Commission Implementing Regulation (EU) 2015/1394 of 13 August 2015 amending Regulation (EU) No 470/2014, as amended by Regulation (EU) 2015/588, imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of solar glass originating in the People's Republic of China following an absorption reinvestigation pursuant to Article 12 of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1394

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 12(3) thereof,

Whereas:

A. PROCEDURE

1. Original measures

(1) The measures currently in force ('the original measures') are definitive anti-dumping duty rates imposed by Commission Implementing Regulation (EU) No 470/2014[(2)] ranging from 0,4 % to 36,1 %. Article 1(2) of this Regulation was amended by Commission Implementing Regulation (EU) 2015/588[(3)]. By Commission Implementing Regulation (EU) No 471/2014[(4)], the Commission also imposed countervailing duty rates ranging from 3,2 % to 17,1 %.

2. Request for an absorption reinvestigation

(2) On 12 November 2014, a request for an absorption reinvestigation of the original anti-dumping measures was lodged pursuant to Article 12 of the basic Regulation. The request was submitted by the association EU ProSun Glass ('the applicant') on behalf of producers representing more than 25 % of the total Union production of solar glass.

(3) The applicant submitted sufficient information showing that after the original investigation period and prior to and following the imposition of the original measures export prices have decreased. This allegedly resulted in an increased dumping margin which has impeded the intended remedial effects of the original measures. The applicant

also provided evidence showing that imports of solar glass have continued to enter the Union in significant volumes.

(4) On 19 December 2014, the Commission announced by a notice published in the *Official Journal of the European Union*, the initiation of an absorption reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of solar glass originating in the People's Republic of China (PRC)[(5)].

3. **Parties concerned by the reinvestigation**

(5) In the Notice of reopening, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known exporting producers in the PRC, importers, traders, users, suppliers and the authorities of the PRC about the initiation of the investigation and invited them to participate.

(6) Interested parties had an opportunity to comment on the reopening of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. After disclosure one party requested such a hearing with the Commission and was able to submit its point of view on 23 June 2015.

4. **Sampling of exporting producers in the PRC**

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

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

(9) Five Chinese exporting producers or groups of exporting producers, representing around 70 % of total Chinese exports to the Union during the current investigation provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two groups of companies on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. The two selected groups of companies represent more than 60 % of total Chinese exports to the Union and 94 % of the exports of the companies that cooperated in this investigation.

(10) In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No comments were made. Therefore, the Commission decided to retain the proposed sample of two groups of companies and all interested parties were accordingly informed of the finally selected sample.

(11) The sample of exporting producers of solar glass was therefore the following:

— Flat Solar Glass Group Co., Ltd ('Flat Glass Group')

— Xinyi PV Products (Anhui) Holdings ('Xinyi Group')

5. **Replies to the questionnaire**

(12) The Commission sent questionnaires to both selected Chinese groups of exporting producers and to the unrelated importers, as well as to users that made themselves known within the time limits set out in the notice of reopening.

(13) Questionnaire replies were received from two Chinese exporting producers and three unrelated Union importers/users.

6. **Verification visits**

(14) The Commission sought and verified all the information deemed necessary for the purpose of this reinvestigation. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

— Flat Glass Group, Jiaxing, Zhejiang, PRC

— Xinyi Group, Wuhu, Anhui, PRC

7. **Disclosure**

(15) All interested parties were sent a disclosure document which contained the essential facts and considerations on the basis of which the Commission proposed to amend the definitive anti-dumping duty on solar glass originating in the People's Republic of China. All parties were informed of the deadline within which they could comment on the disclosure.

(16) The comments submitted by interested parties were considered and taken into account where appropriate.

8. **Investigation period**

(17) The absorption investigation period of this reinvestigation ('AIP') ran from 1 December 2013 to 30 November 2014. Export prices during the AIP were compared to those during the original investigation period of the investigation which led to the imposition of the original measures, which covered the period from 1 January 2012 to 31 December 2012 ('OIP').

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

(18) The product subject to this investigation is the same as in the original investigation and is defined as 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/mm2 or more

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1394. (See end of Document for details)*

(measured according to EN 1288-3) originating in the PRC ('the product concerned'), currently falling within CN code ex 7007 19 80.

(19) The investigation showed that the product concerned, the product produced and sold on the domestic market of the PRC, the product produced and sold on the domestic market of Turkey which served as an analogue country in the original investigation and the product produced and sold in the Union by the Union industry have the same basic physical, chemical and technical characteristics as well as the same basic uses. They are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. FINDINGS

(20) An absorption reinvestigation pursuant to Article 12 of the basic Regulation aims at establishing whether or not export prices have decreased or whether there has been insufficient movement in resale prices or subsequent selling prices in the Union of solar glass originating in the PRC since the imposition of the original measures. Where it is concluded that absorption took place, a new dumping margin should be calculated.

1. Decrease of export prices

(21) Exports of the product concerned were, in the AIP, made directly to unrelated customers in the EU.

(22) The Commission compared for both groups in the sample the prices of the product types sold in the AIP with the same product types sold in the OIP and calculated a weighted average level of absorption for both groups.

(23) During the original investigation the sampled companies mostly exported uncoated solar glass together with some small quantities of coated glass. The average premium in sales prices between uncoated and coated was found to be around 20 % during the original investigation. However, since then the solar panels industry worldwide has been moving from using uncoated to coated glass as the latter is a more efficient product. Nowadays, coated glass has become the standard and uncoated solar glass is mainly used for installations in an environment with adverse and harsh weather conditions. This evolution is also reflected in the export behaviour of the sampled exporting producers, whose exports changed diametrically from uncoated to coated solar glass.

(24) The comparison of the export prices of the IP with the AIP shows that for Flat Group export prices fell on average by 17,6 % and for Xinyi Group by 30,4 % for the product concerned exported in the AIP. Hence absorption can be established for both groups of companies.

(25) In accordance with Article 12(2) of the basic Regulation, importers, users and exporters were provided with an opportunity to submit evidence to justify a decrease in export prices and lack of movement in resale prices in the Union following the imposition of measures for reasons other than absorption of the anti-dumping duty.

(26) One exporting producer claimed -and reiterated the same claim after disclosure- that the decrease of export prices was not due to absorption but to efficient production methods, economy of scale and a more competitive environment for the product concerned. As a result the cost of production as well as export prices had gone down.

(27) The Commission rejected this claim. This claim refers to costs of production and can only be taken into account in the context of a re-examination of normal value. However, pursuant to Article 12(5) of the basic Regulation, alleged changes in normal value shall only be taken into account where complete information on revised normal values is made available to the Commission. This was not the case as none of the sampled groups of companies had requested the re-examination of normal values, as provided for in Article 12(5) of the basic Regulation and as mentioned in point 5.1.1. (a) of the Notice of reopening. Hence, the cost of production during the AIP was not verified and the scope of the investigation remains limited to the examination of the export prices. Any claim regarding alleged changes in the costs of production and/or normal value can only be addressed in an interim review, pursuant to Article 11(3) of the basic Regulation.

(28) After disclosure one exporting producer claimed that its export prices had not decreased or at least not to the same extent as the export prices of the sampled companies. It further argued that the apparent decrease in the export prices of the two sampled Chinese exporters and the recalculation of their dumping and injury margin could not form a basis for reassessing its individual new anti-dumping duty. Therefore, it requested an individual examination pursuant to Article 12(2) and Article 17(3) of the basic Regulation.

(29) The Commission rejected this claim. This exporting producer did not cooperate in this investigation and did not provide the necessary information within the time-limits provided for in the notice of initiation. Pursuant to Article 12(4) of the basic Regulation the reinvestigation shall be carried out expeditiously and normally be concluded within six months of the date of initiation of the reinvestigation. In any event, such reinvestigations shall in all cases be concluded within nine months of initiation of the reinvestigation. An individual examination, which was requested only at a late stage of the proceeding after disclosure, would therefore prevent completion of the investigation in due time.

(30) One importer/user claimed that the EU solar glass industry had insufficient supply of especially high-quality solar glass to meet the demands of the EU solar module industry and thus opposed imposition of additional measures. It further claimed that additional anti-dumping measures would lead to a shift of production of solar modules outside of the EU.

(31) The Commission rejected both claims. First, these claims would fall under the Union interest test which is not analysed in an absorption reinvestigation. Second, according to its questionnaire reply the user was able to source 100 % of its supplies of solar glass in the AIP from EU and third country solar glass manufacturers. Hence,