Commission Regulation (EU) No 402/2012 of 10 May 2012 imposing a provisional anti-dumping duty on imports of aluminium radiators 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 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:

A. PROCEDURE

1. Initiation

(1) On 12 August 2011, 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 aluminium radiators originating in the People's Republic of China ('PRC').

(2) The proceeding was initiated following a complaint lodged by the International Association of Aluminium Radiator Manufacturers Limited Liability Consortium (AIRAL Scrl - 'the complainant'), representing a major proportion, in this case more than 25 % of the total Union production of aluminium radiators. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, other known Union producers, the exporting producers in the PRC, producers in the analogue country, importers, distributors, and other parties known to be concerned, and representatives of the PRC of the initiation of the proceeding. 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 402/2012. (See end of Document for details)*

(4) The complainant, other Union producers, the exporting producers in the PRC, importers and distributors 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.

(5) In view of the apparent high number of Union producers, importers and exporting producers sampling was envisaged in the notice of initiation, 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, importers and 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 (as defined in section 3 below) during the period from July 2010-June 2011.

(6) In order to allow exporting producers to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned and to the authorities of the PRC. Only one group of companies, Sira (Tianjin) Aluminium Products Co. Ltd and Sira Group (Tianjin) Heating Radiators Co. Ltd (the 'Sira Group'), came forward and requested MET. Requests for IT were received from Zhejiang Flyhigh Metal Products Co., Ltd. and Metal Group Co., Ltd.

(7) As regards the Union producers and as duly explained in recital 24 below, eight Union producers provided the requested information and agreed to be included in a sample. On the basis of the information received from the cooperating Union producers, the Commission selected a sample of four Union producers on the basis of their sales/production volume, their size and geographic location in the Union.

(8) As explained in recital 27 below, only three unrelated importers provided the requested information and agreed to be included in a sample. However two of these importers did not import/purchase the product concerned. Therefore, in view of the limited number of cooperating importers, sampling was deemed to be no longer necessary.

(9) As explained in recital 28 below, 18 exporting producers in the PRC provided the requested information and agreed to be included in a sample. On the basis of the information received from these parties, the Commission selected a sample of two exporting producers having the largest volume of exports to the Union.

(10) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation, namely to the exporting producers in the PRC, the four sampled Union producers, the cooperating importers in the Union and to the European Consumers' Organization BEUC, with the request to send the users' questionnaire to its associated companies.

(11) Replies were received from the two sampled exporting producers in the PRC, from the four sampled Union producers and one unrelated importer. None of the users replied to the questionnaire.

(12) In addition, one claim for individual examination in accrodance with Article 17(3) of the basic Regulation was received from one group of related exporting producers. The examination of these claims at the provisional stage would have been too burdensome to be carried out. A decision whether individual examination will be granted to this group of companies will be taken at the definitive stage.

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

Producers in the Union

— Armatura Krakow SA, UL. Zakopianska 72, 30-418 Krakow, Poland;

— Fondital S.p.A., via Cerreto 40, 25079 Vobarno, Brescia, Italy;

— Global Srl, via Rondinera 51, 24060 Rogno, Bergamo, Italy;

— Radiatori 2000 S.p.A., via Francesca 54/A, 24040 Ciserano, Bergamo, Italy

Importers in the Union

— Hydroland Chorobik Gawęda Malec Wojtycza Sp.j., Jawornik 658, 32-400 Myślenice, Poland.

Exporting producers in the PRC

— Zhejiang Flyhigh Metal Products Co., Ltd. (‘Zhejiang Flyhigh’), Jinyun

— Metal Group Co., Ltd., Wuyi

3. Investigation period

(14) The investigation of dumping and injury covered the period from 1 July 2010 to 30 June 2011 (the ‘investigation period’ or the ‘IP’). The examination of trends relevant for the assessment of injury covered the period from January 2008 to the end of the IP (‘period considered’).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(15) The product concerned is aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks, excluding radiators and elements and sections thereof of the electrical type (‘the product concerned’). The product concerned currently falls within CN codes, ex 7615 10 10, ex 7615 10 90, ex 7616 99 10 and ex 7616 99 90.

(16) The product definition was contested by the Sira Group based on an alleged difference between the two production processes which are used to manufacture

radiators. Within the Sira Group there are two Chinese exporting producers one of which used the die-casting production technique whereas the second company used the extrusion method. Sira Group argued that the extrusion method should be excluded from the definition of the product concerned because of alleged differences in physical and technical characteristics, raw materials, production costs and sales prices and because the extrusion technique is uncommon in the EU and in the PRC.

(17) Another Chinese party, the China Chamber of Commerce for Imports and Exports of Machinery and Electronic Products (CCCME) requested clarification of this issue because of differences in costs and prices of radiators manufactured by the two production techniques.

(18) In this respect, although there are minor differences it is clear that the radiators produced by both methods have the same basic physical and technical characteristics and have the same uses. Radiators produced by both methods are highly substitutable. These basic characteristics are, primarily, lightness, low thermal inertia and high heat conductibility. Differences in costs and prices and the fact that the extrusion technique may involve the use of a slightly different aluminium alloy do not change these basic characteristics. In terms of price comparisons, any differences are properly accounted for in the structure of the product type comparison system employed in this investigation ('PCN-system') which means that only like for like comparisons would be made.

(19) Furthermore, aluminium radiators should be considered as one single product whatever their manufacturing process because they are sold through the same channels of sales and because end-user and consumer perception of them is that they are made of aluminium (with well-known characteristics as mentioned above) rather than any differentiation based on production method. In view of the above, this claim is therefore rejected.

(20) CCCME also contested the fact that steel plate or even cast iron radiators are not included within the product scope. However, although such products have similar uses, they have different basic physical and technical characteristics as the basic raw material (aluminium alloy) is replaced by steel or iron which have different physical and technical characteristics in terms of weight, thermal inertia and conductibility. This claim is therefore rejected.

(21) CCCME made further comments relating to references in the complaint to sales via 'tender processes'. These comments revealed that it assumed that this concerned public procurement. The tender processes referred to in the complaint, however, related to normal business practice whereby an EU purchaser of radiators asks potential suppliers to quote prices before placing orders. None of the Chinese imports used in the calculations involved a public procurement process.

(22) CCCME also commented on references in the Complaint to 'design radiators', assuming that such radiators are excluded from the product definition. Again, these comments were based on a misunderstanding as the product definition does not exclude such radiators. These comments were therefore dismissed.

2. **Like product**

(23) The investigation has shown that aluminium radiators produced in and exported from the PRC and aluminium radiators manufactured and sold in the Union by the Union producers have the same basic physical and technical characteristics as well as the same basic uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. **SAMPLING**

1. **Sampling of Union producers**

(24) In view of the apparent large number of Union producers, sampling was provided for in the notice of initiation for the determination of injury, in accordance with Article 17 of the basic Regulation.

(25) In the notice of initiation the Commission announced that it had provisionally selected a sample of Union producers. This sample consisted of four companies, out of the eight Union producers that were known to produce the like product prior to the initiation of the investigation, selected on the basis of their sales volume, their size and geographic location in the Union. They represented 66 % of the total estimated Union production during the IP. Interested parties were invited to consult the file for inspection by interested parties and to comment on the appropriateness of this choice within 15 days of the date of publication of the notice of initiation. One interested party requested to take also production volume into consideration for the selection of the sample. It was accepted to change the sample accordingly. No interested party opposed to the final sample composed of four companies.

2. **Sampling of unrelated importers**

(26) In view of the potentially large number of importers involved in the proceeding, sampling was envisaged for importers in the notice of initiation in accordance with Article 17 of the basic Regulation.

(27) Only three unrelated importers provided the requested information and agreed to cooperate. Since two of these importers did not report imports or purchases the product concerned, sampling was no longer deemed to be necessary.

3. **Sampling of exporting producers**

(28) A total of 18 exporting producers in the PRC provided the requested information and agreed to be included in a sample. These companies exported around 5 million elements[(3)] or slightly less than 50 % of the Chinese exports to the EU market in the IP. On the basis of the information received from these parties, the Commission selected a sample of two exporting producers having the largest representative volume of production, sales and exports which could reasonably be investigated within the time available. The two exporting producers, Zhejiang Flyhigh Metal Products Co., Ltd. and Metal Group Co., Ltd., represented around 62 % of the sales volume of the 18 exporting producers which provided data for the sampling exercise.