Commission Regulation (EC) No 439/2006 of 16 March 2006 imposing a provisional anti-dumping duty on imports of chamois leather originating in the People's Republic of China

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96[(1)] of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the basic Regulation), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 25 June 2005, the Commission announced by way of a notice (notice of initiation) published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding concerning imports of chamois leather originating in the People's Republic of China (the PRC).

(2) The proceeding was initiated following a complaint lodged in May 2005 by The British Leather Confederation (the complainant) on behalf of producers representing a major proportion, in this case more than 70 %, of the total Community production of chamois leather. 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 complainant, the Community producers mentioned in the complaint, other known Community producers, the authorities of the PRC, the exporting producers, importers, as well as the associations known to be concerned of the initiation of the investigation. 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. One exporter in the PRC, as well as producers and importers in the Community, made their views known in writing. All parties who so requested within the above time-limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 439/2006. (See end of Document for details)*

(4) In view of the anticipated large number of exporting producers and importers involved in the investigation, the application of sampling techniques was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(5) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and importers were requested to make themselves known and to provide information as specified in the notice of initiation. No exporting producers came forward to comment on the possible selection of a sample.

(6) Seven importers came forward and provided information within the time-limit set for this purpose, but only three companies were willing to cooperate in the investigation. Given the limited number of importers who replied to the sampling questionnaire and indicated their willingness to cooperate, it was decided that sampling was not necessary. Questionnaires were sent to all three importers. However, subsequently none of the importers cooperated in the investigation and declined to return a complete questionnaire reply. Two of them stated that the product concerned was not a major part of their activity and therefore neither their available resources in terms of staff nor the financial implications could support cooperation in the investigation.

(7) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) pursuant to Article 2(7) of the basic Regulation or individual treatment (IT) pursuant to Article 9(5) of the basic Regulation, if they so wished, the Commission sent MET and IT claim forms to the Chinese companies known to be concerned. In this respect, no exporting producers requested MET or IT.

(8) In view of the absence of responses from any exporting producers in the PRC, it was not necessary to select any sample of exporting producers. In addition, since no exporting producers in the PRC provided the necessary information or made requests for MET or for IT within the time-limits set in accordance with the basic Regulation, it was decided that findings in respect of the assessment of dumping would be made on the basis of Article 18 of the basic Regulation. The authorities of the PRC were advised of this and raised no objections.

(9) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three Community producers mentioned in the complaint.

(10) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination of dumping, resultant injury and Community interest. Verification visits were carried out at the following companies:

Community producers

— Marocchinerie e Scamoscerie Italiane (MESI), Italy,

— Hutchings & Harding Ltd, UK,

— Beaven Ltd, UK.

(11) In the absence of any claims for MET or IT and of the need to establish a normal value for exporting producers in the PRC, a verification visit to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

— Acme Sponge & Chamois Co., Inc., USA.

(12) The investigation of dumping and injury covered the period from 1 April 2004 to 31 March 2005 (investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2001 to the end of the IP (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. General

(13) Chamois and combination chamois leather is leather usually made from the skins of sheep and lambs, but can also be made from the skins of other animals. It is made from skins from which the grain surface has been removed, which is then tanned using solely fish or other animal oil, in the case of chamois leather, or by partial tanning with aldehydes or other tanning agents and then with fish or other animal oils, in the case of combination chamois leather. The leather obtained after tanning is crust chamois leather, which is normally further processed through a finishing process involving buffing to give it a soft, suede-like finish. The products primary characteristics of water absorbency and softness, which derive from the tanning or partial tanning with fish oil or other animal oil, make it ideally suited to its main use for cleaning and polishing.

2. Product concerned

(14) The product concerned is chamois leather, or combination chamois leather, whether or not cut to shape, including chamois and combination crust chamois leather (chamois leather) originating in the PRC (the product concerned), currently classifiable within CN codes 4114 10 10 and 4114 10 90. All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding, given that they share the same basic physical characteristic and uses.

3. Like product

(15) On the basis of information available from the complainant, no differences were found between the product concerned and chamois leather produced and sold in the USA, which served as analogue country for the purpose of establishing normal value in respect of the PRC.

(16) On the basis of information available from the complainant, no differences were found between the product concerned and chamois leather produced and sold in the Community by the Community industry.

(17) It is therefore provisionally concluded that, in accordance with Article 1(4) of the basic Regulation and for the purpose of this investigation, chamois leather produced

and sold on the domestic market of the PRC, that produced and sold in the USA and that produced and sold by the Community industry on the Community market have the same basic physical characteristics and uses and are therefore considered to be alike to the product concerned.

C. DUMPING

1. Sampling

(18) As explained in recital 6 above, due to the absence of responses from any exporting producers in the PRC, it was not necessary to apply sampling in respect of exporting producers in the PRC.

2. Market economy treatment and individual treatment

(19) As explained in recital 7 above, due to the absence of responses, or requests for MET or IT, no exporting producer in the PRC was granted MET or IT.

3. Normal value

3.1. Analogue country

(20) Pursuant to Article 2(7) of the basic Regulation, normal value was established on the basis of the prices or constructed value in an analogue country. In the notice of initiation, it was envisaged to use the USA as an appropriate analogue country for the purpose of establishing normal value for the PRC and interested parties were invited to comment on the appropriateness of this choice. No comments or objections were received from any parties in this respect.

(21) Nevertheless, through contacts with associations or Chambers of Commerce which could be identified in third countries, the suitability of other countries which were considered as possibly having chamois leather production was examined. It was found that in the case of Brazil and India, there were either no producers of chamois leather or none were selling on the domestic markets of those countries. In the case of Turkey, information provided by a Turkish producer indicated that the Turkish domestic market is very limited. On the basis of the above, it was decided to maintain the USA as the choice for analogue country. The Commission therefore sought and obtained full co-operation from one producer in the USA.

(22) The USA has a relatively large and open domestic market for chamois leather (tariff protection of 3,2 %), with a number of suppliers and a considerable level of imports. In addition, similar processes as in the PRC are used for the production of the product concerned.

3.2. Determination of normal value

(23) Pursuant to Article 2(7) of the basic Regulation, normal value was established on the basis of the verified information received from a producer in a market economy third country, i.e. on the basis of prices paid or payable on the domestic market of the USA, for product types which were found to be sold in the ordinary course of trade.

(24) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the co-operating producer in the USA.

4. Export price

(25) In the absence of cooperation by exporting producers in the PRC, the export price was established on the basis of Eurostat data on the quantity and value of imports into the Community of the product concerned originating in the PRC, this being the best information available in accordance with Article 18 of the basic Regulation. The information used was cross-checked with information submitted by one trading company in the PRC. Data provided by the trading company was in line with the statistical data used as the basis to establish the export price.

5. Comparison

(26) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning differences in physical characteristics, discounts, transport and insurance, packing, credit and after-sales costs were granted where they were found to be appropriate and supported by verified evidence.

6. Dumping margin

(27) The dumping margin was established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation. The country wide dumping margin, expressed as a percentage of the CIF Community frontier price, duty unpaid, is 73,5 %.

D. INJURY

1. Community production

(28) The investigation established that the like product is at present mainly manufactured by eight producers in the Community accounting for about 95 % of total Community production with the remaining 5 % being produced by a number of very small tanneries throughout the Community.

2. Definition of the Community industry

(29) The complaint was supported by eight Community producers (six complainant and two supporting companies) out of which three of the complainant companies fully cooperated. One complainant company did not provide a full response to the questionnaire and therefore was considered as non-cooperating although it reaffirmed its support for the complaint. One more complainant and one supporting company provided only limited information concerning their production. Both companies are considered as non-cooperating with the proceeding. The remaining two companies did not cooperate in the investigation.