Council Implementing Regulation (EU) No 82/2011 of 31 January 2011 imposing a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 and terminating a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009

COUNCIL IMPLEMENTING REGULATION (EU) No 82/2011

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THE COUNCIL OF THE EUROPEAN UNION,

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 Articles 9(4) and 11(2), (3), (5) and (6) thereof,

Having regard to the proposal submitted by the European Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

(1) The Council, following an anti-dumping investigation ('the original investigation'), by Regulation (EC) No 1942/2004[(2)], imposed a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China (PRC). The duty levels imposed ranged from 6,5 % to 23,5 % for four producers and 66,7 % for all other producers.

2. Request for an expiry review and *ex officio* initiation of a partial interim review

(2) Following the publication of a notice of impending expiry[(3)] of the anti-dumping measures in force on imports of okoumé plywood originating in the PRC, the Commission received a request for an expiry review pursuant to Article 11(2) of the basic Regulation.

(3) The expiry review was lodged by the European Federation of the Plywood Industry (FEIC) ('the applicant') on behalf of Union producers representing a major proportion, in this case more than 50 % of the Union production of okoumé plywood. The request was based on the grounds that the expiry of the measures would be likely to

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 82/2011. (See end of Document for details)*

result in a continuation or recurrence of dumping and recurrence of injury to the Union industry.

(4) In addition, following a French court proceeding into anti-competitive behaviour of a number of French producers of okoumé plywood, it was considered that it could not be excluded that this could have had distorted the injury assessment in the original investigation. Therefore it was considered appropriate to also initiate in parallel an *ex officio* interim review pursuant to Article 11(3) of the basic Regulation to re-examine the injury situation of the Union industry in particular in comparison to the situation which prevailed in the investigation period of the original investigation.

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review and a partial interim review limited to the examination of injury pursuant to Articles 11(2) and 11(3) of the basic Regulation, the Commission published a notice of initiation of these reviews in the *Official Journal of the European Union*[4] (notice of initiation).

3. Investigation

3.1. *Investigation period*

(6) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 October 2008 to 30 September 2009 (the 'review investigation period' or 'RIP').

(7) The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2006 to the end of the RIP (the 'period considered').

3.2. *Parties concerned by this investigation*

(8) The Commission officially advised the known Union producers, the exporting producers in the PRC, users and importers which were known to be concerned as well as the authorities of the PRC, of the initiation of the reviews.

(9) Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limits 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. Sampling

(10) In view of the apparent high number of Union producers, importers and exporting producers in the PRC it was considered appropriate, in accordance with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the notice of initiation.

(11) Only one Chinese exporting producer came forward and provided the requested information within the given deadline. It was therefore decided that sampling was not necessary in respect of Chinese exporting producers. A questionnaire was sent to the only cooperating Chinese exporting producer, which however subsequently stopped cooperating and never submitted a reply to the questionnaire. Therefore, as explained in recital 20, in accordance with the provisions of Article 18(1) of the basic Regulation, the findings were based on the facts available.

(12) Ten Union producers provided the requested information within the given deadline and agreed to be included in the sample. On the basis of the information received from the cooperating Union producers, the Commission selected a sample of five Union producers representing about 40 % of the sales by all Union producers to unrelated customers in the Union in the RIP and about 35 % of the production by all Union producers in the RIP. The sample was selected on the basis of the largest representative sales volume that could reasonably be investigated within the time available and taking into account the geographical spread of the Union producers.

(13) The Commission sent questionnaires to the five sampled Union producers. Two of the sampled companies ceased cooperating after the sampling phase. Given that the three companies submitting questionnaire replies still represented about 30 % of the sales by all Union producers to unrelated customers in the Union during the RIP, it was considered that the sample was still representative.

(14) The Commission also sent a mini-questionnaire to the five producers which had not been selected in the sample, the two which had stopped cooperation and two other known producers, in order to obtain information on economic indicators referring to a greater number of Union producers. Replies to these mini-questionnaires were received from seven producers.

5. **Verification of information received**

(15) The Commission sought and verified all the information it deemed necessary for the purpose of the determination of the continuation or likelihood of recurrence of dumping and injury and the Union interest. Verification visits were carried out at the premises of the following companies:

5.1. *Union producers*

— GARNICA PLYWOOD SA (Spain),

— JEAN THÉBAULT SAS (France),

— JOUBERT ST-JEAN-D'ANGÉLY SAS (France).

5.2. *Producers in the analogue country*

— EKOL KONTRPLAK, Tasköprü (Turkey).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

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(16) The product concerned is the same as in the original investigation and is defined as follows: plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials, originating in the PRC, currently falling within CN code ex 4412 31 10 (previously ex 4412 13 10). The product concerned is used for a wide variety of end-uses. It is used in the building industry in exterior joinery and carpentry applications for boarding, shutter boards, exterior basements and balustrades and riverside panelling. It is also used for more decorative purposes in, inter alia, road transports (e.g. cars, coaches, caravans, camping cars), maritime transports (yachts), furniture industry and doors.

(17) There are two main types of okoumé plywood, plywood made solely with okoumé ('full okoumé') and plywood with at least one of the outer faces made of okoumé ('faced okoumé'), the rest being made of other wood. Both main types of okoumé plywood have the same external appearance. Despite differences in mechanical properties, they all share the same basic physical characteristics, and are basically used for the same purposes.

2. **Like product**

(18) As shown in the original investigation, and as confirmed in the present investigation, it has been established that the okoumé plywood manufactured in the PRC and sold domestically as well as the product manufactured and sold in the Union by the Union industry were found to have basically the same physical and technical characteristics and the same uses. Therefore, these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

(19) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was likely to continue or recur upon a possible expiry of the measures in force against the PRC.

(20) As stated in recital 11, in accordance with Article 18 of the basic Regulation, and in absence of any cooperation by Chinese exporting producers, the analysis of likelihood of continuation or recurrence of dumping had to be based on information available to the Commission from other sources. In this respect, since no detailed information was available about the precise product types exported to the Union from the PRC, the comparison of normal value and export prices had to be limited to the two main types of okoumé plywood, referred to in recital 17.

(21) As a consequence, the analysis was mainly based on Eurostat trade statistics. In addition, one Chinese exporting producer had submitted until June 2009 the periodic monitoring reports required under recital 61 of the Regulation (EC) No 1942/2004. To some extent, information from these reports could therefore be used in the analysis of likelihood of continuation or recurrence of dumping.

1. **Normal value**

1.1. *Analogue country*

(22) According to Article 2(7)(a) of the basic Regulation, in economies in transition, normal value for exporting producers not granted market economy treatment has to be established on the basis of the price or constructed value in a market economy third country ('analogue country').

(23) In the notice of initiation Turkey, which had already been used as analogue country in the original investigation, was envisaged as an appropriate analogue country for the purpose of establishing normal value for the PRC in the present expiry review. Although invited to do so, none of the interested parties commented on the choice of Turkey. Therefore, on the basis of the information available at the time of selection, it was concluded that Turkey was the most appropriate analogue country.

1.2. *Determination of normal value*

(24) One Turkish producer cooperated and submitted a questionnaire reply. Pursuant to Article 2(7)(a) of the basic Regulation, normal value was calculated on the basis of the data verified at the premises of that cooperating Turkish producer as set out below.

(25) Normal value was established for both main product types described in recital 17. For one main product type normal value was based on the prices paid or payable on sales made in the domestic market of Turkey, as these were found to be made in representative quantities and in the ordinary course of trade. For the other main product type, which was produced by the Turkish producer but not sold on the domestic market, constructed normal value was used in accordance with Article 2(3) of the basic Regulation.

(26) To construct normal value pursuant to Article 2(3) of the basic Regulation, the selling, general and administrative (SG & A) expenses incurred and the weighted average profit realised on domestic sales of the like product, in the ordinary course of trade, was added to the average cost of production during the RIP.

2. **Export price**

(27) As stated above, in the absence of any cooperation from Chinese exporting producers and in accordance with Article 18 of the basic Regulation, the export price was established on the basis of available Eurostat trade statistics. Since Eurostat does not contain information per product type of okoumé plywood, in order to assess export prices for each of the two main types of okoumé plywood, these figures were adjusted on the basis of the price difference in per cent between full and faced okoumé plywood as observed for the Turkish cooperating producer. The price difference so obtained was then applied to the weighted average Eurostat prices.

(28) As for the volumes, starting from the Eurostat total volumes, Chinese export volumes for each of the two main types of okoumé plywood have been calculated, on