therefore only limited.

(102) It was provisionally concluded that the export performance of the Union industry could not have a significant impact on the injury suffered by the Union industry and that it does not attenuate the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.3. *Increase in raw material prices*

(103) Temporary closures of production plants in the PRC in 2017 and 2018 caused a shortage of ODB2, a chemical input, at the end of 2017 and during 2018. Prices of ODB2 increased by about 500 % between September 2017, when the first Chinese plants closed, and early 2018. Depending on the specific grade of the product concerned ([9]),

([8]) Estimates from the complainant.

([9]) ODB2 is used in different quantities depending on the composition of the coating applied.

this chemical represented 7 to 15 % of the total production cost of HWTP in the investigation period ([10]). This shortage impacted the cost structure of the global thermal paper industry as it has hit all producers of HWTP equally worldwide, also in Korea.

(104) The exporting producer claimed that an increase in raw material prices, especially because of a shortage of ODB2, coupled with long-term contracts, reduced profitability and caused injury to the Union industry. The Union industry would have been unable to reflect the increase of its cost of production in its sales price because of the long-term nature of its supply contracts of HWTP. It would have therefore focused on the LWTP segment, because of the flexible characteristic of the LWTP supply market as prices are not negotiated on a long-term basis.

(105) Faced with this situation, and contrary to the claims of the exporting producer, the Union industry could increase its prices almost immediately because it had no fixed long-term contracts with its customers, but rather flexible 'gentlemen agreements'. The vast majority of customers, including large laminators, accepted an immediate price increase following the ODB2 crisis.

(106) Nevertheless, as the increasing production costs coincided with the surge of dumped imports from Korea, European producers could not pass on the entire increase of their production costs to their customers. They could only increase their sales prices partially to compensate for the increase in raw material prices ([11]). The dumped imports forced them to absorb a large part of the cost increases. The Korean exporting producer was able to pass on the cost increase to its customers as it increased sales prices by 34 % over the period considered. Since the Korean prices were consistently lower than Union prices and dumped, they prevented the Union industry from fully passing on the cost increase. Given the aggressive pricing behaviour of the Korean exporting producer, the Union industry could reflect the increase in cost of production in its Union sales prices at circa only 50 %.

(107) To further evidence the causal link between the increasing dumped imports from Korea and the injury suffered by the Union industry, a comparison with the performance on LWTP was carried out. Indeed, the production of HWTP and LTWP used identical technology and machines; both used the same input products and faced similar market characteristics. LWTP was affected by the same raw material cost increase to a similar extent as the product concerned. During the IP, LWTP imports from Korea were subject to anti-dumping duties.

(108) Two of the three sampled producers also produced and sold significant quantities of LWTP during the period considered. During the IP, the sampled Union producers' profitability margin on HWTP was at a level between 2 and 5 %. This figure is considerably lower than the verified profitability margin for other products produced, in which LWTP has a large share, realized by the sampled Union producers in 2018 and during the IP, despite the peak reached by ODB2 prices. Union producers were able to sustain input cost increases in a market not distorted by unfairly priced imports ([12]). This shows that it is the price pressure from dumped imports that is causing the shrinking profitability of the Union industry in HWTP.

(109) The exporting producer also claimed that, because of the shortage in ODB2, the Union industry was not able to satisfy the demand on the Union market and added that the Union industry's production capacity was reduced in 2018 and during the IP due to the shortage of ODB2. However, the Union industry had more than sufficient spare capacity to satisfy the demand (see recital (65)) and the Commission's investigation found that none of the sampled Union producers ever refused any purchase order because it would have been short of ODB2.

(110) It was provisionally concluded that the price increase of ODB2 did therefore not attenuate the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.4. *Alleged incapacity of the Union industry to satisfy the demand of BPA-free products*

(111) The exporting producer claimed that the Union industry's slow transition to BPA-free products has caused its alleged feeble sales growth.

([10]) *Source*: Commission's investigation.
([11]) While prices increased by 14 %, production costs increased by 23 % (Table 7).
([12]) Anti-dumping measures are currently applicable on imports of LWTP from Korea, which have re-established a level playing field.

(112) First, the investigation determined that the majority of European producers have been producing BPA-free products for already over 20 years ([13]).

(113) In addition, the Union industry claimed and showed in its sales during the IP that it continued to sell BPA-containing paper because there was a continued demand for such paper, the reason for this being the cheaper price of BPA containing products. ([14]) HWTP users, such as laminators and converters, continued to order BPA-containing HWTP even though BPA-free alternatives were freely available. This supported the Union industry's claim that the customers chose to postpone the switch as long as possible (in practice until mid-2019) due to the higher price of BPA-free alternatives.

(114) No evidence has been provided that Union producers were short of either BPA or Bisphenol S ('BPS') (the developer mostly replacing BPA as of 2020, which has already been widely used at least since 2018) at any point in time. During the IP, both the Korean exporter and the Union producers were selling significant quantities of both BPA-containing and BPS-containing HWTP.

(115) Therefore the Union industry was able to supply BPA-free products during the period considered. Its sales of BPA-free products did not contribute to the injury suffered by the Union industry and did not attenuate the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.5. *Domestic competition among European producers*

(116) The exporting producer alleged that domestic competition further depressed Union prices: some Union producers would have fully reflected the increase in costs of production in their HWTP prices, while other Union producers would have decided to keep prices low in order to gain market shares. These different strategies would have exacerbated the Union industry's low profitability.

(117) The exporting producer did not substantiate this claim with any evidence of anti-competitive practices. Nothing on file showed that competition amongst Union producers was unfair. In addition, competition between Union producers does not mean that the dumped import prices have not forced those producers to outbid each other even more than they would in a situation of fair competition and thus to sell at unsustainable prices.

(118) Among the European producers, the companies which carried out relatively smaller price increases at a relatively late moment did not see their market shares increase. On the contrary, like the other Union producers, their market shares continued to fall throughout the period concerned ([15]).

(119) Therefore the domestic competition on the European market did not contribute to the injury suffered by the Union industry and did not attenuate the causal link between the dumped imports and the injury suffered by the Union industry.

5.3. **Conclusion on causation**

(120) On the basis of the above, the Commission concluded at this stage that the dumped imports from Korea had a major impact on the material injury suffered by the Union industry. Other factors, considered individually or collectively, such as imports from other third countries, the export performance of the Union industry, the increase in raw material prices, the alleged incapacity of the Union industry to satisfy the demand of BPA-free products and the alleged domestic competition among European producers, were considered to have only exacerbated the injury caused by the dumped imports from Korea, but were provisionally not found to attenuate the causal link between the dumped imports and the injury suffered by the Union industry.

## 6. **UNION INTEREST**

(121) 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 in respect of imports from the country concerned, 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, importers and users.

([13]) *Source*: Complainant and Commission's investigation results.
([14]) BPA-containing paper is cheaper to produce and is therefore also usually priced cheaper than papers containing other developers.
([15]) *Source*: Complainant and Commission's investigation.

(122) The Commission sent questionnaires to known interested parties. However, it received replies from only two importers and five users, among which only one importer and two users submitted the questionnaire.

### 6.1. **Interest of the Union industry**

(123) All ETPA members did support the complaint. Of all non-ETPA members, Ricoh Industrie France S.A.S. (Ricoh) was the most important one in terms of sales volumes (estimated by the complainant at ca. 20 % of the total Union industry sales). Ricoh declared to support the complaint.

(124) The Confederation of European Paper Industries ('CEPI') made comments on the investigation and fully supported it, on the ground that anti-dumping measures against Korean imports would help restore a level playing field for HWTP and would send the powerful signal to exporters, that the European Union is committed to global free trade under competitive and fair conditions.

(125) Union producers 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. The imposition of measures would 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.

(126) The Commission therefore provisionally concluded at this stage that the imposition of anti-dumping duties would be in the interest of the Union industry.

### 6.2. **Interest of unrelated importers**

(127) One party replied to the importer questionnaire. This party did not express any view on whether or not it would agree with the imposition of measures. Of all HWTP purchases made by this company in the IP, only a relatively small percentage (between 10 and 20 %) originated from Korea and it relied heavily on the Union producers for its supplies. The reported profit margins, overall and on resales of imported HWTP, were in the order of more than 20 % of turnover. Given the robust profit margin and the relatively modest part of the purchases from Korea, duties should not have a disproportionate effect on the situation of this importer.

(128) Therefore, at provisional stage, the Commission considered that the interests of this unrelated importer would not be harmed by anti-dumping duties on HWTP.

### 6.3. **Interest of users**

(129) Five users made themselves known to the Commission and only two of them provided some detailed information. The first of these two returned a blank questionnaire, pointing to confidentiality issues. Therefore, the Commission could not quantify the possible effects of any anti-dumping duties on its situation.

(130) The second user claimed that during the ODB2 crisis, Union producers increased prices and were not able to supply sufficient quantities and, for that reason, it turned to the Korean exporter. However, this user did not provide any evidence that the Union industry could not supply the quantities asked and it appears that this user did not accept price increases linked to the ODB2 crisis and turned to the Korean exporter for cheaper prices. The Commission further noted that exceptional events of a temporary nature that occurred in the past, like the ODB2 crisis, and for which there is no evidence that they would recur in the future during the period of application of the measures, could not outweigh the need to eliminate the trade distorting effects of injurious dumping. This claim was therefore dismissed.

(131) Neither of these two users provided sufficient verifiable information that would allow the Commission to make an objective analysis on the impact of the measures on their situation. In particular, both rejected the Commission's request to provide their profit margins so that the Commission could quantify the possible effects of any anti-dumping duties on their performance.

(132) Three users claimed that, contrary to European producers, the Korean exporter had been able to provide affordable BPA-free thermal paper. The Commission's investigation demonstrated that this claim is unfounded, as explained in recitals 111 to 115. No evidence has been provided that the Union producers were short of or not able to supply BPA-free products. The Commission's investigation determined that the majority of European producers have been producing BPA-free products for already over 20 years.

(133) Three users opposed the potential imposition of measures on the grounds that the exporting producer ensured stable supply and was an important supplier in the Union market. None of these three companies provided any evidence supporting their claims. The production capacity of the Union industry increased by 6 % over the period considered and the Union Industry has significant spare capacity. Moreover, as explained in recitals 111 to 115, the Union industry, despite difficult market conditions, has always been able to supply both BPA-free and BPA-containing thermal paper during the period considered.

(134) At provisional stage, the Commission therefore concluded that the effects of a potential imposition of duties on users do not appear to outweigh the positive effects of measures on the Union industry. Indeed, none of the users provided any reliable information to enable the Commission to assess whether the imposition of duties would have a significant impact, if at all, on them.

### 6.4. **Interest of other interested parties**

(135) The Korean exporter and the Government of Korea claimed that the imposition of anti-dumping duties would prevent Union customers from accessing affordable BPA-free HWTP. The Commission's investigation demonstrated that this claim is unfounded.

(136) First, the Union industry showed sufficient capacity to follow demand for BPA-free products and to switch its production of BPA containing HWTP to BPA-free HWTP completely. Second, the Union industry's stock levels have been rising significantly over the period concerned, meaning that a sufficiently large stock was available to start supplying the Union industry immediately. Third, anti-dumping duties do not prevent customers from sourcing their HWTP supply outside of the Union. There are other sources of supply available as shown in Table 11 (Imports from other third countries). Customers would therefore be able to find alternative sources of supply at competitive and fair prices.

(137) The Korean exporter and the Government of Korea claimed that, if another raw materials shortage would occur, anti-dumping duties on imports from Korea would seriously undermine European HWTP users. The Commission recalled that the effect of anti-dumping measures is to restore fair and effective competition between all actors, that the Union industry has enough capacity as mentioned in recitals (65) to (66)and that none of the users that came forward provided any information that would allow the Commission to examine that claim.

(138) The Korean exporter and the Government of Korea recalled the Korea-EU Free Trade Agreement, which came into force in 2015, and argued that the imposition of anti-dumping duties would harm trade relations between the Union and Korea. The Commission noted that this is not a consideration that can be addressed under the analysis of the Union interest in accordance with Article 21 of the basic Regulation. In any event the Commission recalled that under the Korea-EU Free Trade Agreement, both parties agreed that trade defence instruments remain fully applicable, and that the origin of this proceeding is the behaviour of Korean exporting producers. Therefore, this claim was rejected.

### 6.5. **Conclusion on Union interest**

(139) On the basis of the above, the Commission provisionally concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of HWTP originating in the country concerned at this stage of the investigation.

## 7. **PROVISIONAL ANTI-DUMPING MEASURES**

(140) 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)**

(141) 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.

(142) The injury would be eliminated if the Union industry was able to cover its costs of production, including those costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia of the basic Regulation, and to obtain a reasonable profit ('target profit').

(143) Article 7(2c) of the basic Regulation sets the minimum target profit at 6 %. In accordance with that Article, for establishing the target profit, the Commission must take into account factors such as the level of profitability before the increase of imports from Korea, the level of profitability needed to cover full costs and investments, costs for research and development (R & D) and innovation, and the level of profitability to be expected under normal conditions of competition.

(144) The investigation showed that the actual profitability of the Union industry in year 2016, that is, before the surge of Korean imports, was at a level of 8 to 11 %.

(145) Two of the sampled producers made a claim for investments foregone. The Commission investigated this claim under Article 7(2c) of the basic Regulation. However, the companies concerned were unable to provide documentary evidence to support this claim, which was therefore provisionally rejected.

(146) In view of the above facts, the Commission decided to use the profit margin achieved by the industry in the year 2016 as target profit. This target profit was added to the Union industry's actual cost of production to establish the non-injurious price.

(147) In accordance with Article 7(2d) of the basic Regulation, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, that the Union industry will incur during the period of application of the measure pursuant to Article 11(2). Based on the evidence available, the Commission established an additional cost in a range between EUR 6 and 10 per tonne, which was added to the non-injurious price.

(148) 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 resulting underselling margin was provisionally established at 22,5 %.

(149) For the reasons explained in recital (45), the same underselling margin is applicable to all other exporting producers, if any.

### 7.2. **Provisional measures**

(150) 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.

(151) Provisional 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) of the basic Regulation. The Commission compared the injury margin and the dumping margin. 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.

(152) 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 Paper Co. Ltd | 22,3 % | 22,5 % | 22,3 % |
| | All other companies | 22,3 % | 22,5 % | 22,3 % |

(153) As also explained in recital 45, the level of cooperation in this case is high as the exports of the cooperating exporting producer constituted the total exports to the Union during the investigation period. Therefore, the residual anti-dumping duty is based on that of the cooperating company.

(154) 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'.

(155) A company may request the application of the individual anti-dumping duty rate if it changes subsequently the name of its entity. The request must be addressed to the Commission ([16]). 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*.

(156) 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 have exports to the Union during the investigation period.

## 8. **INFORMATION AT PROVISIONAL STAGE**

(157) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.

(158) Comments were received from Hansol group and the sampled Union producers. The Commission took the comments into account that were considered of a clerical nature and corrected the margins accordingly.

## 9. **FINAL PROVISIONS**

(159) In the interests of sound administration, the Commission will invite the interested parties to submit written comments within 15 days and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within 5 days.

(160) 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 heavyweight thermal paper, defined as thermal paper which weighs more than 65 g/m$^2$; which is sold on rolls of a width of 20 cm or more, weighing 50 kg or more (including paper) and with a diameter of 40 cm or more (jumbo rolls); with or without base coat on one or both sides;

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

coated with a thermo-sensitive substance (i.e. a mixture of dye and a developer that reacts and forms an image when heat is applied) on one or both sides; and with or without top coat originating in the Republic of Korea, currently falling under CN codes ex 4809 90 00, ex 4811 59 00 and ex 4811 90 00 (TARIC codes 4809 90 00 20, 4811 59 00 20 and 4811 90 00 20).

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 22,3 %.

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. Interested parties shall submit their written comments on this regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.

2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.

3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings shall do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer shall examine requests submitted outside this time limit and may decide whether to accept to such requests if appropriate.

*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, 26 May 2020.

*For the Commission*
*The President*
Ursula VON DER LEYEN