Commission Regulation (EU) No 258/2011 of 16 March 2011 imposing a provisional anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China

COMMISSION REGULATION (EU) No 258/2011

of 16 March 2011

imposing a provisional anti-dumping duty on imports of ceramic tiles originating in the People's Republic of China

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('the 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 19 June 2010, 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 ceramic tiles originating in the People's Republic of China ('China' or 'the country concerned').

(2) The anti-dumping proceeding was initiated following a complaint lodged by the European Ceramic Tile Manufacturers' Federation (CET) ('the complainants') on behalf of 69 producers representing more than 30 % of the total Union production of ceramic tiles. 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 a proceeding.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainants, other known Union producers, the known exporting producers in China, the representatives of China, and known importers and users of the initiation of the proceeding. The Commission also advised producers in the United States ('the USA'), Nigeria, Brazil, Turkey, Indonesia and Thailand, as these countries were envisaged as a possible analogue country. 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. All interested

parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

(4) In view of the apparent high number of exporting producers in China, unrelated importers and Union producers, sampling was envisaged in the Notice of initiation for the determination of dumping and injury 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, all known exporting producers in China, importers and Union 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 April 2009 to 1 March 2010. The authorities of China were also consulted.

2.1. *Sampling of Chinese exporting producers*

(5) One hundred and five valid responses were received to the sampling exercise from exporting producers in China, covering 47 % of imports during the investigation period, as defined in recital 24 below. Therefore, the cooperation is considered to be low.

(6) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of exporting producers based on the largest representative volume of exports of the product concerned to the Union which could reasonably be investigated within the time available. The sample selected consisted of three groups, representing 10 individual producers, which accounted for 14,4 % of the total volume of exports from China to the Union and 31,3 % of the total volume of the cooperating exporters during the IP. In accordance with Article 17(2) of the basic Regulation, the parties concerned and the Chinese authorities were consulted on the selection of sample. A number of comments were received in relation to the proposed sample. Comments considered appropriate were taken into account in the selection of the final sample.

2.2. *Sampling of Union producers*

(7) The European Ceramic Tile Manufacturers' Federation (CET) confirmed in a letter sent to the Commission that all complaining companies agreed to be considered for the inclusion in the sample. Including other companies which came forward, the Commission was thus provided with information from 73 Union producers.

(8) In the sampling exercise the high fragmentation of the ceramic tiles sector has been taken into consideration. In order to ensure that the results of large companies did not dominate the injury analysis but that the situation of the small companies, collectively accounting for the largets share of the Union production, was properly reflected, it was considered that all segments, i.e. small, medium-sized and large companies should be represented in the sample.

(9) Three segments have been distinguished based on the volume of yearly production:

— Segment 1 : large companies – production in excess of 10 million m^2,

— Segment 2 : medium-sized companies – production between 5 and 10 million m^2,

— Segment 3 : small companies – production below 5 million m^2.

(10) In the analysis of micro-economic indicators, the results of the sampled companies in the specific segment have been weighted in accordance with the share of that segment in the total Union production (using the specific weight of each segment in the total ceramic tile sector). According to the information collected during the investigation, the producers in Segments 1 and 2 account each for around one quarter of total Union production while in segment 3, producers account for around half of the total Union production. More than 350 companies belong to the segment of small companies. More than 40 companies belong to the medium-sized segment and more than 20 to the segment of large companies.

(11) Ten companies were sampled. They are the largest of each of the three segments, taking into account sales, production and geographical location. One sampled company belongs to the segment of large companies, four to the segment of medium-sized companies and five to the segment of small companies. The selected companies are based in six Member States (Italy, Spain, Poland, Portugal, Germany and France) which together account for over 90 % of the total Union production. This sample represented 24 % of total production by the cooperating producers and 7 % of the total Union production.

(12) During the investigation, one sampled company from Poland decided to discontinue its cooperation with the investigation. The Commission could not obtain cooperation from any other producer based in Poland.

(13) Notwithstanding the withdrawal of the Polish producer, the representativeness of the sample remained high according to all the criteria mentioned in recitals 8 and 10. It has been thus decided that the proceeding could continue with a sample of nine producers from five Member States.

(14) Complainants requested their names to be kept confidential. The Commission accepted the request.

2.3. *Sampling for importers*

(15) The Commission received 24 replies from importers. Three large importers were excluded from the sampling exercise: two related to Chinese exporters and one related to a Union producer (the imports are marginal compared to the total sales of that producer).

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 258/2011. (See end of Document for details)*

(16) The unrelated cooperating importers represent around 6 % of the total imports from China.

(17) Seven companies were sampled, representing 95 % of the imports made by the unrelated cooperating companies. One of these companies was as well a user of the product concerned. The sample was also representative in terms of geographical spread. The sample thus covers Member States which account for more than 49 % of the imports into the Union, which corroborated its representativeness.

2.4. *Questionnaires replies and verifications*

(18) In order to allow sampled exporting producers in China to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the sampled exporting producers. One group of exporting producers requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET. The other groups of exporting producers only requested IT.

(19) Claims for individual examination were received from eight non-sampled companies or groups of related companies. The examination of these claims at provisional stage would have been too burdensome to be carried out. A decision whether individual examination will be granted to any of these companies will be taken at definitive stage.

(20) The Commission sent questionnaires to the sampled exporting producers, as well as to the non-sampled exporting producers that had stated their intention to request individual examination as per Article 17(3) of the basic Regulation, to the sampled Union producers, the cooperating unrelated importers and to all known users in the Union.

(21) Questionnaire replies were received from three sampled groups of exporting producers, from eight non-sampled exporting producers or groups of exporting producers, from nine sampled Union producers and from five importers not related to an exporting producer. Submissions were also received from the European association of producers (Cerame-Unie), national associations of producers, importers, associations of importers and users.

(22) The Commission sought and verified all the information deemed necessary for the purpose of analysis of MET/IT and for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of nine Union sampled producers and the following companies:

(a) *Exporting producers in China*

— Becarry Group, composed of:

  — Foshan Becarry Ceramics Co., Ltd

  — Heyuan Becarry Ceramics Co., Ltd

  — Heyuan Hairi Ceramic Co., Ltd

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 258/2011. (See end of Document for details)*

— Shandong Yadi Ceramics Co., Ltd

— Xinruncheng Group, composed of:

— Guangdong Xinruncheng Ceramics Co. Ltd

— Foshan City Nanhai Chongfa Ceramics Co. Ltd

— Wonderful Group, composed of:

— Dongguan City Wonderful Ceramics Industrial Park Co., Ltd

— Guangdong Jiamei Ceramics Co., Ltd

— Qingyuan Gani Ceramics Co. Ltd

— Foshan Gani Ceramics Co. Ltd

— Giavelli S.r.l., a related Italian importer

(b) *Traders in China*

— Foshan Changwei Enterprise Co., Ltd

(c) *Traders in Hong Kong*

— Cayenne Trading International Ltd

— Great Prosperity Development Ltd

— Good East Development Ltd

(d) *Unrelated importers*

— Enmon GmbH, Germany

(e) *National associations of producers*

— Confindustria Ceramica (Italy)

— Spanish Ceramic Tile Manufacturer's Association (ASCER)

— APICER (Portugal).

(23) In view of the need to establish a normal value for the exporting producers in China to which MET might not be granted, a verification to establish normal value on the basis of data from the USA as analogue country took place at the premises of two producers. These producers claimed confidentiality regarding their identity.

3. Investigation period

(24) The investigation of dumping and injury covered the period from 1 April 2009 to 31 March 2010 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2007 to the end of the investigation period ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(25) The product concerned is 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 ('ceramic tiles' or the 'product concerned'), currently falling within