

COMMISSION IMPLEMENTING REGULATION (EU) 2017/763**of 2 May 2017****imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain lightweight thermal paper originating in the Republic of Korea**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation'), and in particular Article 9(4) thereof,

Whereas:

1. PROCEDURE**1.1. Provisional Measures**

- (1) On 16 November 2016 the European Commission ('the Commission') imposed a provisional anti-dumping duty on imports into the Union of certain lightweight thermal paper ('LWTP') originating in the Republic of Korea ('the country concerned') by Commission Implementing Regulation (EU) 2016/2005 ⁽²⁾ ('the provisional Regulation').
- (2) The investigation was initiated on 18 February 2016 ⁽³⁾ following a complaint lodged on 4 January 2016 by the European Thermal Paper Association ('ETPA' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of certain LWTP.
- (3) As stated in recital (14) of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2015 to 31 December 2015 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2012 to the end of the investigation period ('the period considered').

1.2. Subsequent procedure

- (4) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed (the provisional disclosure), three interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.
- (5) Both the Hansol Group and ETPA requested the intervention by the Hearing Officer in trade proceedings ('the Hearing Officer'). During the hearings held on 13 December 2016 and 2 March 2017, the Hansol Group came back on issues discussed in the hearing of 10 March 2016 (i.e. on the exemption from replying to the questionnaire requested for a number of related converters) and contested the methodology used for dumping and injury calculations. In the hearing of 22 March 2017, the Hansol Group referred to some dumping calculations issues and proposed a change in the form of the measures. In the hearing of 24 January 2017, ETPA expressed concern about some confidentiality issues and contested the Hansol Group's claims regarding the product scope and the level of support to measures.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ 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).

⁽³⁾ OJ C 62, 18.2.2016, p. 7.

- (6) After the imposition of the provisional measures, the Commission continued seeking and verifying all information it deemed necessary for its definitive findings. The Commission informed all 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 LWTP originating in the Republic of Korea (the definitive disclosure). All parties were granted a period within which they could make comments on the definitive disclosure. After definitive disclosure, further changes were made to the dumping and injury calculations for which all parties were informed and granted a period within which they could make comments (the additional final disclosure). Subsequently, all parties were granted a period within which they could make comments on the change of the form of the measures.
- (7) The comments submitted by the interested parties were considered and taken into account where appropriate.

1.3. Product concerned and like product

1.3.1. *Product concerned*

- (8) As set out in recital (15) of the provisional Regulation, the product concerned is lightweight thermal paper weighing 65 g/m² or less; in rolls of a width of 20 cm or more, a weight of the roll (including the paper) of 50 kg or more and a diameter of the roll (including the paper) of 40 cm or more ('jumbo rolls'); with or without a base coat on one or both sides; coated with a thermo-sensitive substance (that is a mixture of dye and a developer that react and form an image when heat is applied) on one or both sides; and with or without a top coat, originating in the Republic of Korea, currently falling within CN codes ex 4809 90 00, ex 4811 90 00, ex 4816 90 00 and ex 4823 90 85.

1.3.2. *Claims on the product scope*

- (9) The Hansol Group reiterated its request for excluding phenol-free LWTP from the product scope on the grounds that the Commission failed to carry out an appropriate assessment of a series of factors. According to the Hansol Group, phenol-free and other types of LWTP have different chemical composition, production processes and consumer perception.
- (10) In terms of chemical composition, the party stated that phenol-containing LWTP and phenol-free LWTP have a very different chemical composition on the grounds that they are treated differently in the EU market from a regulatory point of view, depending on the developer used in their production. It should however be noted that only bisphenol A ('BPA'), i.e. one of the numerous possible phenol-containing developers, was recently banned in the Union with effect in 2020, and that there is no separate legal treatment for all other phenol-containing developers. The alleged more strict regulatory treatment of two bisphenol-containing developers does not demonstrate that all bisphenols and phenolic substances used as developers are different from other colour developers. It is further noted that, although of key importance, the developer is just one of the numerous types of chemicals required to produce LWTP. In addition, nothing on file supports the allegation that LWTP containing BPA had already been banned in some Member States. Therefore, it is concluded, from a material point of view, that phenol-containing LWTP and phenol-free LWTP do not have a different chemical composition. The claim is therefore rejected.
- (11) As regards production processes, the party claimed that it is not possible to produce phenol-free and BPA-free LWTP on the same production line. The investigation however showed that, technically, it is possible to produce phenol-free LWTP and phenol-containing LWTP on the same production line, albeit in different batches, and that Union producers do so.
- (12) As to consumer perception, the party alleged that consumers are aware of the presence of bisphenol in LWTP. Furthermore the Hansol group claimed that an American LWTP producer started producing phenol-free LWTP in response to customer demand and that a supermarket chain in the Union expressed concerns about the type of developer used in LWTP. However, while there may be different consumer preferences, in general all product types are interchangeable from a demand side point of view (without any changes being made by end-users) and compete between each other.

- (13) The Hansol group also alleged that there is limited availability of Pergafast 201 (a phenol-free dye developer) and a significant price difference between phenol-free and phenol-containing LWTP in light of the purchase prices of two companies in the Union related to the Hansol Group.
- (14) Given the existence of many types of developers, the alleged limited availability of only one specific type, i.e. the Pergafast 201 (that, in any case, the Hansol Group does not seem to have used), is irrelevant, because there are other alternative sources. For instance, in 2015 the European Chemical Agency's Committees, namely the Committee for Risk Assessment ('RAC') and the Committee for Socioeconomic Analysis ('SEAC'), considered that then there were some 10 realistic alternatives to bisphenol A in thermal paper plus novel promising alternatives ⁽¹⁾. The suppliers of chemical developers are expected to be ready for the ban on BPA mentioned in recital (10) and for the expiry of the patent on Pergafast 201 by 2019.
- (15) As to the alleged price difference, it is common that the product covered by an anti-dumping investigation includes various types with different price ranges. This price difference is however not sufficient in itself to consider the various types as different products for the purpose of defining a product subject to an anti-dumping investigation, as long as the various types share the same basic characteristics and compete with each other, which is the case here. In any event, any element affecting prices is taken into consideration for the purpose of the price comparison. The Hansol group reiterated that there is a significant price difference between phenol-free and phenol containing LWTP (according to the purchase prices of its converters in the Union), which would allegedly demonstrate that they are different products. In this respect, the overall finding in recital (113) of the provisional Regulation that the unit sales prices of phenol-free LWTP dropped less than the unit sales prices of phenol-containing LWTP cannot be contradicted by the purchase prices of two companies in the Union related to the Hansol Group, which represent a small share of the Union consumption.
- (16) The Hansol group initially claimed that phenol-free LWTP should not be covered by the investigation on the grounds that phenol-free LWTP is neither produced nor exported from the Republic of Korea. In this respect, the Hansol Group's webpages show that this party has bisphenol-free thermal paper and LWTP without BPA on offer.
- (17) The Hansol Group also claimed that the Commission was incorrect in defining a too broad product scope, because it will hamper future technological developments. In particular, the party alleged that the complainants' catalogues do not show LWTP weighing less than 44 g/m², reiterating its claim mentioned in recital (20) of the provisional Regulation that such type of LWTP should be excluded.
- (18) The above claim was not supported by any evidence. First, nothing on file shows that LWTP of less than 44 g/m² has different physical, technical and chemical characteristics, use, consumer perception, distribution channels, manufacturing process, costs of production and quality from other LWTP or is not interchangeable. Second, there is no technical barrier that would prevent producers from producing LWTP of less than 44 g/m². In fact, one Union producer currently sells LWTP weighing 42 g/m². Third, there is no clear dividing line when it comes to grammage. Thermal paper producers work with a tolerance in terms of weight. It is for instance possible that a paper marketed as 45 g/m² weighs actually a bit less or that a paper marketed as 44 g/m² weighs indeed more than announced. Thus, the claim was dismissed.

1.3.3. Conclusion

- (19) Accordingly, the conclusions regarding the product concerned and the like product reached in recitals (16) to (24) of the provisional Regulation were confirmed.

2. DUMPING

2.1. Normal value

- (20) As explained in recital (12) of the provisional Regulation, the Hansol Group comprises of the Korean exporting producers Hansol Paper and Artone. In the case of Artone, there were two product types with no or

⁽¹⁾ RAC and SEAC, Background document to the Opinion on the Annex XV dossier proposing restrictions on 4,4'-isopropylidenediphenol (Bisphenol A; BPA), 4 December 2015, available at <http://echa.europa.eu/documents/10162/d52d2c6b-2f1c-4ddf-bb44-4e3e42ea1820>, p. 356-358.

unrepresentative domestic sales. For these two product types, the normal value was, pursuant to Article 2(3) of the basic Regulation, calculated on the basis of Artone's cost of production (see recitals (34) to (36) of the provisional Regulation). Following provisional disclosure, the Hansol Group claimed that, in the determination of the normal value for these two product types, the Commission should have used the prices of the other producer, Hansol Paper, instead of constructing the normal value on the basis of Artone's cost of production. This claim was reiterated after definitive disclosure.

- (21) The claim was rejected, since the Commission established that the cost structure and sales prices of Artone were significantly different from that of Hansol Paper. In addition, for one of these two product types sold by Hansol Paper, the domestic sales quantities were found to be unrepresentative. Therefore, the Commission confirmed that under these circumstances it was more appropriate that the normal value for these product types be calculated on the basis of Artone's cost of production plus a reasonable amount for selling, general and administrative costs ('SGA') and profit, in accordance with the first option under Article 2(3) of the basic Regulation.

2.2. Export price

- (22) In its comments on the provisional disclosure, the Hansol Group contested the inclusion of small rolls in the dumping calculations for two reasons. First, the volume of jumbo rolls sales to unrelated parties would be significant and therefore a calculation on the basis of those sales would be representative. Second, small rolls are not the product concerned.
- (23) As explained in recitals (25) and (37) of the provisional Regulation, the vast majority (between 75 % and 85 %) of the Union sales by Hansol Paper and Artone were sales to related parties destined for conversion into small rolls. In view of the significant quantity of the jumbo rolls that were converted into small rolls and only then resold to unrelated customers, the Commission maintained that these small rolls could not be ignored in the calculations. It was thus appropriate that for the sales of jumbo rolls to related parties for conversion into small rolls, the export price be established on the basis of the price at which the imported and converted product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation.
- (24) Following definitive disclosure, the Hansol Group repeated its objection to the inclusion of small rolls in the dumping calculation. However, no new elements were brought forward.
- (25) Furthermore, the Hansol Group criticised the fact that, as concerns sales through related parties, the dumping margin was based on data from one related converter and not on data from all four related converters.
- (26) In this respect, the following is to be noted. On 19 February 2016, the Hansol Group requested the Commission to fully exempt three of the four related converters from replying to the questionnaire. On 23 February 2016, the Commission accepted that request while specifically reserving the right to make further enquiries/requests for information as and when necessary in respect of these other three related converters. On 7 March 2016, after having further analysed the information submitted by the Hansol Group during a meeting on 22 February 2016, the Commission requested these three related converters to reply to an adapted version of the questionnaire which, inter alia, included the request for data regarding conversion costs and small rolls resales. On 8 March 2016, the Hansol Group requested a hearing with the Hearing Officer which took place on 10 March 2016. It motivated its request for the hearing by repeating its request to exempt the three related converters from replying to the questionnaire and as it could not understand '*why the Commission (would request) cost and sales data for the product not concerned and how these data could be used in any meaningful way in the present investigation*'. This position was reiterated during the hearing.
- (27) The Hearing Officer suggested finding a compromise between the Commission services and the interested party on the question of how to verify if the volume of data, traceability and construction of the export price based on sales of small rolls was relevant to the investigation and he suggested a pre-verification visit to the fourth related importer, for which no exemption had been requested, to verify the correctness of the party's explanations above

and, based on the positive results, a limitation of the investigation to that party as concerns the construction of the export price with regard to Hansol Group's sales of small rolls. Further to these suggestions, the Commission considered how it could be possible to reduce the burden for the related converter companies and how to establish traceability between the sales of small rolls and imports of jumbo rolls.

- (28) After that first hearing in March 2016 and the subsequent on-site visit, the Commission established the following. First, among the four related converters, one related converter purchased, by far, the lowest share of jumbo rolls for conversion from other unrelated non-Korean jumbo rolls producers (i.e. less than 25 % of its jumbo roll purchases). Second, that same related converter purchased the largest volumes of jumbo rolls for conversion into small rolls from Hansol Group. Third, the same related converter accounted for most of the Hansol Group's sales of jumbo rolls to related converters in the Union and it also accounted for the largest volume of jumbo rolls re-sales to independent customers. Finally, its volume of sales to unrelated customers of small rolls was also significantly higher than such volumes by all four related converters, except for one. However, the latter was only acquired during the second half of the investigation period and was thus less representative.
- (29) Against this backdrop, the Commission decided to base its findings with regard to Hansol Group's sales through related converters on the data from that related converter which was considered the most representative. These findings were considered as representative in respect of the company's sales through related converters in view of this related converter's low volumes of jumbo roll purchases for conversion with a non-Korean origin as well as the high volumes of Hansol Group sales to unrelated parties it had been involved in.
- (30) Furthermore, as indicated in recital (25) of the provisional Regulation, both sales channels (i.e. sales of jumbo rolls to unrelated parties and sales of jumbo rolls to related parties destined for conversion into small rolls) were given the appropriate weight. Thus, as explained in recital (45) of the provisional Regulation, the finding with regard to the sales of jumbo rolls to related parties for conversion into and subsequent resale as small rolls to unrelated parties was extrapolated to reflect the actual sales flows of the Hansol Group during the investigation period. The Commission confirmed that this approach was appropriate for the following reasons. It was recalled that, during the investigation period, 75 % - 85 % of Hansol Group's sales to the Union were made through related converters for conversion into small rolls. The investigation established that such sales, calculated back to the level of the jumbo roll, were made at different prices as compared to the sales of jumbo rolls to unrelated customers. Therefore, in order to properly reflect the dumping practised, if any, both sales channels had been attributed the appropriate weight, taking duly into account the sales volumes and values of each sales channel.
- (31) After definitive disclosure, the Hansol Group further claimed that the Commission had actually sampled the related converter. It alleged that by not having informed the Hansol Group during the investigation and notably prior to the provisional disclosure that the finding with regard to the sales of jumbo rolls to related parties for conversion into and subsequent resale as small rolls to unrelated parties would be extrapolated to reflect the actual sales flows of the Hansol Group, the Commission would have violated Article 17 of the basic Regulation. This claim was repeated after the additional final disclosure. The Hansol Group also submitted that the Commission's decision to extrapolate the related converter's findings had no legal basis.
- (32) The Commission pointed out from the outset that it did not make use of Article 17 of the basic Regulation. Given that the Hansol Group had objected to replying to a questionnaire for all four related converters and in order to accommodate the suggestion of the Hearing Officer to limit the burden to the party concerned and yet arrive at reliable findings with regard to the sales of small rolls and resales of jumbo rolls, the Commission focused on the related converter in question because it was, on the basis of the information provided by the Hansol Group and verified during the subsequent on spot visit, the best placed to provide the most accurate figures with regard to the majority of Hansol Group's Union sales (i.e. its sales to related converters for subsequent resale as small roll to unrelated customers). With regard to the other three related converters, the Commission found that their Union sales were much less accurate and representative due to a number of factors described in recital (28) above. Indeed, the much higher levels of non-Korean sourced jumbo rolls and the fact that one of the three other related converters was only acquired in the middle of the investigation period would have resulted in a less reliable finding with regard to these Korean sales if they would have been included in the analysis. Therefore, the Commission did not make use of Article 17 of the basic Regulation and Hansol Group's claim that the Commission had applied sampling with regard to the related converters is not correct. Rather, in accordance with Article 2(9) of the basic Regulation, the Commission sought to establish, in the specific circumstance of the case at hand, described in recitals (28) and (29) above, the most reliable export price in case

of sales of jumbo rolls to related parties destined for conversion into small rolls. Pursuant to Article 6(8) of the basic Regulation, the Commission examined the information supplied by the interested party for accuracy as far as possible.

- (33) In addition, from the early stages of the investigation, the Hansol Group should have been aware of the relevance of sales made through related converters. First, in the complaint, when submitting a dumping margin, the complainant already drew the attention to the fact that the bulk of the Hansol Group's Union sales was made through related converters and that the dumping in respect of these sales was considerably higher than the dumping regarding its direct sales. The complainant calculated two margins (one for direct sales and one for sales through related companies) for which it determined also a simple average as it could not know exactly how significant the Hansol Group's direct sales to unrelated parties were (the percentage mentioned in the complaint for the share of these sales in Hansol Group's total Union sales was however very close to reality). Second, already during the first hearing, the Commission made it clear to the Hansol Group that it could not ignore the majority of Hansol Group's sales which were made through related converters and that they should properly be accounted for in the calculation of dumping. For that reason, the Commission had included in the questionnaires for related converters a request for full details on the resales of small rolls and on the costs for converting a jumbo roll into a small roll. Third, the subsequent discussions and acceptance by the Commission, by email of 21 March 2016, of the Hansol Group's request to drop the requirement for the other three related converters to reply to the questionnaire had the consequence that the Commission had to limit its analysis in respect of those sales to the related converter in question.
- (34) Finally, the Commission disclosed all the reasons and figures behind the extrapolation done with regard to these sales at the stage of the imposition of provisional measures as well as at the stage of definitive disclosure. The rights of the interested party in question have thus been fully respected. Hansol Group's claims are therefore rejected.
- (35) The Hansol Group also claimed that the prices charged to its related converters were at arm's length. It argued that therefore, for its sales through related converters, there was no need to construct the export prices using the sale prices of the small rolls to unrelated customers.
- (36) The Commission rejected this claim because the data on the file did not support it. First, the mostly sold product type (representing more than 30 % of Hansol Group's total Union sales) was sold to related parties at a sales price that was between 8 % - 15 % higher than the average sales price to unrelated customers. Second, taking all product types together, the related companies paid a price that was between 3 % and 6 % higher than the price charged to unrelated customers. Therefore, the claim that the Hansol Group's sales prices to related converters were at arm's length was not confirmed by the data on the file. In addition, the Commission also found that the two verified related parties in the Union were both heavily loss-making as regards the product concerned. This corroborates the above finding that the purchase price paid by Hansol Group's related companies in the Union is not a market price for the jumbo rolls, considering the costs they have to incur either as conversion costs and/or SG&A costs, depending on the related company. On this basis, the Commission considered that it was therefore entitled to construct the export prices for its sales through related parties.
- (37) The Hansol Group also claimed that certain considerations in the termination of the anti-dumping and anti-subsidy proceedings as regards *Salmon* ⁽¹⁾ and in the anti-dumping proceeding on *Certain seamless pipes and tubes* ⁽²⁾ would suggest that there is a Commission practice to use the prices paid by related parties in circumstances like the ones in the present proceeding. In respect of the proceeding at hand, the Commission points out that, as explained in recital (36) above, it was found that the related sales were not made at arm's length prices but at distorted transfer prices and, therefore, they were found to be unreliable for the determination of the export price. These circumstances are different from the proceedings mentioned by the Hansol Group, as in those

⁽¹⁾ Council Regulation (EC) No 930/2003 of 26 May 2003 terminating the anti-dumping and antisubsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway and the anti-dumping proceeding concerning imports of farmed Atlantic salmon originating in Chile and the Faeroe Islands (OJ L 133, 29.5.2003, p. 1).

⁽²⁾ Council Regulation (EC) No 954/2006 of 27 June 2006 imposing definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel originating in Croatia, Romania, Russia and Ukraine, repealing Council Regulations (EC) No 2320/97 and (EC) No 348/2000, terminating the interim and expiry reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, inter alia, in Russia and Romania and terminating the interim reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, inter alia, in Russia and Romania and in Croatia and Ukraine (OJ L 175, 29.6.2006, p. 4).

cases it was found that the sales to the related parties were made at prices which were fully in line with the prices charged to independent customers. Furthermore, the Commission in those proceedings also established that the related parties were operating with reasonable profits, which does not occur in the proceeding at hand (see recital (36)). Therefore, this comment was rejected.

- (38) The Hansol Group also submitted that by using the sales of small rolls, the Commission had also included certain sales of small rolls that had not been produced (i.e. converted) by the related converter in question, but had been purchased from related and unrelated sources.
- (39) The Commission did not have information on the purchase prices or the identities of the suppliers for the purchases of small rolls by this related converter. It could however be verified that such sales of purchased small rolls accounted for 10 % - 15 % (in weight) of the total sales of small rolls to unrelated customers. Considering that 85 % - 90 % of the small rolls sold were converted by the converter in question from jumbo rolls, the Commission considered its approach reasonable. In addition, the dumping calculation was based on the sales prices of small rolls. At the same time, the Hansol Group did not provide any evidence showing that the sales price of small rolls would differ for self-produced small rolls as compared to the purchased ones. Hence, there is no evidence that the minor share of purchased small rolls had an impact on the dumping calculation. Therefore, the Commission rejected this claim.
- (40) After provisional and after definitive disclosure, the Hansol Group criticised the inclusion of Union sourced jumbo rolls in the dumping calculation for small rolls. As explained in recital (43) of the provisional Regulation, due to the lack of traceability between the sales of small rolls and the corresponding jumbo rolls, small rolls produced from jumbo rolls with an origin other than Hansol Group could not be excluded from the construction of the export price of jumbo rolls converted into and sold as small rolls. This issue only arises because the Hansol Group does not have a traceability system in place, like other converters in the Union have. In any case, as also mentioned in recital (28)-(29) above, the Commission limited the potential volume of non-Hansol sourced jumbo rolls presence in this export price construction by limiting its calculation of such sales to the related converter in question. The latter was predominantly producing and reselling small rolls from jumbo rolls that were produced by and procured from Hansol Group during the investigation period. The inclusion of those rolls could only have a minor impact on the dumping calculation, if at all, due to the relative small proportion of the non-Hansol Group sourced jumbo rolls. In any event, the dumping calculation was based on the sales price of small rolls, which was likely to be identical, irrespective of the origin of the jumbo roll. The claim was thus rejected.
- (41) After definitive disclosure, the Hansol Group claimed that, for certain transactions, transport costs had been deducted twice when calculating the constructed export price and this double deduction had also been applied to the constructed CIF price which had been used as a denominator. The claim was duly verified and it was established that indeed for the related converter's sales of small rolls which had been purchased from Hansol Group through the related trader certain allowances had been deducted twice. This error was thus corrected with regard to both the export price and CIF price construction.
- (42) Also regarding the calculation of the constructed export price, the Hansol Group claimed that as regards the deduction of allowances from the sales price of the small roll to unrelated customers, insufficient account had been taken of the presence of certain volumes of non-Korean base material, resulting in inflated allowances overall. After having verified this claim, it was established that it was indeed not justified to apply the allowances for calculating a Korean ex-works export price for the portion of small rolls produced from European sourced jumbo rolls. This was corrected by deducting, for a representative volume of small roll sales, allowances up to CIF level only. Indeed, on the basis of the information on the file, it could be established that the European producer had sold the jumbo rolls to Hansol's related converter according to the CIP delivery terms. The calculated CIF value was considered, for these sales, to be comparable for the ex-works value of the share of sales with Korean origin.
- (43) After the additional final disclosure, the Hansol Group contested the fact that the revised unit allowances had been calculated as a weighted average for all product types and it proposed to base it, for one product type, on the specific allowances incurred on inter-company sales of that product type only. The Commission considered that the volume of purchases by the related converter of that particular product type that could be used for this

calculation, during the investigation period, was not sufficiently representative to form a reliable basis for establishing the allowances for calculating a Korean ex-works export price of that product type. Indeed, most volumes of that product type were sourced through another related purchase channel which was not used for this calculation. Moreover, the Hansol Group could not demonstrate that the Commission's method to calculate and apply an average was not accurate. The claim was therefore rejected.

- (44) With regard to the SG&A calculated and applied for sales through one related trader in the Union, the Hansol Group contested after provisional and again after definitive disclosure that the amount added by the Commission as an expense in the related trader's profit & loss table with regard to management expenses. In this respect, the Commission recalls that the related trader in question had received, from Hansol Korea and other related converters, a financial contribution relating to management expenses. Those fees were included in the related trader's profit & loss table as an income and that had been accepted by the Commission. The Commission found it appropriate, under these circumstances, to take also into account 100 % of the related expenses, i.e. the salary expenses for the managers in question. These costs had been identified during the on-spot verification in Korea, were converted into Euro currency using the average investigation period exchange rate provided by the Commission and transferred to the profit & loss table of the related trader as an expense. In this way the treatment of the management fees (income) has been brought in balance with the treatment of the management salaries (expenses).
- (45) The Hansol Group claimed that the related trader had only generated turnover for part of the investigated period and that none of the managers had been involved in the sales of the product concerned. Therefore, the SG&A figure used had been overstated. The Commission's approach was to establish the SG&A rate (including the expenses in question) of the related trader in relation to the total turnover of that trader. That turnover relates in its totality to the product concerned. Even if the SG&A costs eventually considered may partly have been incurred before the turnover was generated, that does not disconnect them from this turnover as the costs had been incurred with a view to achieving this turnover. Therefore, the Commission considered that the approach taken was accurate. The claim was thus rejected.
- (46) After provisional and after definitive disclosure, the Hansol Group claimed that the Commission should have reclassified sales of one product type through the related converter as the final customer had been invoiced a different product type than the one he actually received. With regard to this issue, the Commission found during the on spot verification that the related converter purchased from Hansol group some quantity of jumbo rolls containing the developer Bisphenol-S but this product had been subsequently resold to an unrelated customer as containing the developer Bisphenol-A. The claim was duly verified and the following is noted. First, the two products are clearly different product types which have a different cost of production and are sold on the Korean domestic market at different prices. Second, the fact that the related converter, in its invoicing, has sold the product as a different product type on the Union market is, as such, not a valid reason for disregarding the actual product specifications for the purpose of price comparison. The party had not provided any evidence that the misleading product description at the resale stage also affected its selling price. Consequently, the claim was rejected.

2.3. Comparison

- (47) 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.
- (48) Following the comments of the Hansol Group after provisional disclosure, a claim concerning the calculation method and application of the conversion costs was accepted. This correction resulted also in the identification of a similar methodological error with regard to the deduction of certain transport cost allowances, which was thus corrected. Furthermore, a clerical calculation error was corrected subsequent to the Hansol Group's comment. Finally, the Hansol Group also claimed that a number of allowances (related to credit costs and duty drawback) should have been granted and the methodology for calculating the freight costs in the country concerned should be revised by applying the allocation method provided by the Hansol Group. The Commission also accepted these claims and adjusted the normal value and/or export price calculations accordingly.

2.4. Dumping margin

2.4.1. Weighting of the dumping margins

- (49) As explained in recital (46) of the provisional Regulation, the provisional dumping margin established for the Hansol Group was a weighted average of the dumping margins established for the sales of jumbo rolls (margin of 0,5 % - 5 % with a weight of 15 % - 25 %) and the sales of small rolls (margin of 10 % - 15 % with a weight of 75 % - 85 %). This weighting was based on the Hansol Group's Union sales volume to related and unrelated customers during the investigation period.
- (50) Following provisional and definitive disclosure, the Hansol Group claimed that there was no legal basis to apply such weighting and that the weighting was based on unsubstantiated assumptions. This claim was rejected, as the weighting was based on the imported volumes of the product concerned during the investigation period as reported by the Hansol Group. The Commission considers that it is appropriate to adjust the weight of the dumping margin established for the sales to related parties (for subsequent resale as small roll to unrelated customers) to its actual weight as it was at Union frontier level during the investigation period.
- (51) The Hansol Group also contested the fact that the Commission constructed the CIF price used as denominator for those sales that were first converted by related parties in the Union into small rolls before being sold to unrelated users. It proposed that the Commission should use the average reported transfer CIF price of jumbo rolls or a calculated average CIF value per tonne on the basis of the direct sales of the Hansol Group to unrelated customers for those sales. Alternatively, if the Commission would not use one of the above methods, Hansol Group invited the Commission to apply an anti-dumping duty in the form of a specific amount per tonne instead of an ad valorem duty. The party argued that a duty expressed in the form of a specific amount per tonne would properly address its concerns that the ad valorem anti-dumping duty collected would allegedly exceed the amount of dumping found.
- (52) As concerns the latter argument, this is specifically addressed and accepted under recital (127) and (128) below. Therefore, the Commission does not need to take a position on the two options for alternative CIF values proposed by the Hansol Group as they become without object.
- (53) Further to the definitive disclosure, the Hansol Group contested the deduction of credit costs in the calculation of the constructed CIF value. This claim could be accepted. Furthermore, the CIF price used as a denominator was affected by the changes described in recital (41) to (42) above.
- (54) Taking into account the changes in the establishment of the export price, normal value and CIF price, as set out in recital (41), (42), (48) and (53) above and confirming the other findings in recitals (25) to (47) of the provisional Regulation, the definitive weighted average dumping margin of the Hansol Group, expressed as a percentage of the CIF Union frontier price, duty unpaid, was 10,3 %. As described in recitals (49) and (50) of the provisional Regulation, the residual dumping margin was set at the same level.

3. INJURY

3.1. Introduction

- (55) The Hansol Group claimed that the situation of the Union industry did not deteriorate because a number of injury indicators developed positively or were stable. This claim was already dismissed in recitals (95) to (96) of the provisional Regulation and is hereby definitively rejected.
- (56) In order to conclude that there is material injury, it is not necessary that the injury analysis shows that every single indicator points to an injurious situation. Indeed, pursuant to Article 3(5) of the basic Regulation, one or several of the relevant injury factors cannot necessarily give a decisive guidance. In this case, the injury found is material. This is illustrated in particular by the level of profitability, the price-related indicators and the Union industry's market share. All sampled producers experienced a strong linear decrease in profits and cash flows that coincided in time with the surge of imports from the Republic of Korea. In addition, the Union industry sales volume on the Union market remained relatively stable, but since this occurred in the context of a significant

increase in the Union consumption (+ 15 %), the Union producers' market share was actually declining. Even if some injury factors such as capacity utilisation, employment, labour costs and investments could not give decisive guidance about the injurious situation of the Union producers, they did not contradict nor preclude the finding of material injury.

- (57) The specific arguments raised by the Hansol Group on particular injury indicators are addressed in detail in the rest of this Section.

3.2. Definition of the Union industry and Union production

- (58) In the absence of any comments with respect to the definition of the Union industry and Union production, the conclusions set out in recitals (51) and (52) of the provisional Regulation were confirmed.

3.3. Union consumption

- (59) In the absence of any comments with respect to the Union consumption, the conclusions set out in recitals (53) to (55) of the provisional Regulation were confirmed.

3.4. Imports from the country concerned

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

- (60) The volume of imports from the country concerned during the investigation period was well above negligible levels ⁽¹⁾.
- (61) In the absence of any comments with respect to the volume and market share of the imports from the country concerned, the conclusions set out in recitals (56) to (58) of the provisional Regulation were confirmed.

3.4.2. Price of the imports from the country concerned and price undercutting

- (62) The Hansol Group deemed the 8,1 % undercutting margin provisionally established not significant due to the limited volume of imports (13,6 % of Union consumption). The party claimed that the WTO Panel report on *DRAM Chips* ⁽²⁾ considers that 'significant' means important, major, consequential, more than just a nominal/marginal movement. It also quotes two cases (*Dense sodium carbonate* ⁽³⁾ and *Certain laser optical reading systems* ⁽⁴⁾) where the Commission considered that the undercutting margin was limited.
- (63) The Commission dismissed the Hansol Group's claims on the following grounds. First, even if in *Dense sodium carbonate* the Commission regarded a 6 % undercutting margin as not significant, it is noted that the market share of imports in that case was much lower (3,2 % before 1983; 1,4 % afterwards) than in the current case. Second, the *Certain laser optical reading systems* decision concerned mainly non-homogenous products with a great variety of features and technical differences and subject to rapid technological development, which is not the case of LWTP products. Last but not least, the Commission considered that for LWTP an 8,1 % undercutting margin was significant given that the level of dumped imports was important and that it sharply increased during the period considered. As indicated in recital (67) below, the established definitive undercutting margin was even higher than the provisional one, which also rebuts the argument that the margin had to be considered as limited.

⁽¹⁾ Article 5(7) of the Basic Regulation sets the bar for 'negligibility' at 1 % market share, unless the exporting countries collectively account for at least 3 % of Union consumption.

⁽²⁾ WTO Panel Report, European Communities — Countervailing measures on Dynamic Random Access Memory Chips from Korea, WT/DS299/R, 3.8.2015.

⁽³⁾ Commission Decision 90/507/EEC of 7 September 1990 terminating the review of the anti-dumping measures concerning dense sodium carbonate originating in the United States of America (OJ L 283, 16.10.1990, p. 38).

⁽⁴⁾ Commission Decision 1999/55/EC of 21 December 1998 terminating the anti-dumping proceeding concerning imports of certain laser optical reading systems, and the main constituent elements thereof, for use in motor vehicles, originating in Japan, Korea, Malaysia, the People's Republic of China and Taiwan (OJ L 18, 23.1.1999, p. 62).

- (64) The Hansol Group's claim that the undercutting calculation was illegal was rejected on similar grounds as those stated in Section 6.1 below.
- (65) In order to follow the same methodology as the dumping calculation, at definitive stage it was decided to calculate price undercutting by applying the same weighting as in Section 2.4.1 of this Regulation. The undercutting margin established for the Hansol Group was a weighted average of the margins established for the sales of jumbo rolls (margin of – 5 % - 0 % with a weight of 15 % - 25 %) and the sales of small rolls (margin of 10 % - 20 % with a weight of 75 % - 85 %). This approach and the corrections explained in Section 2 above entailed a revision of the undercutting margin provisionally established.
- (66) Following definitive disclosure, the Hansol group claimed that the Commission did not draw the consequences from the negative undercutting margin found for one part of the sales and thereby violated Articles 3(2) and 3(3) of the basic Regulation. This claim was however rejected since the Commission made its conclusions on the basis of the overall undercutting margin, in line with its normal practice.
- (67) The definitive undercutting margin amounts to 9,4 %.
- (68) In the absence of any further comments with respect to the price of the imports from the country concerned, and with the exception of the undercutting margin, as explained in the recitals above, the conclusions set out in recitals (59) to (64) of the provisional Regulation were confirmed.

3.5. Economic situation of the Union industry

3.5.1. Macroeconomic indicators

3.5.1.1. Production, production capacity and capacity utilisation

- (69) The Hansol Group claimed that the situation of the Union industry did not deteriorate because, except for one company, the production results were impressive and some Union producers increased their production capacity and capacity utilisation. It also claimed that capacity utilisation was close to full capacity.
- (70) However, as regards production, recital (70) of the provisional Regulation showed that the Union industry's production volume decreased overall by one per cent. This negative trend is consistent with the finding that the industry was in an injurious state, given the high fixed costs it incurs. This overall finding cannot be undermined by the situation of some individual producers. In any event, the substantial increase in the production output of one non-sampled producer was only the mathematical result of the restart of operations that had been temporarily halted, as explained in recital (71) of the provisional Regulation. Furthermore, one producer was phasing out LWTP production. This took place in the context of an increasing Union consumption during the period considered (+ 15 %). In past cases, such as in *Certain candles* ⁽¹⁾, the Commission found injury in the presence of an increase in production (which is not the case in LWTP), where such increase was lower than the increase in Union consumption.
- (71) As to production capacity, it is not correct that, as the party claimed all Union producers increased their production capacity, except for one company. The Union producer mentioned in recital (71) of the provisional Regulation did not increase its production capacity as such. It simply restarted a production facility that was not available for use in 2012, hence not considered as existing capacity that year. In addition, recital (70) of the provisional Regulation highlights the difficulties experienced by one sampled company as regards production.
- (72) As to the overall capacity utilisation, Table 4 of the provisional Regulation does not show an increase but a drop in capacity utilisation within the Union industry during the period considered. The substantial increase by one producer of its capacity utilisation was the result of the restart of operations after the halt stated in recital (71) of the provisional Regulation.

⁽¹⁾ Commission Regulation (EC) No 1130/2008 of 14 November 2008 imposing a provisional anti-dumping duty on imports of certain candles, tapers and the like originating in the People's Republic of China (OJ L 306, 15.11.2008, p. 22).

- (73) Furthermore, even though a 92 % capacity utilisation may indeed seem high, it is considered that an 8 % gap between capacity and actual utilisation, especially in a high fixed costs industry, is not insignificant. LWTP producers have to maintain a constant order book, keep selling and producing in order to avoid idle time on their production lines. A paper producer would prefer selling a product at a lower price, rather than producing less, as idle machines would likely cause even greater injury. Given the highly capital-intensive nature of the paper industry and the often limited pricing scope when selling, high utilisation rates are essential to profitability. Thus, marginal shifts in utilisation rates can make or break a firm. As to the 8 % gap, it represents 32 240 tonnes of LWTP production, which is more than the Hansol Group's import volumes in 2015. In addition, Union producers have multi-purpose equipment with 'swing capacity' and can easily offer more capacity, as highlighted in recital (125) of the provisional Regulation. However the 'swing capacity' cannot be used in a market where dumping practices exist.
- (74) Consequently, the above claims were rejected, and, in the absence of other comments, the conclusions set out in recitals (69) to (72) of the provisional Regulation were confirmed.

3.5.1.2. Sales volume and market share

- (75) The Hansol Group claimed that the situation of the Union industry did not deteriorate because i) Union producers increased their sales in the Union and ii) decided to reduce sales of the product concerned to the Union market in order to concentrate their efforts on third country markets.
- (76) The above claims were rejected since, even if the Union industry sales volume on the Union market overall increased by 1 % during the period considered, Union producers could not reap full benefits of the increase in Union consumption (+ 15 %). This was translated into a substantial loss of market shares. As to the claim regarding the reduction of sales onto the Union market, it is in contradiction with the first part of the claim.
- (77) In the absence of other comments, the conclusions set out in recitals (73) to (75) of the provisional Regulation were confirmed.

3.5.1.3. Employment, labour costs and productivity

- (78) The Hansol Group claimed that the situation of the Union industry did not deteriorate because Table 6 of the provisional Regulation summarizes the good performance of the Union industry with reference to employment. The party stated as well that there was no inflation which could explain an increase in labour costs.
- (79) As to employment, the Commission did not find that the Union industry was performing well. As highlighted in the provisional Regulation, in contrast it found that the employment level went down by 1 %. According to the file for inspection by interested parties, the employment level increased significantly for two of the Union producers. However, given the size of these producers, this translates into few jobs in absolute terms and into an overall decrease for the Union industry as a whole. In any case, bearing in mind that in this specific sector the employment level follows closely production, employment is not considered to be an indicator giving decisive guidance about the injurious situation of the Union producers.
- (80) Following definitive disclosure, the Hansol Group claimed that the workforce from two Union producers should be excluded from Table 6 of the provisional Regulation because of their specific situation. This claim was rejected because no justification was provided in order to allow the Commission to depart from its normal practice as regards its analysis of macroeconomic injury indicators.
- (81) As far as labour costs are concerned, recital (86) of the provisional Regulation must be interpreted in the sense that the increase in labour costs did not seem too high in light of the annual inflation rates.
- (82) Accordingly, the above claims were rejected, and, in the absence of other comments, the conclusions set out in (77) to (79) and (85) to (86) of the provisional Regulation were confirmed.

3.5.1.4. Prices and factors affecting prices

- (83) The Hansol Group claimed that the prices in the Union by the Union producers should be further investigated. This party put into question the absence of price increases by Union producers during the investigation period based on the allegation that some Union producers increased their sales prices. The Hansol Group also stated that the sale price decrease that took place between 2013 and 2014 was caused by the fact that one Union producer flooded the Union market with goods that it could not sell in the United States of America ('USA').
- (84) The above claims were rejected. As regards the first claim, the fact that some producers had announced a series of price increases did not mean that all the increases materialised. The party's claim is based on price increases for Union industry sales to its related companies, which only represent a minor part of the Union consumption. According to Table 7 of the provisional Regulation, which is based on verified figures, there was not an overall increase in prices in the Union. Last but not least, the drop in sale prices between 2013 and 2014 coincides in time with the biggest decrease of import prices from the Republic of Korea according to Table 3 of the provisional Regulation.
- (85) Concerning the second claim, Table 5 of the provisional Regulation (sales volume on the Union market by the Union industry) does not show any sign of the alleged flood. Between 2013 and 2014 the index went from 101 to 97.
- (86) In the absence of other comments, the conclusions set out in (82) to (84) of the provisional Regulation were confirmed.

3.5.1.5. Inventories

- (87) The Hansol Group claimed that the situation of the Union industry did not deteriorate because inventory levels decreased both in absolute and relative terms, thus the Union industry found no difficulty in selling its output.
- (88) The above claims were rejected because, as stated in recital (88) of the provisional Regulation, in general the like product is produced on the basis of specific orders of the users. Hence, stocks are not considered to be an important injury indicator for this type of industry because they follow production and during the period considered they consistently remained not bigger than the production of one month.
- (89) In the absence of other comments, the conclusions set out in (87) to (88) of the provisional Regulation were confirmed.

3.5.1.6. Profitability and investments

- (90) The Hansol Group claimed that the situation of the Union industry did not deteriorate because its investments more than doubled during the investigation period. In its view, Table 10 of the provisional Regulation and evidence on the record do not support the statement in recital (93) of the provisional Regulation that the sampled producers kept their level of investment to the amounts absolutely necessary to keep on running. It also claimed that two sampled Union producers made major investments in 2014.
- (91) The above claims were however rejected since, despite the fact that the investments doubled, the absolute level of investment 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. During the period considered, as pointed in recital (119) of the provisional Regulation, the Union industry postponed some investments due to shrinking profits.
- (92) The same party also asked for a reassessment of the Union industry's profitability because the problems of one sampled Union producer allegedly derived from factors not related to dumped imports but, in particular, from huge costs related to the closure of two mills, and, in addition, as a result of another company's provisions to cover future payments of anti-dumping duties in the USA. It added that any bias concerning the market strategies undertaken by the other two sampled companies on different geographical markets should be eliminated and alleged that, in overall, the same two companies generated substantial profits during the investigation period.

- (93) The Commission considered that there is no need for a reassessment of the Union industry's profitability because all exceptional costs alleged were already isolated and excluded from the establishment of the profitability showed at provisional stage. Also, as stated in recital (90) of the provisional Regulation, 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, i.e. profitability in non-Union markets was put aside. Therefore, those claims were rejected.
- (94) In the absence of other comments, the conclusions set out in recitals (89) to (91) and, as regards investments, in recital (93) of the provisional Regulation were confirmed.

3.5.1.7. Magnitude of the dumping margin, growth, cash flow, return on investments and ability to raise capital

- (95) In the absence of comments regarding magnitude of the dumping margin, growth, cash flow, return on investments and ability to raise capital, the conclusions set out in recitals (76), (80) to (81), (92), (93) as regards return on investments and (94) of the provisional Regulation were confirmed.

3.5.2. Conclusion on injury

- (96) On the basis of the analysis of the comments summarized in recitals (55) to (95) above, the conclusions set out in recitals (95) to (98) of the provisional Regulation were hereby confirmed.

4. CAUSATION

- (97) The Hansol Group claimed that the injury could not be attributed to the imports of dumped imports from the country concerned but to: the impact of the USA anti-dumping measure on one sampled Union producer; the impact of manufacturing costs together with exchange rates; and the impact of the price of phenol-free LWTP. Most of the arguments were a reiteration of those already brought forward at the provisional stage. They are all addressed in recitals (98) to (101) below.
- (98) As to the USA anti-dumping measure, the Commission noted that in recital (109) of the provisional Regulation it was acknowledged that there was some impact on the Union producer in question. Even if such impact was not confined to that company, as explained in recital (110) of the provisional Regulation, the overall impact was almost inexistent for the Union industry as a whole during the investigation period. In recital (110) of the provisional Regulation it was established that the USA imposed high duties on one Union producer only, but that these duties were lifted in 2015 and that the sampled Union producer managed to partially compensate by increasing exports to other markets. Whether the sampled Union producer in question managed to fully compensate lost sales in the USA and recover is irrelevant since those circumstances would have no effect on most of the data relating to that Union producer, as stated in recital (109) of the provisional Regulation. Contrary to what the Hansol Group suggests, there was not a flood of LWTP originating in the Union at the time when USA high duties were in place (this claim is further rebutted in recital (85) above) or an increase of sales prices in 2015 (as shown in Tables 3 and 7 of the provisional Regulation). On the basis of the above and of the findings at provisional stage, it was concluded that the USA anti-dumping measures analysed did not lead to a decrease in prices and profitability on the Union market.
- (99) As to manufacturing costs, the party first focused only on the period 2014-2015. After definitive disclosure, it extended the claim to the whole period under investigation and submitted that the increase in raw material prices, together with the downward trend of the Euro exchange rate particularly affected the Union industry. It was however established that, during the period considered, the loss in profitability was due to the lack of correlation between costs (+ 3 %) and prices (– 11 %), the drop in prices being higher than the cost increases. On the basis of the above and of the findings at provisional stage, it was concluded that the increase in costs did not break the causal link between material injury and dumped imports from the Republic of Korea.

- (100) As regards the impact of the price of phenol-free LWTP, the alleged higher purchase prices of some companies related to the exporting producer do not contradict the overall finding in recital (113) of the provisional Regulation that 'over the period considered the unit sales prices of phenol-free LWTP dropped less than the unit sales prices of phenol-containing LWTP'. Those companies represent a minor share of Union consumption. On the basis of the above and of the findings at provisional stage, it was concluded that the Union industry's price depression could not be attributed to the alleged price decrease of phenol-free LWTP.
- (101) The Hansol Group claimed that even if none of the alleged factors alone had decisive influence, the Commission should further investigate actual causes of alleged injury, including their aggregated effect. This claim was however rejected, since the Commission already made such a combined assessment in recital (121) of the provisional Regulation, and no new element was brought forward after the imposition of the provisional measures.
- (102) On the basis of the above and in the absence of any other comments, the conclusions set out in recitals (99) to (121) of the provisional Regulation were confirmed.

5. UNION INTEREST

5.1. Interest of the Union industry

- (103) The complainant suggested the existence of a threat of further injury to Union producers in light of the Hansol Group's announcement to significantly increase its thermal paper capacity by 2019. Given the findings on material injury, the Commission did not carry out a threat of injury analysis.
- (104) In the absence of any comments regarding the interest of the Union industry, the conclusion set out in recitals (123) to (128) of the provisional Regulation were confirmed.

5.2. Interest of other interested parties

- (105) The Government of Korea reiterated its claim stated in recital (132) of the provisional Regulation without providing any additional evidence. Such claim was already dismissed at provisional stage.
- (106) The Government of Korea also claimed that measures are not in the Union interest on the grounds that many European converters and importers expressed their objections at the hearing in September 2016 (see recital (5) of the provisional Regulation), that measures will negatively affect Hansol Group's subsidiary converters, which comprise the downstream sector in the LWTP industry, and that Union producers are large companies, whereas the Hansol Group's subsidiary converters are mostly small and medium-sized enterprises ('SMEs') without much power to influence prices.
- (107) The above claims were rejected. The investigation did not find that there is a majority of converters and importers in the Union against measures, as further developed in recital (109) below. Moreover, it was not possible to conclude to what extent measures would negatively affect Hansol Group's subsidiaries in the Union, also bearing in mind that the Hansol Group's itself highlighted that one of such subsidiaries was having negative results due to bad management. As to the size of the Hansol Group's subsidiary converters, it is noted that ultimately they belong to a large group. Since the Hansol Group's itself acknowledged the unwillingness of final customers to accept price increases, it is concluded that customers have bargaining power in price negotiations.
- (108) The Hansol Group claimed that the Union downstream industries are almost unanimously against the imposition of measures and that, according to the files open for inspection by interested parties, at least 36 unrelated converters and end-users expressed their strong opposition to measures. Following definitive disclosure, the party claimed that the Commission had neglected the fact that the majority of the cooperating Union downstream converting and user industry opposed the imposition of measures. It was claimed that the fact that not all Union downstream industries expressed their opposition, or the fact that many of them did not reiterate their point of view following the provisional disclosure, would not undermine their opposition.

- (109) The above claims were rejected. Recital (129) of the provisional Regulation takes stock of the limited cooperation of some parties. Many Union downstream industries remained silent during the investigation and no downstream industry made any representation following provisional or definitive disclosure. This silence could not be interpreted as opposing the measures, but as 'unknown position'. As mentioned under recital (130) of the provisional Regulation, in terms of purchase volume of LWTP, the converters that came forward and expressed to be in favour of measures weigh more than the ones that did not express views or were opposing the measures. After the additional final disclosure an additional converter expressed to be in favour of the measures. Also the Confederation of European Paper Industries, which ultimately represents many downstream industries, expressed to be in favour of the measures both at initial and definitive stage. As to the files available to interested parties for access, they show that around one third of the unrelated converters and end-users counted in the recital above opposed to measures at some point of the proceeding before provisional disclosure.
- (110) The Hansol Group claimed that the measures are against the interest of European businesses because the Union market can be defined as a duopoly/oligopoly and competition should be promoted, as there are no alternative sources of supply, the Union producers lack competitive infrastructure and would not be able to efficiently switch production to LWTP, because it is highly unlikely that the smaller Union producer would decide to reverse a business decision that resulted in increased profitability and because European SMEs that are active in the downstream industry will face limited availability of supply combined with unreasonable prices which will severely threaten their survival. Moreover, the measures would eliminate competition and entail a loss of employment for users.
- (111) The above claims were rejected. The mere existence of few producers in the Union is irrelevant and, as pointed out in recital (115) of the provisional Regulation, there is no evidence on file of any anti-competitive practices. According to recital (131) of the provisional Regulation, there are several sources of supply in the Union. Additional alternatives exist: the Hansol Group's imports (at fair prices) and minor imports from other third countries. The claim on lack of competitive infrastructure is contradicted, inter alia, by the Hansol Group's submission dated 8 December 2016, which describes the Union industry as 'high-performing'. As to the smaller Union producer, it is open to reverse to decision if there are better prospects for LWTP. As far as the downstream industry is concerned, it is considered that it will benefit from the Union industry's significant capacity (as stated in recital (73), the various sources of supply above-mentioned and from restored competition in the Union market.
- (112) The Hansol Group also alleged that measures would be against the interest of consumers, who will be prevented from having access to reasonably priced LWTP. In the absence of any substantive evidence supporting this claim, this allegation was dismissed.
- (113) The Hansol Group further alleged that measures would entail, on top of a flood of Chinese small rolls, the creation of new converting mills around the Union border with free access to raw material, thus the closure of many converters in the Union. In the absence of any substantive evidence supporting this claim, this allegation was dismissed.
- (114) In the absence of any other comments regarding the interest of other interested parties, the conclusion set out in recitals (129) to (134) of the provisional Regulation were confirmed.

5.3. Other arguments

- (115) Hansol Group claimed that a select group of European businesses pursue an artificial increase of their profits by seeking the Commission to abuse the anti-dumping instrument.
- (116) The above claim was not further substantiated. The Commission underlined that the investigation was conducted within the applicable legal framework with the highest standards for neutrality and transparency.

5.4. Conclusion on Union interest

- (117) In the absence of any other comments concerning the Union interest, the conclusion reached in recital (135) of the provisional Regulation was confirmed.

6. DEFINITIVE ANTI-DUMPING MEASURES

6.1. Injury elimination level

- (118) Following provisional disclosure, no parties made comments on the target profit provisionally used for calculating underselling. No parties made comments on the target profit at definitive stage, either.
- (119) The Hansol Group challenged the application by the Commission of Article 2(9) for the injury calculations, stating that Article 2(9) appears under the dumping provisions of the basic Regulation and could not be used by analogy for calculating the injury margin. The party contested that the calculation is largely based on adjusted sales transaction for small rolls, a different product not subject to the investigation. According to the Hansol Group, there is no point of competition between the sales of small rolls into the Union by its related converters and the sales of jumbo rolls by the Union industry and, by calculating the injury margin on the basis of sales prices of a product which is not the like product within the meaning of Article 1(4) of the basic Regulation, the Commission violated Article 3(3) of the basic Regulation. The party backed its point in terms of causal link by resorting to Article 3(6) of the Basic Regulation, the WTO Appellate Body Report China — GOES ⁽¹⁾ and the WTO Panel Report China — X-ray ⁽²⁾.
- (120) The purpose of calculating an injury margin is to determine whether imposing a lower duty rate (than the one based on the dumping margin) to the export price of the dumped imports would be sufficient to remove the injury caused by the dumped imports. This assessment should be based on the export price at the Union frontier level which is considered to be a level comparable to the Union industry ex-works price. In the case of export sales via related importers, by analogy with the approach followed for the dumping margin calculations, the export price was constructed on the basis of the resale price to the first independent customer duly adjusted pursuant to Article 2(9) of the basic Regulation. As the export price is an indispensable element in the injury margin calculation, and as this Article is the only Article in the basic Regulation which gives guidance on the construction of the export price, the application of this Article by analogy is justified.
- (121) The Commission considered that the establishment of the relevant import price for undercutting and underselling calculations should not be influenced by the fact whether the exports are made to related or independent operators in the Union. The methodology followed by the Commission ensured that both circumstances receive equal treatment.
- (122) The injury margin calculation should normally be based on a comparison of prices at the level where competition in the EU takes place. In this case, only a small portion of the export sales of the product concerned are done to unrelated customers in the EU. The vast majority of the sales of the product concerned are done to related converters in the Union which convert the products into small rolls. In these circumstances, most of the competition took place at the level of the related converters. By analogy with the dumping calculations, these sales prices could not be considered reliable for the purpose of an objective price comparison. Consequently, import prices for the product concerned had to be constructed. Section 2.2 above further develops the reasons why small rolls could not be ignored in the calculations and why, for certain transactions, it was necessary to construct export prices.
- (123) To the extent the Commission confirmed its approach to consider small rolls for the purpose of the calculations, the references to Articles 3(3) and 3(6) of the basic Regulation, the WTO Appellate Body Report China — GOES and the WTO Panel Report China — X-ray are irrelevant.
- (124) For the above reasons, the Commission considered that the approach followed was accurate and rejected the claims.
- (125) In order to follow the same methodology as the dumping calculation, at definitive stage it was decided to calculate the injury margin by applying the same weighting as in Section 2.4.1 of this Regulation. This approach and the corrections explained in Section 2 above entailed a revision of the injury margin provisionally established.

⁽¹⁾ Appellate Body Report, China — GOES, WT/DS414/AB/R, dated 18 October 2012, para. 128.

⁽²⁾ Panel Report, China — X-ray, WT/DS425/R, dated 26 February 2013, para. 7.50.

- (126) The definitive injury margin thus established amounted to 37,0 %.

6.2. Form of the measures

- (127) It is recalled that most sales of the Hansol Group are through related parties for conversion into small rolls. Following final disclosure, the Hansol Group contested the fact that the Commission had constructed the CIF price used as denominator for those sales (see recital (51) above). In this regard it submitted, inter alia, that the CIF price the Commission had provisionally used as a denominator in the dumping calculation for those sales would result in a duty amount higher than the amount of dumping found. To remedy this alleged distortion, the Hansol Group proposed that the Commission should apply an anti-dumping duty in the form of a specific amount per tonne instead of an ad valorem duty.
- (128) The claim was duly analysed and in view of the specific circumstances of this case in relation to the determination of a reliable CIF price for these sales, the Commission concluded that it would be more appropriate to use a form of duty that does not require a reliable CIF price to be established. Therefore, the Commission decided that the anti-dumping duty should be imposed as a fixed amount per tonne in euro per tonne net instead of an ad valorem duty as provisionally imposed.

6.3. Definitive measures

- (129) Taking into account the issues mentioned in the section above, the anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be based on the dumping margin and be as follows:

Country	Company	Definitive dumping margin (%)	Definitive injury margin (%)	Definitive duty rate (%)	Definitive fixed duty rate — EUR per tonne
The Republic of Korea	Hansol Group (Hansol Paper Co., Ltd and Hansol Artone Paper Co., Ltd)	10,3	37,0	10,3	104,46
	All other companies	10,3	37,0	10,3	104,46

- (130) Subsequent to the additional final disclosure, the Hansol Group submitted that the specific duty calculated and reported in the last column of the above table would reflect a dumping amount in excess of that found in the investigation. However, the calculation it had conducted to arrive at such conclusion was erroneous as it did not account for the weighting as described in recital (46) of the provisional Regulation and recital (49) above. The claim was therefore rejected.
- (131) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation.
- (132) As also explained in recital (50) of the provisional Regulation, the level of cooperation in this case was high, as the imports of the cooperating exporting producers constituted the total exports to the Union during the investigation period. Therefore, the residual anti-dumping duty was based at the level of the cooperating company.
- (133) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

6.4. Definitive collection of the provisional duties

- (134) 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. The amounts secured in excess of the definitive duty rate determined pursuant to Article 1(2) of this Regulation should be released.
- (135) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of certain lightweight thermal paper weighing 65 g/m² or less; in rolls of a width of 20 cm or more, a weight of the roll (including the paper) of 50 kg or more and a diameter of the roll (including the paper) of 40 cm or more ('jumbo rolls'); with or without a base coat on one or both sides; coated with a thermos-sensitive substance on one or both sides; and with or without a top coat, originating in the Republic of Korea, currently falling within CN codes ex 4809 90 00, ex 4811 90 00, ex 4816 90 00 and ex 4823 90 85 (TARIC codes: 4809 90 00 10, 4811 90 00 10, 4816 90 00 10, 4823 90 85 20)
2. The rate of the definitive anti-dumping duty applicable to the product described in paragraph 1 shall be a fixed amount of EUR 104,46 per tonne net.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of the provisional anti-dumping duties pursuant to Implementing Regulation (EU) 2016/2005 shall be definitively collected. The amounts secured in excess of the rate of the duty contained in Article 1(2) above shall be released.

Article 3

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

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

Done at Brussels, 2 May 2017.

For the Commission
The President
Jean-Claude JUNKER