Commission Implementing Regulation (EU) No 471/2014 of 13 May 2014 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China

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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 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community[(1)], and in particular Article 15 thereof,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 27 April 2013, the European Commission ('the Commission') announced the initiation of an anti-subsidy proceeding with regard to imports into the European Union of solar glass originating in the People's Republic of China ('PRC' or 'China') by a notice published in the *Official Journal of the European Union* (the Notice of Initiation)[(2)].

(2) The proceeding was initiated by the Commission following a complaint lodged on 14 March 2013 by EU ProSun Glass (the complainant) on behalf of producers representing more than 25 % of the total Union production of solar glass. The complaint contained *prima facie* evidence of subsidisation of solar glass and of material injury caused by it, which the Commission considered sufficient to justify the initiation of an investigation.

(3) In accordance with Article 10(7) of Regulation (EC) No 597/2009 (the basic Regulation), the Commission notified the Government of the People's Republic of China ('GOC') prior to the initiation of the proceeding that it had received a properly documented complaint alleging that subsidised imports of solar glass originating in the PRC were causing material injury to the Union industry. The Commission invited the GOC for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution.

(4) The GOC accepted the offer of consultations which were subsequently held. During the consultations, no mutually agreed solution could be arrived at. However, the Commission took due note of comments made by the GOC regarding the schemes

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listed in the complaint. Following the consultations, submissions were received from the GOC.

2. Parallel anti-dumping proceeding

(5) On 28 February 2013 the Commission announced the initiation of an anti-dumping proceeding concerning imports into the Union of solar glass originating in the PRC by a notice published in the *Official Journal of the European Union*[(3)].

(6) On 27 November 2013 the Commission imposed a provisional anti-dumping duty on imports of solar glass originating in the PRC by Commission Regulation (EU) No 1205/2013[(4)].

(7) The injury analyses performed in the present anti-subsidy and the parallel anti-dumping investigation are based on the same definition of the Union industry, the same representative Union producers and the same investigation period and led to identical conclusions unless otherwise specified. This was considered appropriate in order to streamline the injury analysis and to reach consistent findings in both proceedings. For this reason, comments on injury aspects put forward in any one of these proceedings were taken into account in both proceedings.

3. Parties concerned by the proceeding

(8) The Commission officially informed the complainants, the other known Union producers, the known exporting producers in the PRC, the known importers, suppliers, distributors, users and associations known to be concerned, and the authorities of the PRC of the initiation of the investigation. The Notice of Initiation invited all parties concerned by the investigation to contact the Commission and make themselves known.

(9) Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.

(10) The complainants, exporting producers in the PRC, importers and the PRC authorities made their views known. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

3.1. *Sampling*

(11) The Commission announced in the Notice of Initiation that it might limit to a reasonable number the exporting producers in the PRC, the unrelated importers and Union producers that would be investigated by selecting a sample in accordance with Article 27 of the basic Regulation.

3.2. *Sampling of Union producers*

(12) The Commission selected a sample of five companies out of the eight producers which came forward on the basis of the largest representative sales volume of the like product during the investigation period (IP).

(13) Following the verification visits, the Commission decided to remove one of the five sampled companies, as that company was found not to be representative of the Union industry, because it was the only one of the eight producers which came forward that was in a start-up phase. Therefore, the Commission saw the risk that in the case of its inclusion, the injury indicators, in particular profitability, may not have given a fair representation of the state of the Union industry.

(14) Consequently, the final sample consisted of four Union producers. Their production accounted for 79 % of the sales of the Union industry on the Union market during the IP. The sample was thus considered to be representative of the Union industry.

(15) Three Union producers requested, on the basis of Article 29 of the basic Regulation, that their identities remained confidential. They claimed that disclosure of their identity could lead to a risk of significant adverse effects to their business activities. The Commission examined the reasons put forward and accepted their request. Given the limited number of producers in the Union, no other names were disclosed in the general disclosure document, as this would allow identification of the companies requesting anonymity.

(16) The identity of the company Interfloat Corporation/GMB Glasmanufaktur Brandenburg GmbH (GMB/IF) was, however, already known publicly as it declared that it is one of the companies that support the complaint. The company was therefore named in the general disclosure document.

(17) Also, in the non-confidential version of their comments on disclosure the complainant named three Union producers that had gone out of business (Guardian, AGC and Centrosolar Glass), and a fourth company that had significantly reduced production (Saint Gobain).

3.3. *Sampling of exporting producers in the PRC*

(18) The Notice of Initiation requested all exporting producers in the PRC to make themselves known to the Commission and to provide the information specified in the Notice of Initiation within a given time period.

(19) Nine exporting producers or groups of exporting producers provided the requested information and agreed to be included in the sample. The cooperating companies covered almost 100 % of the reported exports of solar glass to the Union during 2012.

(20) In accordance with Article 27 of the basic Regulation, the Commission selected a sample of four exporting producers or groups of exporting producers based on the largest representative volume of exports of the product concerned that could reasonably be investigated within the time available. The selected sample accounted for 76 % of the total volume of exports to the Union of the product concerned in the investigation period.

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(21) In accordance with Article 27(2) of the basic Regulation the Commission informed all interested parties of the sample selected and they were invited to comment. No comments were received.

3.4. *Individual examination*

(22) No exporting producer in the PRC requested individual examination under Article 27(3) of the basic Regulation.

3.5. *Sampling of unrelated importers and users*

(23) Four unrelated importers replied to the sampling form attached to the Notice of Initiation, while two importers and twelve users replied to the questionnaire. In view of the low number of cooperating importers sampling was not necessary.

4. Questionnaire replies and verification visits

(24) Questionnaires were sent to the GOC and to the sampled exporting producers, to the sampled Union producers, to all importers that had come forward, and to all users that had come forward. The GOC were also sent an Appendix to the questionnaire sent to them and were requested to forward it to state-owned commercial banks ('SOCBs') in the PRC that had lent funds to the sampled companies during the investigation period. The GOC stated that they had forwarded the Appendix to the banks concerned but had not received any replies.

(25) Replies to the questionnaire were received from the four sampled Chinese exporting producers, from all sampled Union producers, two unrelated Union importers and 12 users.

(26) The Commission sought and verified all the information provided by interested parties and deemed necessary for a definitive determination of subsidisation, resulting injury and Union interest. Verification visits were carried out as follows:

(a) Exporting producers in the PRC:
- Zhejiang Jiafu Glass Co., Ltd; Flat Solar Glass Group Co., Ltd; Shanghai Flat Glass Co., Ltd; Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd ('Flat Solar Group')
- Henan Yuhua Photovoltaic New Material Co., Ltd
- Xinyi PV Products (Anhui) Holdings Ltd ('Xinyi PV')

(b) Government of the PRC:
- Ministry of Commerce, Beijing
- China Banking Regulatory Commission, Beijing

(c) Union producers
- GMB/IF, Germany
- [Confidential]
- [Confidential]

— [Confidential]

— [Confidential]

(d) Unrelated importers

— Vetrad NV, the Netherlands

(e) Users

— Sunerg Solar SRL, Italy

— Viessmann Faulquemont SAS, France

(27) All interested parties were sent a disclosure document which contained the essential facts and considerations on the basis of which the Commission proposed to impose countervailing duties 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.

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

(29) The Government of China ('GOC') alleged that this disclosure document did not meet the standards set out in Articles 22.3 and 22.5 of the ASCM as it did not set out in sufficient detail the findings and conclusions of the investigating authority. However, the GOC provided no specific example of this alleged failure. Having reviewed the document carefully the Commission considers that the document contains sufficient information for the GOC to exercise its rights of defence.

(30) Certain information could not be provided in the disclosure as it was business-confidential information, and this was disclosed only to the sampled exporting producers concerned. The sampled exporting producers were sent a confidential specific disclosure giving calculations and information on each scheme and benefit countervailed, and were given 25 days to comment.

5. Investigation period

(31) The investigation of subsidisation and injury covered the period from 1 January 2012 to 31 December 2012 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2009 to the end of the investigation period ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(32) The product under investigation 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 150 K (measured according to EN 12150) and having a mechanical strength of 90 N/mm^2 or