Commission Implementing Regulation (EU) 2020/1080 of 22 July 2020 imposing a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1080

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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 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 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. **Measures in force**

(1) In May 2014, the Commission imposed a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China ('the PRC' or 'China'), by Commission Implementing Regulation (EU) No 470/2014[(2)] ('the original measures').

(2) In August 2015, following an absorption reinvestigation under Article 12 of the basic Regulation, the Commission amended the original measures by Commission Implementing Regulation (EU) 2015/1394[(3)]. The individual anti-dumping duties range from 17,5 % to 75,4 %. All other companies are subject to a country-wide anti-dumping duty of 67,1 % ('the measures in force').

(3) In separate proceedings, the Commission imposed countervailing duties ranging from 3,2 % to 17,1 % in May 2014[(4)].

1.2. **Initiation of an expiry review**

(4) Following the publication of a notice of impending expiry of the measures in force[(5)], EU ProSun Glass ('the applicant'), representing more than 25 % of the total Union production of solar glass, requested the initiation of an expiry review on 13 February 2019 ('review request'). It argued that the expiry of the original measures would be likely to result in continuation or recurrence of dumping and a continuation or recurrence of injury to the Union industry.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1080. (See end of Document for details)*

(5) On 14 May 2019, the Commission announced, by a notice published in the *Official Journal of the European Union*[6] ('the Notice of Initiation'), the initiation of an expiry review of the measures in force pursuant to Article 11(2) of the basic Regulation.

1.3. Investigation

1.3.1. *Review investigation period and period considered*

(6) The review investigation period ('RIP') covered the period from 1 January 2018 to 31 December 2018. The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2015 to the end of the RIP ('the period considered').

1.3.2. *Interested parties*

(7) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In particular, it contacted the applicant, the known producers in the Union, the known exporting producers in the PRC, the known unrelated importers, users of the product under review in the Union and the authorities of the PRC.

(8) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request a hearing with the Commission investigation services and/or with the Hearing Officer in trade proceedings ('the Hearing Officer').

(9) One of the Union producers requested that its name is kept confidential on the grounds that the participation of the group it belongs to in the proceedings could have repercussions on the group's business in China and may lead to retaliation by its customers. The Commission examined the request. It considered that the mere presence of the group in China described an abstract danger and was not sufficient to translate into a concrete threat of retaliation. No concrete element of proof was brought to the attention of the Commission services in this respect. Furthermore, none of the group's businesses in China related to the solar glass business. On this basis the Commission decided to reject the request.

(10) The company turned to the Hearing Officer on the issue. The Hearing Officer endorsed the Commission's rejection because it considered that the request for anonymity had been based on assumptions of possible retaliation rather than on actual threats to the company or the group and because the company had not provided any new facts or information that would justify a change of the earlier decision.

(11) Several parties requested a hearing with the Commission services. A hearing between the Commission and the two sampled Union producers took place on 9 January 2020. A hearing with the REC Group, Solitek and EU ProSun, an association representing several users, took place on 11 February 2020. The hearings concerned arguments of the different parties further detailed in Sections 4 to 6 on injury and on Union interest.

1.3.3. *Sampling*

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

1.3.3.1. *Sampling of Union producers*

(13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample based on the largest volume of production and sales of the like product that could be reasonably investigated within the time available. The sample consisted of two Union producers accounting for more than 80 % of the Union production of the product under review. The Commission invited interested parties to comment on the provisional sample. The only comment received by the applicant was in favour of the sample. The sample is representative of the Union industry. It consists of the following two companies:

— Saint-Gobain Glassolutions Isolierglass-Center GmbH (‘Saint Gobain Solar’),

— Interfloat and GMB Glasmanufaktur Brandenburg GmbH (‘Interfloat Group’).

1.3.3.2. *Sampling of importers*

(14) 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, and invited them to participate in this investigation.

(15) No unrelated importers in the Union cooperated.

1.3.3.3. *Sampling of exporting producers in the PRC*

(16) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the Mission of the People’s Republic of China to the European Union to identify other exporting producers, if any, that could be interested in participating in the investigation.

(17) No company from the PRC came forward within the time limit. A company from the PRC sent a belated submission, but eventually did not cooperate.

(18) Consequently, the Commission informed the authorities of the PRC by Note Verbale of 24 May 2019 that it intended to resort to the use of facts available under Article 18 of the basic Regulation when examining the continuation or recurrence of dumping. The authorities of the PRC did not respond to the Note Verbale.

1.3.4. *Questionnaires and verification visits*

(19) The Commission sent questionnaires to the government of the PRC (‘GOC’) and to the two sampled Union producers. The GOC did not provide any reply to the questionnaire. Both sampled Union producers provided questionnaire replies.

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(20) Without prejudice to the application of Article 18 of the basic Regulation, the Commission verified all the information it deemed necessary for a determination of the likelihood of continuation or recurrence of dumping and injury, and of the Union interest. Verification visits were carried out at the premises of the two sampled Union producers.

1.3.5. *Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation*

(21) Given the sufficient evidence available at the initiation of the investigation pointing to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation. In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline.

(22) In point 5.3.2 of the Notice of Initiation the Commission also specified that, in view of the evidence available, it had provisionally selected Turkey as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in 2(6a)(a) first indent of the basic Regulation.

(23) On 14 June 2019, the Commission informed by a note ('the Note of 14 June') the interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of solar glass. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission confirmed its intention to choose Turkey as an appropriate representative country. The Commission received no comments on the Note of 14 June.

(24) On 17 February 2020, the Commission informed by a second note ('the Note of 17 February') the interested parties on the relevant sources it intended to use for the determination of the normal value, with Turkey as the representative country. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the company Sisecam/Trakya, a producer in the representative country. No comments were received.

1.3.6. *Subsequent procedure*

(25) On 26 May 2020, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure. The applicant, EU ProSun and the association of Union PV manufacturing industry, European Solar Manufacturing Council ('ESMC'), submitted comments.

(26) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. A hearing between the Commission services and EU ProSun took place on 9 June 2020.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

(27) The product under review is solar glass consisting of tempered soda-lime-flat-glass, with an iron content of less than 300 ppm, a solar transmittance of more than 88 % (measured according to AM1,5 300–2 500 nm), a resistance to heat up to 250 °C (measured according to EN 12150), a resistance to thermal shocks of Δ 150K (measured according to EN 12150) and having a mechanical strength of 90 N/mm^2 or more (measured according to EN 1288-3), currently falling under CN code ex 7007 19 80 (TARIC codes 7007 19 80 12, 7007 19 80 18, 7007 19 80 80 and 7007 19 80 85) and originating in the People's Republic of China ('product under review', commonly referred to as 'solar glass').

(28) Solar glass can be patterned or non-patterned, with either a transparent or diffuse surface or a variety of edgeworks. There can be different patterns on both sides of the glass or it can be just single-sided patterned. Solar glass may have drillings, and can also be printed through the application of, for example, ceramic colours. The surface of the glass may be treated using different technologies. The most common is an anti-reflective coating applied before or after the tempering process. Other technologies allow the solar glass to be coated with thin functional layers providing increased transmittance, self-cleaning, anti-soiling or hardness properties.

(29) Solar glass is one of the components for making crystalline silicon photovoltaic modules and thin film photovoltaic modules to produce electricity ('PV modules'), as well as flat photothermal energy collectors used, for example, in generating hot water ('photothermal modules'). It is also used for the construction of greenhouses (so-called 'horticultural glass' or 'greenhouse glass').

2.2. Like product

(30) As established in the original investigation, solar glass produced and sold by the Union industry in the Union and solar glass produced and sold on the domestic market of the PRC and solar glass imported into the Union from the PRC share the same basic physical and chemical characteristics and the same end uses. They are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING