Commission Implementing Regulation (EU) 2015/409 of 11 March 2015 amending Council Implementing Regulation (EU) No 917/2011 imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2015/409

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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 11(3) thereof,

Whereas:

1. **PROCEDURE**

1.1. **Measures in force**

(1) On 15 September 2011 the Council imposed anti-dumping duties on imports of ceramic tiles originating in the People's Republic of China by Implementing Regulation (EU) No 917/2011[(2)] ('the original Regulation').

(2) A single duty rate of 26,3 % was imposed on imports of the product concerned manufactured by the following group of exporting producers:

— Dongguan City Wonderful Ceramics Industrial Park Co., Ltd and Guangdong Jiamei Ceramics Co. Ltd (together referred to as the Wonderful group), and

— Qingyuan Gani Ceramics Co. Ltd and Foshan Gani Ceramics Co. Ltd (together referred to as the Gani group).

(3) As set out in recitals 96 to 98 of the original Regulation, the European Commission ('the Commission') was notified after disclosure of provisional findings that the relationship between the companies had been severed and on that basis individual duties for the Gani group and for the Wonderful group should have been applied. The request could not be accepted at that stage as its merits needed to be properly examined.

1.2. **Request for a partial interim review**

(4) On 2 October 2012 the Commission received a request for a partial interim review from the Gani group.

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(5) The Gani group claimed that they were no longer related to the other two companies (the Wonderful group) as the shareholding relationship between them had ceased as of March 2011. The Gani group therefore requested an interim review of the measures in force, as the single duty rate in force was no longer appropriate.

1.3. **Initiation of a partial interim review**

(6) The Commission determined, after having consulted the Advisory Committee, that such a review should therefore be opened.

(7) On 31 January 2014, the Commission initiated a partial interim review of the measures in force on imports into the Union of ceramic tiles originating in the People's Republic of China under Article 11(3) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union*[(3)].

(8) The review was limited in scope to the examination of the ownership structure of the Gani group and, if warranted, *ex officio* of the dumping margin as far as the Gani group was concerned.

(9) The review also covered *ex officio* the same matters as far as the Wonderful group was concerned.

1.4. **Review investigation period**

(10) The investigation of dumping covered the period from 1 January 2013 to 31 December 2013 (‘the review investigation period’).

1.5. **Parties concerned by the investigation**

(11) The Commission invited both the Gani group and the Wonderful group to cooperate with the investigation and to reply to the Commission's questionnaires. In addition, the Commission provided an opportunity for the companies to request market economy treatment under Article 2(7) of the basic Regulation.

(12) In the Notice of Initiation the Commission had provisionally chosen the United States of America as a third market economy country (‘analogue country’) within the meaning of Article 2(7)(a) of the basic Regulation and invited parties to comment on this choice.

(13) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer for trade proceedings.

1.6. **Questionnaire replies and verification visits**

(14) The Commission received questionnaire replies from both groups and also from two analogue country producers.

(15) The Commission sought and verified all the information deemed necessary for the review. Verification visits under Article 16 of the basic Regulation were carried out at the premises of the following companies:

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— Exporting producers in the country concerned:
  — Dongguan City Wonderful Ceramics Industrial Park Co., Ltd;
  — Guangdong Jiamei Ceramics Co. Ltd;
  — Qingyuan Gani Ceramics Co. Ltd and
  — Foshan Gani Ceramics Co. Ltd
— Producers in the analogue country that requested confidential treatment on the basis of risk of retaliation.

2. PRODUCT CONCERNED

(16) The product subject to this review is the same as defined in the original Regulation, namely glazed and unglazed ceramic flags and paving, hearth or wall tiles; glazed and unglazed ceramic mosaic cubes and the like, whether or not on a backing ('the product concerned'), currently falling within CN codes 6907 10 00, 6907 90 20, 6907 90 80, 6908 10 00, 6908 90 11, 6908 90 20, 6908 90 31, 6908 90 51, 6908 90 91, 6908 90 93 and 6908 90 99.

3. DUMPING

3.1. Market Economy Treatment

(17) Neither group requested market economy treatment under Article 2(7)(c) of the basic Regulation.

3.2. Analogue Country

(18) As set out above, the Commission proposed the United States of America as analogue country, as it had been in the previous investigation. The Commission also contacted companies in a number of other possible analogue countries, but received no replies or cooperation from any other company. The choice of the United States of America was therefore confirmed as appropriate.

3.3. Investigation

(19) The investigation leading to the imposition of the measures in force established that the Gani group and the Wonderful group were related, in so far as one of the shareholders of the Wonderful group owned more than 5 % of the shares in a company in the Gani group. Dumping margins were calculated separately for each of the groups. The injury margins for the two groups were higher than the dumping margins.

(20) To take into account the risk that, due to their corporate links, the companies with the higher individual dumping margin could channel their exports through the companies with the lower dumping margin, a single weighted average dumping margin was then calculated for both groups and a single duty rate imposed.

(21) The Commission examined whether the alleged change in the relationship would render the single duty rate to be no longer justified. Subsequently, the Commission examined the need for the review of the individual dumping margins.

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(22) The review investigation revealed that the shares referred to in recital 19 were sold to the owner of the Gani group and the Wonderful group has no longer a stake in the Gani group. There were no indications that the two groups would have any other structural or corporate links. Accordingly, the change of the relationship between the two groups was accepted as claimed and the Gani group and the Wonderful group were considered no longer related for the purposes of specifying the duty.

(23) It follows that there are no longer reasons for the imposition of a single duty rate. Instead, separate individual duty rates should be assigned to the Gani group and the Wonderful group.

(24) As to the need for reviewing the individual dumping margins as calculated for each of the groups in the investigation leading to the imposition of the measures in force, the Commission assessed whether the circumstances with regard to the two groups concerned had changed significantly so that it would warrant the review of these individual dumping margins.

(25) The investigation leading to the imposition of the measures in force established the following:

(1) they did not share production facilities;

(2) they did not share sales companies; and

(3) they did not subcontract for each other.

(26) The review investigation confirmed that this situation remained unchanged despite the change in relationship.

(27) In these specific circumstances, the Commission considered that the cessation of the relationship did not change the functioning of each of the the two groups in any way that has a bearing on the calculation of their dumping margins. Therefore, amending these dumping margins on the basis of new calculations is not warranted under Article 11(3) of the basic Regulation.

(28) In view of the above, the separate dumping margins calculated in the original investigation should be imposed as individual duties. These dumping margins are 13,9 % for the Gani group and 32,0 % for the Wonderful group.

(29) These findings were disclosed to interested parties and they were given time to comment.

(30) The Wonderful group first claimed that they had informed the Commission during the verification visit in the People's Republic of China that some of the evidence submitted by the Gani group in the request for review was false or misleading. They pointed out that the Commission has at its disposal Article 18 of the basic Regulation for this type of situation. They also questioned whether the provisions of Article 11(3) of the basic Regulation had been complied with in this respect.