Commission Regulation (EU) No 209/2011 of 2 March 2011 terminating the anti-dumping and anti-subsidy proceedings concerning imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China and terminating the registration of such imports imposed by Regulations (EU) No 570/2010 and (EU) No 811/2010

COMMISSION REGULATION (EU) No 209/2011

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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 ('basic Regulation')[(1)], and in particular Articles 9 and 14 thereof,

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 of on protection against subsidised imports from countries not members of the European Community[(2)], and in particular Article 14 and 24 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. The anti-dumping proceeding and registration of imports

(1) On 3 June 2010, the Commission received a complaint concerning alleged injurious dumping into the Union by imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China ('the PRC'). The said complaint also contained a request for the registration of imports pursuant to Article 14(5) of Regulation (EC) No 1225/2009.

(2) The complaint was lodged by Option NV ('the complainant'), the sole known producer of WWAN modems in the Union, representing 100 % of the total Union production.

(3) The complaint contained *prima facie* evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify the initiation of an anti-dumping proceeding.

(4) The Commission, after consultation of the Advisory Committee, by a notice published in the *Official Journal of the European Union*[(3)], accordingly initiated an anti-

dumping proceeding concerning imports into the Union of WWAN modems originating in the PRC and currently falling within CN codes ex 8471 80 00 and ex 8517 62 00.

(5) On 1 July 2010, the Commission made imports of the same product originating in the PRC subject to registration under Commission Regulation (EU) No 570/2010[4].

(6) The Commission officially advised the complainant, exporting producers in the PRC, importers and users known to be concerned, associations of importers or users known to be concerned, raw material suppliers and service providers, and the 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 out in the notice of initiation.

(7) In accordance with the provisions of Article 16 of the basic Regulation the Commission performed some of the verification visits normally required. As far as dumping is concerned and in particular for the purposes of Article 2(7) of the basic Regulation the Commission focused on issues mentioned in Article 2(7)(c) and in particular on distortions related to decision making, corporate governance, loans, financing of companies and export credits. Although some initial indications hinting at distortions were revealed, the termination of this anti-dumping proceeding meant that this issue was not pursued.

2. **The anti-subsidy proceeding and registration of imports**

(8) On 2 August 2010, the Commission received a complaint concerning the alleged injurious subsidisation into the Union of imports of WWAN modems originating in the PRC. The said complaint also contained a request for the registration of imports pursuant to Article 24(5) of Regulation (EC) No 597/2009.

(9) The complaint was lodged by Option NV ('the complainant'), the sole known producer of WWAN modems in the Union, representing 100 % of the total Union production.

(10) The complaint contained *prima facie* evidence of the existence of subsidisation and of material injury resulting therefrom which was considered sufficient to justify the initiation of an anti-subsidy proceeding.

(11) The Commission, after consultation of the Advisory Committee, by a notice published in the *Official Journal of the European Union*[5], accordingly initiated an anti-subsidy proceeding concerning imports into the Union of WWAN modems originating in the PRC and currently falling within CN codes ex 8471 80 00 and ex 8517 62 00.

(12) On 17 September 2010, the Commission made imports of the same product originating in the PRC subject to registration under Commission Regulation (EU) No 811/2010[6].

(13) The Commission officially advised the complainant, exporting producers in the PRC, importers and users known to be concerned, associations of importers or

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 209/2011. (See end of Document for details)*

users known to be concerned, raw material suppliers and service providers, and the 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 out in the notice of initiation.

B. WITHDRAWAL OF THE COMPLAINTS AND TERMINATION OF THE PROCEEDINGS

(14) By two letters of 26 October 2010 to the Commission, Option NV withdrew its anti-dumping and anti-subsidy complaints concerning imports of WWAN modems originating in the PRC. The reason for the withdrawal of the complaints was that Option NV had entered into a cooperation agreement with an exporting producer in the PRC.

(15) In accordance with Article 9(1) of Regulation (EC) No 1225/2009 and with Article 14(1) of Regulation (EC) No 597/2009, when the complainant withdraws its complaint the proceeding may be terminated unless such termination would not be in the Union interest.

(16) The Commission considered that the present proceedings should be terminated since the respective anti-dumping and anti-subsidy investigations had not brought to light any considerations showing that such termination would not be in the Union interest. Interested parties were informed accordingly and were given an opportunity to comment.

(17) Subsequent to the withdrawal of the complaints, one company contacted the Commission claiming that it was a Union producer of WWAN modems. The company subsequently argued that the proceedings should be continued in spite of the withdrawal of the complaints. It should be noted that the company came forward for the first time after the procedural deadlines in both proceedings provided to interested parties to come forward and make their views known as a Union producer and, as a consequence, failed to support the complaints lodged by Option before the latter were withdrawn.

(18) It should also be noted that the allegations and information put forward by this company were not such as to lead the Commission to conclude that it would be in the Union interest to pursue the present proceedings initiated further to Option's complaints following the withdrawal of the latter. In this context, due account needed to be taken — in respect of the company's claimed operations in relation to WWAN modems in the Union — concerning the company's ability in practice to (i) play a role in the Union market for WWAN modems and moreover; (ii) provide for a possible shortage in supply, were measures to be imposed. Based on the information provided in this regard within the context of the present proceedings, it was concluded that it would be disproportionate to continue with the investigation and impose measures following the withdrawal of the complaints.

(19) No other comments were received indicating that termination of the present proceedings would not be in the Union interest.

(20) In the circumstances, the Commission therefore concludes that the anti-dumping and the anti-subsidy proceedings concerning imports into the Union of