Commission Implementing Regulation (EU) 2015/1361 of 6 August 2015 repealing the definitive anti-dumping duty imposed on imports of certain candles, tapers and the like originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1361

of 6 August 2015

repealing the definitive anti-dumping duty imposed on imports of certain candles, tapers and the like originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

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 11(2) thereof,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) The Council, following an anti-dumping investigation (‘the original investigation’), imposed, by means of Council Regulation (EC) No 393/2009[(2)], a definitive anti-dumping duty on imports of certain candles, tapers and the like currently falling within CN code ex 3406 00 00 (TARIC code 3406 00 00 90) and originating in the People's Republic of China (‘the PRC’) (‘the definitive anti-dumping measures’).

(2) The measures took the form of a fixed amount of EUR per tonne of fuel content (usually but not necessarily in the form of tallow, stearin, paraffin wax or other waxes, including the wick) established at 549,33 EUR per tonne of fuel.

(3) Individual fixed duties were established for the following exporting producers: Aroma Consumer Products (Hangzhou) Co., Ltd (321,83 EUR/tonne), Dalian Bright Wax Co., Ltd (171,98 EUR/tonne), Dalian Talent Gift Co., Ltd (367,09 EUR/tonne). The following companies were subject to a zero duty rate: Gala-Candles (Dalian) Co., Ltd, M.X. Candles and Gifts (Taicang) Co., Ltd, Ningbo Kwung's Home Interior & Gift Co., Ltd, Ningbo Kwung's Wisdom Art & Design Co., Ltd, and its related company Shaoxing Koman Home Interior Co., Ltd and Qingdao Kingking Applied Chemistry Co., Ltd.

(4) As sampling was applied in the original investigation, an average duty for the cooperating producers not included in the sample at 345,86 EUR per tonne of fuel content was thus established according to the provisions of Article 9(6) of the basic

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1361. (See end of Document for details)*

Regulation. The duty for all other companies was established at 549,33 EUR per tonne of fuel content.

2. **Request for an expiry review**

(5) Following the publication of a notice of impending expiry[3] of the definitive anti-dumping measures in force, the Commission received on 14 February 2014 a request for the initiation of an expiry review of those measures pursuant to Article 11(2) of the basic Regulation.

(6) The request was lodged by 16 candles producers in the Union ('the applicants') representing more than 25 % of the total Union production of certain candles, tapers and the like.

(7) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and recurrence of injury to the Union industry.

3. **Initiation of an expiry review**

(8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced, on 14 May 2014, by a notice published in the *Official Journal of the European Union*[4] ('the notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Investigation**

4.1. *Review investigation period and period considered*

(9) The investigation of a continuation of dumping covered the period from 1 April 2013 to 31 March 2014 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a recurrence of injury covered the period from 1 January 2011 to the end of the RIP ('the period considered').

4.2. *Parties concerned by the investigation*

(10) The Commission officially advised the applicants, the other known Union producers, the known exporting producers in the PRC subject to the anti-dumping measures, the unrelated importers, the users known to be concerned, and the authorities of the PRC of the initiation of the expiry review investigation. All interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

4.3. *Sampling*

(11) In accordance with Article 17 of the basic Regulation, in view of the apparent large number of exporting producers in the PRC and of unrelated importers in the Union involved, it was considered appropriate to examine whether sampling should be applied. In order to enable the Commission to decide whether sampling would be necessary and,

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1361. (See end of Document for details)*

if so, to select a sample, those parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide, as specified in the notice of initiation, basic information on their activities related to the product under review during the period from 1 April 2013 to 31 March 2014.

(12) 25 exporting producers in the PRC submitted valid information in the framework of the sampling exercise and agreed to cooperate in the investigation. They accounted for 36 % of the total volume of imports made into the Union by Chinese companies subject to anti-dumping duties during the review investigation period. Given the relatively large number of exporting producers in the PRC that agreed to cooperate in the investigation, it was decided to limit the number of parties to be investigated to a sample on the basis of the largest representative volume of production and export sales which can be reasonably investigated within the time available in accordance with Article 17(1) of the basic Regulation. The sample selected consisted of four exporting producers which accounted for 21 % of the total volume of exports made by companies subject to duties. Their data were verified during on-spot verification visits.

(13) In accordance with Article 17(2) of the basic Regulation, the parties concerned and the Chinese authorities were consulted on the selection of the sample. One exporting producer included in the initial proposal decided to withdraw its cooperation. One exporting producer requested to be included into the sample on the basis of the weight of its exports. Therefore, the final sample was established accordingly.

(14) Replies to the questionnaires were received from one Union importer. Therefore no sampling was necessary to examine the situation of the unrelated importers.

(15) As further explained in recital 73 below, at the preliminary stage of the investigation, 26 Union producers or group of producers agreed to cooperate in the investigation. In view of the large number of cooperating producers, the Commission decided to apply sampling. The Commission selected the sample on the basis of the largest representative volume of production which could reasonably be investigated within the time available, considering also the geographical spread and sufficient coverage of different product types. The selected sampled consisted of seven companies. The sample was considered to be representative and covered 37 % of the estimated total Union production of candles during the RIP.

(16) With regard to the users, none of them made itself known or offered to cooperate in the investigation within the deadline provided in the notice of initiation or later in the investigation.

(17) Verification visits were carried out at the premises of the following companies:

(a) Union producers:

— Bolsius International (NL)

— Vollmar GmbH (DE)

— GIES Kerzen GmbH (DE)[5]

— Promol Industria de Velas SA (PT)

— Liljeholmens Stearinfabriks AB (SE)
— Korona Candles S.A. (PL)
— Spaas Kaarsen N.V. (BE)

(b) Union importers:
— Asda Stores Limited, Leeds (UK)

(c) Exporters in the PRC:
— Beijing Candleman Candle Co., Ltd, No 515 Yanfang Industrial Park, Fangshan District, 102413 Beijing
— Dalian Talent Gift Co., Ltd, Tangfang village Taiping country, 116200 Pulandian
— Shanghai Grand Industrial Co., Ltd, Rm.38-301,3/F,No 633 JiangChuan RD, Minhang District, 200240 Shanghai and
— Zheijang Neeo Home decoration Co., Ltd, Chengjiang Industry Area, Huang Yan, 318020 Taizhou

(d) Producer in the analogue country:
— Yankee Candle, South Deerfield, Massachusetts, USA

5. **Disclosure**

(18) All interested parties were informed of the essential facts and considerations leading to the findings and the conclusions of this expiry review investigation and were invited to comment. They were also granted a time period to submit comments subsequent to disclosure. The representative of the applicants requested clarifications and additional information regarding the behaviour of exporting producers subject to zero duty, the methodology used to establish Chinese the export prices to other third country markets, the source of public information mentioned in recital 29 below and the assessment of Union consumption during the original investigation. The Commission provided the clarifications and the information requested in writing on 27 May 2015 or in the disclosure document.

(19) All interested parties had an opportunity to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(20) At the request of the representative of the applicants, a hearing chaired by the Hearing Officer took place on 27 May 2015. At the hearing, the representative of the applicants claimed that the findings of the Commission were based on inadequate analysis and/or that there was no evidence regarding the future behaviour of the exporting producers subject to zero duty. He also put into question the results of the undercutting calculations, the findings of the Commission on the production capacity in the PRC and on the attractiveness of the Union market. Moreover, it was claimed that the non-confidential file was not complete and was displaying some shortcomings. These shortcomings were swiftly rectified accordingly.

(21) Comments to the disclosure and to the additional clarifications were received on 2 June 2015. Such comments were considered and taken into account where deemed appropriate.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(22) The product subject to this review is candles, tapers and the like, other than memory lights and other outdoor burners ('the product under review'), currently falling within CN code ex 3406 00 00 (TARIC code 3406 00 00 90) and originating in the People's Republic of China.

(23) For the purposes of this review, 'memory lights and other outdoor burners' means candles, tapers and the like which have one or more of the following characteristics:

— their fuel contains more than 500 ppm of toluene,

— their fuel contains more than 100 ppm benzene,

— they have a wick with a diameter of at least 5 mm,

— they are individually contained in a plastic container with vertical walls of at least 5 cm in height.

(24) The product under review comes in a great variety of sizes, shapes and weight, they can be plain white or coloured, either entirely or only at the outside; scented or unscented, and decorated or undecorated. The surface can be smooth or rough. Candles can be contained in a glass/jar, ceramics/aluminium containers. Labelling and packaging may be provided at the request of the purchasers. However, despite these differences all these types of the product under review share the same basic chemical and technical characteristics and uses and they are to a large extent interchangeable. Therefore, it is considered that all candles covered by the present investigation are part of the same product.

(25) These characteristics described above have an effect on the price of an individual candle but the available imports statistics cannot catch this great variety.

2. Like product

(26) The investigation showed that the product produced and sold on the Chinese domestic market and/or exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical, technical and chemical characteristics and the same basic uses.

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

C. LIKELIHOOD OF A CONTINUATION OF DUMPING