Commission Regulation (EU) No 1205/2013 of 26 November 2013 imposing a provisional anti-dumping duty on imports of solar glass from the People's Republic of China

COMMISSION REGULATION (EU) No 1205/2013

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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 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 28 February 2013, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union*[(2)] ('notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Union of solar glass originating in the People's Republic of China ('the PRC' or the 'country concerned').

(2) The investigation was initiated following a complaint lodged on 15 January 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 dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify opening of an investigation.

(3) Following the publication of the notice of initiation, the Commission was informed that the product was defined incorrectly in point 2 of the notice of initiation. Accordingly, a corrigendum to the notice of initiation was published in the *Official Journal of the European Union*[(3)], in which the small error was corrected.

(4) On 27 April 2013, the Commission announced, by notice published in the *Official Journal of the European Union*[(4)], the initiation of a parallel anti-subsidy proceeding with regard to imports into the Union of solar glass originating in the PRC and commenced a separate investigation.

1.2. Registration

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(5) A request for registration of imports of solar glass from the country concerned was received with the complaint but was subsequently withdrawn on 2 October 2013.

1.3. **Parties concerned**

(6) The Commission officially advised the complainant, other known Union producers, the known exporting producers in the PRC, importers, traders, users, suppliers and the authorities of the PRC of the initiation of the 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 in the notice of initiation. The Commission also informed producers in potential analogue countries about the initiation and invited them to participate.

1.3.1. Sampling

(a) *Sampling of Union producers*

(7) The investigation revealed that the Union industry currently consists of seven active producers, two of which are SMEs. The Commission announced in the notice of initiation that it had provisionally selected a sample of Union producers. This sample consisted of four Union producers that were known to the Commission prior to the initiation of the investigation to produce solar glass. The Commission selected the sample on the basis of the largest representative sales volume of the like product during the period 1 January 2012 – 31 December 2012. The sampled Union producers accounted for more than 50 % of the total Union production. The Commission informed interested parties of the proposed sample of Union producers by means of a note for the file for inspection by interested parties. The Commission also sent a letter to the Union producers informing them of the proposed sample. Interested parties were also invited in the notice of initiation to make their views known on the provisional sample.

(8) One SME showed interest to be part of the sample as well. The Commission decided to include it together with a second company in the sample due to the higher share of sales volume of the latter and to remove from the sample the company with the lowest sales volume. No other comments were received regarding the provisionally selected sample. As a result, the Commission added two companies to the initially proposed sample and removed one other.

(9) Finally, after the verification visits, the Commission decided to remove one of the five sampled companies, as that company was found not to be representative for the Union industry. In particular, it was in a start-up phase (which was not the case for the Union industry taken as a whole) and the profitability trend would hence not have given a true picture of the state of the Union industry.

(10) Consequently, it finally selected a sample of four Union producers. The final sample accounts for 79 % of the sales of the Union industry on the Union market. The sample is thus considered to be representative of the Union industry.

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(11) Three of the seven Union producers requested, on the basis of Article 19 of the basic Regulation, that their identities be kept confidential. They claimed that disclosure of their identity could lead to a risk of significant adverse effects to their business activities. Their request was examined and found to be warranted. It was further decided in view of the limited number of Union producers not to disclose the names of those Union producers which did not request anonymity as this could inadvertently lead to the disclosure of the identity of the others. The identity of the company Interfloat Corporation/GMB Glasmanufaktur Brandenburg GmbH ('GMB/IF') is, however, already known as it declared publicly that it is one of the complainants.

(b) *Sampling of unrelated importers*

(12) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were requested to make themselves known to the Commission and to provide information specified in the notice of initiation.

(13) Four unrelated importers replied to the sampling form attached to the notice of initiation, while only two importers submitted the specific questionnaire response. In view of the low number of cooperating importers, sampling was not deemed to be necessary.

(c) *Sampling of exporting producers*

(14) In view of the high number of exporting producers, sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period from 1 January 2012 to 31 December 2012.

(15) Twelve Chinese exporting producers or groups of exporting producers, representing over 95 % of total Chinese exports to the Union during this period provided the requested information and agreed to be included in the sample.

(16) On the basis of the information received and in accordance with Article 17 of the basic Regulation, the Commission selected a provisional sample of five exporting producers based on the largest representative quantity of exports of solar glass to the Union, which could reasonably be investigated within the time available.

(17) All parties concerned, as well as the authorities of the PRC, were informed of the proposed sample and invited to comment. After having analysed the comments received, the Commission decided to retain the proposed sample of five companies and all interested parties were accordingly informed of the finally selected sample.

(18) Subsequently, the investigation revealed that two exporting producers included in the sample had overstated their export sales to the Union and had therefore

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been included in the sample on unjustified grounds. Both companies were therefore excluded from the sample after having been given the opportunity to provide comments. The Commission, after having duly analysed the comments provided by the companies, concluded that they had not provided the incorrect figures intentionally and decided that they should remain being considered as cooperating parties in the meaning of Article 18 of the basic Regulation.

(19) Following these exclusions, an inclusion of other exporting producers into the sample was considered. However, in view of the fact that both exclusions occurred at a late stage of the investigation, this was deemed not feasible, as it could jeopardise the completion of the investigation within the statutory time limits.

(20) The revised sample of exporting producers or groups of exporting producers of solar glass is therefore the following:

— Flat Solar Glass Group Co., Ltd, and related companies (‘*Flat Glass Group*’);

— Xinyi PV Products (Anhui) Holdings (*‘Xinyi’)* and its related trader;

— Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd, and related companies *(‘Hehe Group’)*.

(21) The Commission corrected the volume of total exports sales of the product concerned from the PRC after it was informed about the overestimation of exports sales of the two exporting producers (see recital (18) above). The final sample accounts for more than 50 % of the total volume of exports to the Union of the product concerned during the period from 1 January 2012 to 31 December 2012 as reported by the cooperating exporting producers. It is therefore considered representative in terms of volumes of exports of solar glass to the Union from the PRC.

(d) *Questionnaire replies and verification visits*

(22) The Commission sent questionnaires to all Chinese exporting producers that had so requested, as well as to the sampled Union producers, the unrelated importers and their associations, as well as to users that made themselves known within the time limits set out in the notice of initiation.

(23) Questionnaire replies were received from four Chinese exporting producers, from all sampled Union producers, two unrelated Union importers and 12 users.

(24) The Commission sought and verified all the information deemed necessary for the purpose of a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies or group of companies.

(a) Union producers:

— GMB/IF and other companies subject to confidentiality treatment.

(b) Importers:

— Vetrad NV, the Netherlands.

(c) Users:

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— Sunerg Solar SRL, Italy.

(d) Exporting producers in the PRC:

— Sampled companies:

— Zhejiang Jiafu Glass Co., Ltd; Zhejiang Flat Mirror Glass Co., Ltd; Flat Solar Glass Group Co., Ltd; Shanghai Flat Glass Co., Ltd ('Flat Glass Group');

— Xinyi PV Products (Anhui) Holdings Ltd and Xinyi Solar (Hong Kong) Limited ('Xinyi Group');

— Zhejiang Hehe Figured Glass Co., Ltd., Zhejiang Yaohua Import and Export Co., Ltd.,), and Zhejiang Glaverbel Glass Technology Co., Ltd, Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd, Hangzhou Hehe Glass Industry Co., Ltd. ('Hehe Group').

— Company subject to individual examination:

— Henan Yuhua New Material Co., Ltd ('Henan Yuhua').

(e) Producer in the analogue country

— In view of the need to establish a normal value for the exporting producers in the PRC in case market economy treatment as defined in Article 2(7)(b) of the basic Regulation would not be granted, a verification visit to establish normal value on the basis of data from Turkey as analogue country took place at the premises of the following company:

— Trakya Cam Sanayii A.Ş., Turkey.

1.3.2. Investigation period and period considered

(25) The investigation of dumping and injury covered the period from 1 January 2012 to 31 December 2012 ('the 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 ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(26) The product subject to this 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 more (measured according to EN 1288-3) ('the product concerned').

(27) The product concerned currently falls within CN code ex 7007 19 80.