COMMISSION IMPLEMENTING REGULATION (EU) 2015/1361

of 6 August 2015

repealing the definitive anti-dumping duty imposed on imports of certain candles, tapers and the like originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

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 11(2) thereof,

Whereas:

A. PROCEDURE

1. Measures in force

(1) The Council, following an anti-dumping investigation ('the original investigation'), imposed, by means of Council Regulation (EC) No 393/2009 ([2]), a definitive anti-dumping duty on imports of certain candles, tapers and the like currently falling within CN code ex 3406 00 00 (TARIC code 3406 00 00 90) and originating in the People's Republic of China ('the PRC') ('the definitive anti-dumping measures').

(2) The measures took the form of a fixed amount of EUR per tonne of fuel content (usually but not necessarily in the form of tallow, stearin, paraffin wax or other waxes, including the wick) established at 549,33 EUR per tonne of fuel.

(3) Individual fixed duties were established for the following exporting producers: Aroma Consumer Products (Hangzhou) Co., Ltd (321,83 EUR/tonne), Dalian Bright Wax Co., Ltd (171,98 EUR/tonne), Dalian Talent Gift Co., Ltd (367,09 EUR/tonne). The following companies were subject to a zero duty rate: Gala-Candles (Dalian) Co., Ltd, M.X. Candles and Gifts (Taicang) Co., Ltd, Ningbo Kwung's Home Interior & Gift Co., Ltd, Ningbo Kwung's Wisdom Art & Design Co., Ltd, and its related company Shaoxing Koman Home Interior Co., Ltd and Qingdao Kingking Applied Chemistry Co., Ltd.

(4) As sampling was applied in the original investigation, an average duty for the cooperating producers not included in the sample at 345,86 EUR per tonne of fuel content was thus established according to the provisions of Article 9(6) of the basic Regulation. The duty for all other companies was established at 549,33 EUR per tonne of fuel content.

2. Request for an expiry review

(5) Following the publication of a notice of impending expiry ([3]) of the definitive anti-dumping measures in force, the Commission received on 14 February 2014 a request for the initiation of an expiry review of those measures pursuant to Article 11(2) of the basic Regulation.

(6) The request was lodged by 16 candles producers in the Union ('the applicants') representing more than 25 % of the total Union production of certain candles, tapers and the like.

(7) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and recurrence of injury to the Union industry.

([1]) OJ L 343, 22.12.2009, p. 51.
([2]) Council Regulation (EC) No 393/2009 of 11 May 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain candles, tapers and the like originating in the People's Republic of China (OJ L 119, 14.5.2009, p. 1).
([3]) Notice of the impending expiry of certain anti-dumping measures (OJ C 270, 19.9.2013, p. 11).

3. **Initiation of an expiry review**

(8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced, on 14 May 2014, by a notice published in the *Official Journal of the European Union* ([1]) ('the notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Investigation**

4.1. *Review investigation period and period considered*

(9) The investigation of a continuation of dumping covered the period from 1 April 2013 to 31 March 2014 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a recurrence of injury covered the period from 1 January 2011 to the end of the RIP ('the period considered').

4.2. *Parties concerned by the investigation*

(10) The Commission officially advised the applicants, the other known Union producers, the known exporting producers in the PRC subject to the anti-dumping measures, the unrelated importers, the users known to be concerned, and the authorities of the PRC of the initiation of the expiry review investigation. All interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

4.3. *Sampling*

(11) In accordance with Article 17 of the basic Regulation, in view of the apparent large number of exporting producers in the PRC and of unrelated importers in the Union involved, it was considered appropriate to examine whether sampling should be applied. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, those parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide, as specified in the notice of initiation, basic information on their activities related to the product under review during the period from 1 April 2013 to 31 March 2014.

(12) 25 exporting producers in the PRC submitted valid information in the framework of the sampling exercise and agreed to cooperate in the investigation. They accounted for 36 % of the total volume of imports made into the Union by Chinese companies subject to anti-dumping duties during the review investigation period. Given the relatively large number of exporting producers in the PRC that agreed to cooperate in the investigation, it was decided to limit the number of parties to be investigated to a sample on the basis of the largest representative volume of production and export sales which can be reasonably investigated within the time available in accordance with Article 17(1) of the basic Regulation. The sample selected consisted of four exporting producers which accounted for 21 % of the total volume of exports made by companies subject to duties. Their data were verified during on-spot verification visits.

(13) In accordance with Article 17(2) of the basic Regulation, the parties concerned and the Chinese authorities were consulted on the selection of the sample. One exporting producer included in the initial proposal decided to withdraw its cooperation. One exporting producer requested to be included into the sample on the basis of the weight of its exports. Therefore, the final sample was established accordingly.

(14) Replies to the questionnaires were received from one Union importer. Therefore no sampling was necessary to examine the situation of the unrelated importers.

(15) As further explained in recital 73 below, at the preliminary stage of the investigation, 26 Union producers or group of producers agreed to cooperate in the investigation. In view of the large number of cooperating producers, the Commission decided to apply sampling. The Commission selected the sample on the basis of the largest representative volume of production which could reasonably be investigated within the time available, considering also the geographical spread and sufficient coverage of different product types. The selected sampled consisted of seven companies. The sample was considered to be representative and covered 37 % of the estimated total Union production of candles during the RIP.

([1]) Notice of Initiation of an expiry review of the anti-dumping measures applicable to imports of certain candles, tapers and the like originating in the People's Republic of China (OJ C 144, 14.5.2014, p. 14).

(16) With regard to the users, none of them made itself known or offered to cooperate in the investigation within the deadline provided in the notice of initiation or later in the investigation.

(17) Verification visits were carried out at the premises of the following companies:

(a) Union producers:

— Bolsius International (NL)

— Vollmar GmbH (DE)

— GIES Kerzen GmbH (DE) ([1])

— Promol Industria de Velas SA (PT)

— Liljeholmens Stearinfabriks AB (SE)

— Korona Candles S.A. (PL)

— Spaas Kaarsen N.V. (BE)

(b) Union importers:

— Asda Stores Limited, Leeds (UK)

(c) Exporters in the PRC:

— Beijing Candleman Candle Co., Ltd, No 515 Yanfang Industrial Park, Fangshan District, 102413 Beijing

— Dalian Talent Gift Co., Ltd, Tangfang village Taiping country, 116200 Pulandian

— Shanghai Grand Industrial Co., Ltd, Rm.38-301,3/F,No 633 JiangChuan RD, Minhang District, 200240 Shanghai and

— Zheijang Neeo Home decoration Co., Ltd, Chengjiang Industry Area, Huang Yan, 318020 Taizhou

(d) Producer in the analogue country:

— Yankee Candle, South Deerfield, Massachusetts, USA

5. **Disclosure**

(18) All interested parties were informed of the essential facts and considerations leading to the findings and the conclusions of this expiry review investigation and were invited to comment. They were also granted a time period to submit comments subsequent to disclosure. The representative of the applicants requested clarifications and additional information regarding the behaviour of exporting producers subject to zero duty, the methodology used to establish Chinese the export prices to other third country markets, the source of public information mentioned in recital 29 below and the assessment of Union consumption during the original investigation. The Commission provided the clarifications and the information requested in writing on 27 May 2015 or in the disclosure document.

(19) All interested parties had an opportunity to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(20) At the request of the representative of the applicants, a hearing chaired by the Hearing Officer took place on 27 May 2015. At the hearing, the representative of the applicants claimed that the findings of the Commission were based on inadequate analysis and/or that there was no evidence regarding the future behaviour of the exporting producers subject to zero duty. He also put into question the results of the undercutting calculations, the findings of the Commission on the production capacity in the PRC and on the attractiveness of the Union market. Moreover, it was claimed that the non-confidential file was not complete and was displaying some shortcomings. These shortcomings were swiftly rectified accordingly.

(21) Comments to the disclosure and to the additional clarifications were received on 2 June 2015. Such comments were considered and taken into account where deemed appropriate.

([1]) Gies, Promol and Liljeholmens are part of the Group ALG (ALG Holding A.B.).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(22) The product subject to this review is candles, tapers and the like, other than memory lights and other outdoor burners ('the product under review'), currently falling within CN code ex 3406 00 00 (TARIC code 3406 00 00 90) and originating in the People's Republic of China.

(23) For the purposes of this review, 'memory lights and other outdoor burners' means candles, tapers and the like which have one or more of the following characteristics:

— their fuel contains more than 500 ppm of toluene,

— their fuel contains more than 100 ppm benzene,

— they have a wick with a diameter of at least 5 mm,

— they are individually contained in a plastic container with vertical walls of at least 5 cm in height.

(24) The product under review comes in a great variety of sizes, shapes and weight, they can be plain white or coloured, either entirely or only at the outside; scented or unscented, and decorated or undecorated. The surface can be smooth or rough. Candles can be contained in a glass/jar, ceramics/aluminium containers. Labelling and packaging may be provided at the request of the purchasers. However, despite these differences all these types of the product under review share the same basic chemical and technical characteristics and uses and they are to a large extent interchangeable. Therefore, it is considered that all candles covered by the present investigation are part of the same product.

(25) These characteristics described above have an effect on the price of an individual candle but the available imports statistics cannot catch this great variety.

2. Like product

(26) The investigation showed that the product produced and sold on the Chinese domestic market and/or exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical, technical and chemical characteristics and the same basic uses.

(27) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OF DUMPING

(28) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation of dumping from the PRC.

1. Preliminary remarks

(29) The assessment concerning the likelihood of a continuation of dumping was based on the data provided by interested parties and duly verified, on data contained in the expiry review request combined with data collected from other sources such as trade statistics on imports and exports (Eurostat and Chinese export databases) and other information publicly available such as the web sites of the US International Trade Commission and of producers and resellers of candles. The Commission also used the confidential information reported by Member States in accordance with Article 14(6) of the basic Regulation for cross-checking information provided by parties and to analyse the evolution of the imports originating from Chinese exporting producers subject to an individual dumping margin.

(30) In the original investigation, the Commission used the Union industry data to establish normal value due to the absence of cooperation from any producer located in an analogue country. For the current investigation, a producer located in the United States of America ('USA') agreed to cooperate and provide all the necessary information to establish the normal value in the current investigation, as explained in recitals 31 to 35 below.

2. **Dumping of imports during the RIP**

2.1. *Normal Value*

2.1.1. Selection of the analogue country

(31) In the notice of initiation, Brazil was proposed as an appropriate analogue country for establishing normal value for the PRC. The Commission invited all interested parties to comment on this proposal but no comments were received. The Commission thus sent questionnaires to known Brazilian producers. However, no cooperation was received from producers in Brazil.

(32) In addition, cooperation of producers located in market economy countries such as Argentina, Canada, Chile, India, Indonesia, Israel, Malaysia, New Zealand, Taiwan and Thailand was also explored. However, no cooperation was received from producers located in the mentioned countries.

(33) The Commission investigated other available sources of information in order to find a potential analogue country, namely Eurostat and public database provided by the United States International Trade Commission. It was found that the Union and the US markets are the main worldwide markets for candles and that US production was also exported to the Union market.

(34) Based on the US National Candle Association ('the NCA') web site it emerged that there are around 400 candles producers established in the USA, the total production volume is significant and that this country is importing large amounts for its own consumption. Thus, the USA was considered to be a suitable analogue country for the purpose of the current investigation.

(35) The Commission requested the support of the NCA and one US producer reacted and agreed to cooperate with the investigation. The information provided by the said producer was considered to be sufficient and valid to establish normal value in the current investigation.

2.1.2. Determination of normal value

(36) The normal value was established under Article 2(7)(a) of the basic Regulation. As mentioned in recital 30 above, the normal value was established on the basis of the data provided and verified at the premises of the cooperating US producer.

(37) The investigation showed that the candle business in the USA differs from that in the PRC. For example, the cooperating US producer is a large company with a complex sales network selling a limited range of product types, exclusively scented/perfumed jars candles, at relatively high prices (so-called 'fragrance market'). In terms of volume, the US producer is comparable with the biggest Chinese producers, but the product mix is different. Chinese companies mainly produce and sell a wide range of tea-lights, pillar candles but also artistic and unscented candles. The investigation also showed that whilst Chinese producers mainly sell to wholesalers, the US producer mainly sells through its network of retail shops.

(38) Based on the above, it was considered appropriate to construct the normal value as explained below.

(39) The product types sold by the analogue country producer on its domestic market were compared with the product types produced in the PRC and sold for export to the Union. For those models which were found identical or directly comparable normal value was constructed as follows. A reasonable amount for selling, general and administrative (SG&A) expenses incurred on domestic sales of the like product at the same level of trade and a reasonable amount of profit, namely 6,5 % (this margin was used in the original investigation when establishing the normal value) were added to the cost of production of the cooperating analogue country producer during the RIP.

(40) For the other product types, not comparable, the normal value was established by adjusting the cost of production by removing the cost of jars/glass and fragrance costs in the US. Subsequently, a reasonable amount for SG&A and profit were added as explained in recital 39 above.

2.2. *Determination of the export price*

(41) The export sales of the sampled exporting producers to the Union were made directly to independent customers located in the Union. The sales price was thus established in accordance with Article 2(8) of the basic Regulation, on the basis of the price paid or payable reported in Eurostat import statistics.

(42) This average export price at CIF level was duly adjusted by deducting in particular the transportation costs to arrive at the ex-works value.

2.3. *Comparison and adjustments*

(43) The comparison between the normal value and the export price was made on an ex-works basis.

(44) 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 transport costs, insurance costs, terminal and handling costs, credit costs, and commissions, where applicable and justified, in accordance with Article 2(10) of the basic Regulation.

2.4. *Dumping margin*

(45) On the basis of above, it was found that one sampled exporting producer was not dumping its products to the Union market. The average dumping margin of three remaining sampled exporting producers, expressed as a percentage of the free-at-Union-frontier price, before duty, was found to be around 60 %.

3. **Development of imports should measures be repealed**

3.1. *Preliminary remark*

(46) During the hearing chaired by the Hearing Officer, one party claimed that the exporting producers not subject to measures which were found to be dumping during the original investigation, namely Ningbo Kwung's Home Interior & Gift Co., Ltd and Qingdao Kingking Applied Chemistry Co., Ltd should have been included in the current expiry review investigation.

(47) The Commission sent the Notice of Initiation to all interested parties of the original investigation including exporting producers who were found to be dumping during the original investigation, but who are subject to zero duty rate because they were not injuring the Union industry. None of these exporting producers submitted a sampling form. Therefore, they were not included in the sample.

(48) Moreover, interested parties were informed by the Commission of the proposal for a sample of Chinese exporting producers and had thus the opportunity to submit their comments. However, none of them came forward and the representativeness of the sample of Chinese exporting producers was not questioned. The Commission therefore considers that there was a consent on the sample proposed and that the sample is representative of the candles industry in the PRC.

3.2. *Production capacity in the PRC*

(49) Precise information on the country-wide production capacity and domestic consumption of candles in the PRC is not publicly available. None of the investigated Chinese exporting producers was in the position to provide such information. In fact, according to the CEO of one of the sampled companies, the vice-president of the China Chemical Industry Candles Branch Association, the Association does not collect information from its members about the production and consumption in the PRC.

(50) The applicants claimed in the expiry review request, though without providing any evidence in this regard, that there is idle production capacity in the PRC. They noted that candles are still a niche market in the PRC and the Chinese candle industry is mainly export oriented. The applicants considered that the idle production facilities remained mostly in place unused and that they could be reactivated easily as the pre-requisite is mainly limited to access to unskilled labour and paraffin. Finally, they supported these claims by referring to the conclusions of the 2010 US sunset review investigation ([1]) concerning the US measures on Chinese candles imports.

([1]) US International Trade Commission, investigation on 'Petroleum Wax Candles from China', No 731-TA-282 (Third Review).

(51) As regards the relevance of alleged Chinese idle production capacity, the verification visits of the sampled companies showed that these are running at high capacity utilisation with no or negligible idle production capacity despite the existence of duties. This would indicate that the Chinese exporting producers rather adjusted to the decrease in worldwide demand which is attributable to the financial crisis. In any event, the behaviour of Chinese exporting producers not subject to measures, whose exports to the EU decreased during the period considered, indicates that there is currently no incentive to reactivate the allegedly idle production facilities.

(52) With respect to the US investigation against Chinese candles, it should be noted that the above conclusion was reached in 2010 and therefore is not necessarily applicable to the current situation.

(53) Consequently, while it cannot be excluded that the low-tech production can be reactivated in a short time frame it is difficult to conclude with certainty what the extent of spare capacity available in the PRC is.

(54) In its comments to the disclosure, one party underlined that the Commission did not obtain precise information on available production capacity in the PRC and reiterated the allegations mentioned in recital 50 above, namely that candle manufacturers are numerous in the PRC and that production facilities relying on low-tech manufacturing still exist and can be quickly re-started. The party claimed that this assumption is consistent with the findings of the US International Trade Commission (US ITC) ([1]) in their investigation concerning candles originating in the PRC.

(55) The Commission does not deny that there may be spare capacity in the PRC and that Chinese producers could increase their production. At first sight, this seems possible in light of the structure of the industry and the fact that low-skilled labour can be employed to produce candles. However, the Commission points to the fact that despite the competition from Chinese producers not subject to measures, it is the Union industry that managed to strengthen its position on the Union market and consolidate its substantial market share during the period considered. Furthermore, the Commission recalls that the verified exporting producers subject to measures were running at high capacity utilisation despite the existence of measures. In this respect, it needs to be stressed that the verified Chinese producers are a representative sample of the entire Chinese candles industry. Finally, four out of the five Chinese exporting producers not subject to measures did not benefit from their competitive advantage vis-à-vis other Chinese producers and did not increase their exports to the EU although they were allegedly in a position to easily make use of low-tech production facilities requiring only unskilled labour.

(56) It should also be noted that the US ITC 2010 determination that Chinese producers have the ability to increase existing capacity and production rapidly is mainly based on assumptions made by the National Candle Association which are at odds with the findings of this investigation as explained above in recitals 49 to 53. Therefore, this claim has to be rejected.

(57) The party provided evidence allegedly substantiating the existence of spare capacity. The party also claimed that production facilities in Thailand and in Vietnam will likely return to the PRC when the anti-dumping duties expire.

(58) The evidence provided by the party substantiated neither the existence nor the size of spare capacity in the PRC. Moreover, the claim on the return of production facilities was not substantiated at all.

3.3. *Attractiveness of the Union market*

(59) The PRC has consistently been a large exporter of candles to the world market. In terms of volume, the Union market is by far the first export market for Chinese candles, representing 30 % of the total Chinese exports during the RIP. Even after the imposition of duties, the Union remains the main exports market for the PRC.

(60) Noting the importance of the price level in purchasing decisions in the candle market, particularly for the standard products such as tea lights and pillars candles, it needs to be pointed out that the Chinese average export prices to their main third country markets (for example Australia, Canada, Malaysia, the USA, Japan or

([1]) US International Trade Commission, investigation on 'Petroleum Wax Candles from China', No 731-TA-282 (Third Review), page 14.

New Zealand) were higher than the prices of the Union industry ([1]) during the RIP. Therefore, there is no economic incentive for Chinese exporting producers to redirect their exports to the Union should the measures be repealed.

(61) Furthermore judging from the behaviour of the Chinese companies not subject to measures, whose unit price is higher than that of the Union industry, who compete directly with the Union industry and whose market share decreased during the period considered, it seems unlikely that Chinese producers subject to duties would undercut the Union industry prices only to gain market share.

(62) In its comments to the disclosure, one party claimed that the Chinese export prices to third countries and in particular to the Malaysian market cannot be considered to be relevant because a significant part of this trade is allegedly destined to the Union market. Moreover, this party claimed that the measures have been circumvented.

(63) The assumption regarding the Malaysian market is not based on verified evidence and cannot thus be taken into consideration. Moreover, the available imports statistics show that the volume of imports from Malaysia has been decreasing and is currently negligible. Nevertheless, it should be noted that, as mentioned in recital 60 above, the Chinese average export price to third countries including Malaysia is higher than the price of the Union Industry. Accordingly, even if the allegation of this party was true, these high prices could not cause injury the Union Industry. The evidence provided on other forms of circumvention is inconclusive and at odds with the available imports statistics.

(64) In its comments to the disclosure, one party claimed that the comparison of the Chinese export prices to their main third country markets and the average price of the exporting producers not subject to measures with the prices of the Union industry is irrelevant because it does not take into consideration possible differences in the product mix.

(65) It is noted that the party did not substantiate its claim and did not provide any information concerning possible issues of 'product mix' and other characteristics which may be relevant for the price analysis. The available statistics show the exports/imports of candles under one CN code and the weighted average price per kilo can be obtained from exports/imports databases. The Commission considers that the average price per kilo provides the best source of information concerning the level of export/import prices which can be obtained for exporting producers in the PRC.

(66) The party further claimed that four out of five the exporting producers not subject to measures do not compete with the Union industry as they focused on high-end products or supplemented the production of their mother companies in the Union. The same interested party also considered that the behaviour of the exporting producers not subject to measures is of little relevance for the review investigation as it does not shed light on the behaviour of the exporters subject to duties that had engaged in injurious dumping before the original measures were imposed on the standardised products which is allegedly the market segment that will be most affected if the measures are allowed to lapse. Finally, the same party claimed that pre-2011 import volumes of these companies were not considered.

(67) These claims however contradicted the findings of the investigation. In fact, as mentioned in recital 61 above, the Commission considers that the analysis of the behaviour of the exporting producers not subject to measures is relevant in particular for the analysis concerning the attractiveness of the Union market. As acknowledged by the party itself, some producers are involved in the production of standard products and others in high-end products. In terms of volume, it has to be recalled that four out of the five companies not subject to measures were sampled by the Commission in the original investigation on the basis of the largest volume of exports ([2]). This shows that these producers were exporting high volumes of products to the Union market. Given that no measures were imposed on them they did not have any incentive, unlike producers subject to measures, to change the product mix of their exports. Therefore, the behaviour of these exporters can be considered as illustrative of the likely future behaviour of Chinese producers currently subject to measures also with regard to the market segment characterised by standardised production, namely pillars and tea-lights candles. Since the imposition of definitive measures, these exporting producers benefited of a significant commercial advantage compared with products subject to measures. However, it was found that the volume of the imports originating from two out of five producers decreased significantly; for two others, the volume remained stable and only for

([1]) COMTRADE database, http://comtrade.un.org/data/
([2]) Recital 38 of Regulation (EC) No 1130/2008, as confirmed in recital 28 of Regulation (EC) No 393/2009.

one of the five producers volume of imports doubled since the IP of the original investigation, namely since 2007. Thus, it can be concluded that the behaviour of the five exporting producers subject to zero duty gives an inconclusive picture on the attractiveness of the Union market, given that four of them did not benefit from their favourable position to increase the volume of exports to the Union market.

(68) Furthermore, the party did not provide any evidence demonstrating that products sold in the market segment of large-volume mass products should be considered different compared with other part of the market. As mentioned in recital 26 and thoroughly explained in recitals 24 to 30 of Commission Regulation (EC) No 1130/2008 ([1]) imposing provisional anti-dumping measures as well as in recitals 22 to 27 of Regulation (EC) No 393/2009, the investigation showed that the product produced and sold on the Chinese domestic market and/or exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical, technical and chemical characteristics and the same basic uses. Moreover, the current investigation covers the entire scope of the existing measure and cannot focus only on a sub-segment of this market and disregard the other sub-segments.

(69) Therefore, these claims have to be rejected.

3.4. *Conclusion on the likelihood of a continuation of dumping*

(70) On the basis of the above, it can be concluded that if measures were allowed to lapse the Chinese exports to the EU currently under anti-dumping measures would continue to be imported at dumped prices. However, it seems unlikely that these exports would reoccur in considerable quantities.

D. **SITUATION ON THE UNION MARKET**

1. **Preliminary remarks**

(71) For the purpose of the injury analysis the Commission distinguished between macroeconomic and microeconomic injury indicators. The macroeconomic indicators for the period considered were established, analysed and examined on the basis of the data provided by the Union industry. The microeconomic indicators were established on the basis of the data collected and verified at the level of the sampled Union producers.

(72) In the following sections, the macroeconomic indicators are: production, production capacity, capacity utilisation, stocks, sales volume, market share and growth, employment, productivity, magnitude of the actual dumping margin, recovery from past dumping. The microeconomic indicators are: average unit prices, cost of production, profitability, cash flow, investments, return on investment, ability to raise capital and labour costs.

2. **Union industry**

(73) Based on the data provided in the review request, it was established that the like product is manufactured by a high number of producers in the Union, including many small and medium sized producers. 26 Union producers supplied general data on their volume production and sales. Since many Union producers, mostly small enterprises, did not cooperate in the investigation it was not possible to define precisely the total volume of Union production and the number of producers on the basis of individual company data.

(74) Consequently, the volume of Union production has been estimated by using information provided in the expiry review request. On that basis, the total Union production was estimated to be around 400 000 tonnes and the total number of Union producers estimated to be around 170 during the RIP. They constitute the Union industry within the meaning of Article 4(1) of the basic regulation and will hereafter be referred to as the 'Union industry'.

(75) As indicated in recital 17 above, seven Union producers were sampled and provided the requested information. The companies in the sample are estimated to represent around 37 % of the total Union production during the RIP.

([1]) Commission Regulation (EC) No 1130/2008 of 14 November 2008 imposing a provisional anti-dumping duty on imports of certain candles, tapers and the like originating in the People's Republic of China (OJ L 306, 15.11.2008, p. 22).

3. **Union consumption**

(76) Union consumption was established on the basis of the verified sales figures of the sampled Union producers on the Union market, data provided by the applicants in the review request, import data from third countries and from the PRC extracted from Comext.

(77) During the period considered Union consumption remained fundamentally stable. However it is noteworthy that consumption in the RIP is significantly lower than the levels recorded during the investigation period of the original investigation when the consumption was about 577 000 tonnes.

(78) In its comment to the disclosure, one party claimed that the Union consumption was overestimated during the original investigation. However, that party participated in the original investigation and did not make any such claim at that time. This claim has to be therefore rejected.

Table 1

Consumption

	2011	2012	2013	RIP
Consumption (tonnes)	439 478	403 608	429 046	443 906
Index (2011 = 100)	*100*	*92*	*98*	*101*

Source: Questionnaire replies, expiry review request, Comext.

4. **Volume, prices and market share of dumped imports into the Union from the PRC**

4.1. *Volume and market share*

(79) The volumes and market shares of dumped imports from the PRC were analysed on the basis of imports statistics available and data collected from Article 14(6) database at TARIC (Integrated Tariff of the European Union) code level. It is recalled that 5 Chinese exporting producers were subject to zero duty. Their situation is examined separately as imports subject to zero duty below.

(80) During the period considered the dumped imports into the Union developed in terms of volumes and market shares as shown in the table below.

Table 2

Volume and market shares of the dumped imports concerned

	2011	2012	2013	RIP
PRC				
Volume of imports (tonnes)	30 814	22 923	20 766	20 365
Index (2011 = 100)	*100*	*74*	*67*	*66*
Market share Union market (%)	7,0	5,7	4,8	4,6
Index (2011 = 100)	*100*	*81*	*69*	*65*
Share of Chinese imports (%)	44	38	37	35
Index (2011 = 100)	*100*	*86*	*83*	*80*

	2011	2012	2013	RIP
Share of all imports (%)	30	24	22	21
Index (2011 = 100)	*100*	*81*	*73*	*71*

Source: Database 14(6), and Comext data.

(81) During the period considered the volume of dumped imports from the PRC decreased by 34 %. They represented 35 % of total Chinese imports and 21 % of total imports in the Union market during the RIP. However, their share of the Union market remained low at around 4,6 %.

4.2. *Price*

(82) The average price of dumped Chinese imports increased by 24 % as shown in the table below:

Table 3

Prices of dumped imports

	2011	2012	2013	RIP
PRC				
Average price (EUR/tonne)	2 708	3 301	3 272	3 352
Index (2009 = 100)	*100*	*122*	*121*	*124*

Source: Database 14(6).

(83) The increase in prices can be explained by the fact that there was a change in the product mix of the Chinese products exported to the Union market. Chinese exporters subject to measures exported higher value products or products with higher decorative features and lower fuel content, i.e. specialty candles. This allowed the Chinese producers to reduce the impact of the measures in force and to penetrate into a market segment where the Union industry is less present.

(84) The exporters which were subject to the highest duties were basically absent from the Union market in the RIP.

4.3. *Price undercutting*

(85) For the purposes of analysing price undercutting, the weighted average sales prices per product type of the Union industry to unrelated customers on the Union market, adjusted to ex-works level, were compared to the corresponding weighted average prices of the dumped imports to the first independent customer established on a CIF basis with an appropriate adjustment for post-importation cost. The comparison showed that during the RIP the imports of the product under review did not undercut the Union industry's prices. It should however be mentioned that the imports made by exporters subject to anti-dumping duties are mainly speciality candles, but also standard candles with added handcraft and decorations, generally more expensive than the core product types produced by the sampled Union producers, that is pillars and tea-lights candles.

(86) In its comments to the disclosure, one party claimed the Commission should make a distinction between the various types of products produced and sold in the Union market. Following the imposition of the definitive measures, Chinese producers subject to duties modified their market behaviour and started focusing on higher-end more expensive product types, such as decorated and artistic candles, scented candles, and candles in glasses whereas the core products produced and sold by the Union industry remain tea-lights and pillar candles.

(87) Moreover, the party claimed that for a specific product type, namely white, unscented tea lights, considered to be comparable to products of the Union industry, the Commission found that the Chinese exporting producers were undercutting the prices of the Union industry by 6 %. However, as mentioned in recital 85 above, the price undercutting was established by comparing prices for all the product types reported by the Chinese exporting producers, namely 26 product types with the product types reported by the Union industry. Indeed, the present investigation cannot limit itself to one particular product type. On the contrary, it needs to analyse the product under review as a whole. Therefore, only the results of the undercutting analysis for the product concerned as a whole are relevant for the purposes of this investigation.

(88) The original investigation already pointed out that there is a high variety of product types available in the Union market ([1]) and that although Union producers could produce all types of candles they were more focussed on the production of standard types of candles such as tea lights and pillar candles. Nevertheless, the Institutions concluded in the original investigation ([2]) that the candles produced in the PRC and exported to the Union and the candles produced and sold in the PRC and those produced and sold by the Union Industry in the Union market were to be considered as being like product within the meaning of the basic Regulation.

(89) As was the case in the original investigation, the Commission confirms that the price undercutting analysis takes into account the fact that various types of candles exist in the market. The price comparison is thus made on the basis of the same or similar product types as was the case in the original investigation ([3]). To this end, product control numbers (PCN) are created for the various types of candles existing in the market and the price comparison is made on the basis of the same PCN.

(90) The investigation showed that no price undercutting was found to exist for the sampled Chinese exporting producers when looking at the entire scope of the product under review.

(91) It should be stressed that undercutting must be calculated and assessed for the whole range of the like product, therefore the claim that the undercutting found on one PCN should be deemed conclusive for the overall results of the undercutting calculations, has to be rejected.

5. **Volume, prices and market share of imports subject to zero duty from the PRC**

(92) During the period considered the volume of imports subject to zero duty into the Union developed as follows:

Table 4

Volume and market shares of imports subject to zero duty concerned

	2011	2012	2013	RIP
PRC				
Volume of imports (tonnes)	38 744	37 584	35 877	37 197
Index (2011 = 100)	*100*	*97*	*93*	*96*
Market share (%)	8,8	9,3	8,4	8,4
Index (2011 = 100)	*100*	*106*	*95*	*95*
Share of Chinese imports (%)	56	62	63	65

([1]) Recital 18 of Regulation (EC) No 1130/2008, confirmed by recital 21 of Regulation (EC) No 393/2009.
([2]) Recital 27 of Regulation (EC) No 393/2009.
([3]) Recital 106 of Regulation (EC) No 1130/2008, confirmed by recital 88 of Regulation (EC) No 393/2009.

	2011	2012	2013	RIP
Index (2011 = 100)	*100*	*112*	*114*	*116*
Share of all imports (%)	37	39	38	39
Index (2011 = 100)	*100*	*106*	*101*	*103*

Source: Database 14(6) and Comext data.

(93) The volume of imports subject to zero duty from the PRC decreased by 4 % during the period considered. They represent the biggest part of Chinese imports, accounting for two thirds of imports during the RIP. The information gathered by the Commission during this investigation, showed that the sales of these exporting producers covered the like product as a whole and are therefore also in competition with the core types of the EU industry (namely tea-lights and pillar candles). This conclusion is corroborated by findings referred to in recital 67 hereof.

(94) During the period considered prices of imports subject to zero duty from the PRC of the product under review increased by 13 % and were higher than the prices of the Union industry.

Table 5

Prices of imports subject to zero duty

	2011	2012	2013	RIP
PRC				
Average price (EUR/tonne)	2 171	2 536	2 462	2 452
Index (2009 = 100)	*100*	*116,8*	*113,4*	*113,0*

Source: Database 14(6).

6. **Imports from other third countries**

(95) The table below shows the development of imports from other countries during the period considered.

Table 6

Imports from other third countries

	2011	2012	2013	RIP
Volume of imports (tonnes)	34 084	34 647	38 388	38 924
Index (2011 = 100)	*100*	*102*	*113*	*114*
Price EUR/tonne	3 131	3 445	3 470	3 412
Index (2011 = 100)	*100*	*110,0*	*110,8*	*109,0*

	2011	2012	2013	RIP
Market share (%)	7,8	8,6	8,9	8,8
Index (2011 = 100)	*100*	*111*	*115*	*113*

Source: Comext.

(96) Imports from other countries have increased from 2011 until the RIP by 13 %, thus increasing their market share on total consumption by 1 percentage point, i.e. from 7,8 % to 8,8 %. Prices increased by 9 % during the same period.

7. **Economic situation of the Union industry**

(97) In accordance with Article 3(5) of the basic Regulation, the Commission examined all economic factors having a bearing on the state of the Union industry.

(98) As mentioned in recitals 71 and 72, for the purpose of the injury analysis, the economic situation of the Union industry is assessed on the basis of such indicators as production, production capacity, capacity utilisation, sales volume, market share and growth, employment, productivity, magnitude of actual dumping margin and recovery from past dumping, average unit prices, cost of production, profitability, cash flow, investments, return on investments and ability to raise capital, stocks and labour costs.

7.1. *Production, production capacity and capacity utilisation*

(99) The table below shows that the production of the Union industry developed in line with consumption during the period considered.

Table 7

Total Union industry' production

	2011	2012	2013	RIP
Production (tonnes)	397 824	345 484	385 992	413 079
Index (2011 = 100)	*100*	*87*	*97*	*104*

Source: questionnaire replies and review request.

(100) Production capacity steadily increased during the period considered and capacity utilisation remained by and large stable over the same period.

Table 8

Production capacity and capacity utilisation

	2011	2012	2013	RIP
Production capacity (tonnes)	677 422	696 014	721 898	726 768
Index (2011 = 100)	*100*	*103*	*107*	*107*

	2011	2012	2013	RIP
Capacity utilisation (%)	59	50	53	57
Index (2011 = 100)	*100*	*85*	*91*	*97*

Source: Questionnaire replies and review request.

7.2. *Sales volume, market share and growth*

(101) The sales volume of the Union industry increased by 3 % between 2011 and the RIP which is reflected in an increase of the market share of the Union industry.

Table 9

Union industry's sales to unrelated customers

	2011	2012	2013	RIP
Volume (tonnes)	335 788	308 404	333 961	347 421
Index (2011 = 100)	*100*	*92*	*99*	*103*

Source: Questionnaire replies and review request.

(102) The increase in sales volume of the Union industry is reflected in an increase in the market share of the Union industry indicating that the industry has slightly grown its presence in the market.

Table 10

Union industry's market share and growth

	2011	2012	2013	RIP
Union industry market share (%)	76	76	78	78
Index (2011 = 100)	*100*	*100*	*102*	*102*

Source: Questionnaire replies and review request.

7.3. *Employment*

(103) The investigation showed that employment followed a positive trend following increase in production. This has led to additional workforce being employed. As the relative increase in employment was higher than that of production, a temporary decrease of productivity calculated as output in tonnes per person employed per year occurred.

Table 11

Employment and productivity

	2011	2012	2013	RIP
Number of employees	5 727	5 697	6 008	6 275
Index (2011 = 100)	*100*	*99*	*105*	*110*

	2011	2012	2013	RIP
Productivity (unit/employee)	69	61	64	66
Index (2011 = 100)	*100*	*87*	*92*	*95*

Source: Questionnaire replies and review request.

7.4. *Magnitude of actual dumping margin and recovery from past dumping*

(104) As indicated in recital 45 above the average dumping margin established for the PRC remained high during the RIP. However, analysis of the injury indicators brought evidence that the industry has recovered from the past dumping practices.

7.5. *Average unit selling prices on the Union market and unit costs of production*

(105) The weighted average unit sales prices of the sampled Union producers to unrelated customers in the Union increased by 7 % from 2011 until the end of the RIP. The average costs of production increased as well, but only by 4 %, mainly due to the increase in the costs of raw materials and the labour costs.

Table 12

Selling prices and costs

	2011	2012	2013	RIP
Average unit selling price in the Union to unrelated customers (EUR/tonne)	2 194	2 384	2 390	2 341
Index (2011 = 100)	*100*	*109*	*109*	*107*
Unit cost of production (EUR/tonne)	2 118	2 340	2 254	2 198
Index (2011 = 100)	*100*	*110*	*106*	*104*

Source: Questionnaire replies.

7.6. *Profitability, cash flow, investments, return on investments and ability to raise capital*

(106) During the period considered the Union producers' cash flow, investments, return on investments and their ability to raise capital developed as follows:

Table 13

Profitability, cash flow, investment, return on investment

	2011	2012	2013	RIP
Profitability (%)	3,4	1,8	5,7	6,1
Index (2011 = 100)	*100*	*53*	*165*	*177*
Cash flow	7 563 810	22 279 510	20 303 703	20 432 048
Index (2011 = 100)	*100*	*295*	*268*	*270*
Investments	19 981 640	15 994 425	13 007 612	19 924 243

	2011	2012	2013	RIP
Index (2011 = 100)	*100*	*80*	*65*	*100*
Return on investments (%)	1,8	– 0,5	4,8	5,4
Index (2011 = 100)	*100*	*– 26,9*	*271,2*	*304,2*

Source: Questionnaire replies.

(107) The profitability of the sampled Union producers was established by expressing the pre-tax profit on the ex-works sales of the product under review to unrelated customers in the Union as a percentage of the turnover of those sales. The sales of the sampled Union producers were profitable during the period considered. The levels of profitability have not reached the target profit of 6,5 %, which the industry could have expected to obtain in normal conditions of competition, in the absence of dumped imports. This target profit was also established in the original investigation.

(108) The Union industry managed to stay financially sound as illustrated by the development of cash flow over the period considered, allowing it to partially auto finance new investments. The level of investments has more than doubled compared to the levels of the Union industry during the IP of the original investigation (i.e. the year 2007). This points out that the industry has got the capacity to raise the necessary capital.

(109) Return on investment also recovered and reflects to a large extent the evolution of profitability during the period considered.

7.7. *Stocks*

(110) Inventories remained by and large stable over the period considered representing between 16 % to 17 % of the production of the sampled companies. This relative high stock level, although lower than in the original investigation, can be explained by the seasonality of the product under review and is also linked to the strategy of retailers to source their needs on call.

Table 14

Closing stock

	2011	2012	2013	RIP
Closing stock (tonnes)	25 392	22 404	23 333	24 493
Index (2011 = 100)	*100*	*88*	*92*	*96*

Source: Questionnaire replies.

7.8. *Labour costs*

(111) The average labour costs of the sampled Union producers increased by 6 % in the period considered.

Table 15

Labour costs

	2011	2012	2013	RIP
Average labour costs per employee (EUR)	20 769	20 939	21 351	21 966
Index (2011 = 100)	*100*	*101*	*103*	*106*

Source: Questionnaire replies.

8. **Conclusion on the situation of the Union industry**

(112) The findings of the current investigation point to the conclusion that the Union industry's economic situation has shown signs of recovery over the period considered. A number of indicators such as production volume, production capacity, sales volume, sales prices, market share and employment developed positively. Moreover, the performance indicators such as profitability and cash flow also recovered. This leads to the conclusion that the Union industry did not suffer material injury during the period considered and in particular during the RIP.

E. **LIKELIHOOD OF RECURRENCE OF INJURY**

1. **Preliminary remark**

(113) As demonstrated above in recital 112, the Union industry did not suffer material injury during the RIP. Therefore, in accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures in force would be likely to result in a recurrence of injury. In this respect, the potential impact of the Chinese imports on the Union market and the Union industry was analysed.

(114) The analysis focused on the consumption trend of the Union market, spare capacity, trade flows and attractiveness of the Union market, pricing behaviour of all the Chinese producers both in the EU and on third markets.

2. **Consumption in the Union**

(115) The investigation showed that Union consumption remained fundamentally stable and that the product under review is imported into the Union market in a wide range of product types. During the period considered the volume of dumped imports decreased by 34 %. At the same time also imports from Chinese companies not subject to measures decreased, namely by 4 %.

3. **Spare capacity, trade flows and attractiveness of the Union market, and pricing behaviour of Chinese exporters**

(116) As mentioned above in recitals 49 to 58 above, there is no evidence that there is any substantial unused production or spare capacity in the PRC. Furthermore, the Union market does not appear to be particularly attractive for Chinese exporters, despite its size. Although the share of Chinese imports into the Union is the largest one, dumped Chinese export prices to the Union are higher than the Union industry's sales prices. This also applies specifically to the prices exercised by the Chinese exporting producers not subject to measures, which compete more directly with the Union production and where the competition takes place almost exclusively on price. These Chinese exporters continued to sell similar or even lower quantities to the Union market during the period considered and did not attempt to gain market share. Furthermore, as mentioned in recital 61 the Chinese average export prices to third country markets are higher than prices of the Union industry. Therefore, the Chinese exporting producers do not seem to be tempted to redirect their exports to third countries towards the Union should measures be repealed.

(117) In its comments to the disclosure, one party claimed that the Union market would be the largest open market for candles in the world and therefore it is implausible to contend that the Union market would not be an attractive one if measures were repealed. Moreover, the party claims that Chinese exporters offer various circumvention schemes and that, since the disclosure was issued, Chinese candle producers and traders have sent out multiple offers to European traders and producers. All of the above would prove that the Union market is still attractive for Chinese exporters.

(118) However, the analysis of the evolution over the last five years of the imports originating from the exporting producers not subject to measures has shown that the volume of their imports did not increase significantly since the imposition of measures. Moreover, four out of five of these exporting producers have experienced a decrease in export sales to the Union compared with the IP of the original investigation. Only one exporting producer increased its exports sales to the Union during that period. Therefore, most of the Chinese exporting producers not subject to measures did not profit from their commercial advantage compared with other Chinese exporting producers subject to duty to increase their sales volume. Despite the anecdotal evidence on the existence of offers made by traders, the available evidence as described in recitals 59 to 69 hereof shows that the Union market does not appear to be particularly attractive.

4. **Conclusion**

(119) In view of the findings of the investigation, namely the main consumption trends in the Union market, the market behaviour of the Chinese exporting producers not subject to measures, the price level of Chinese exports to third countries and the moderate attractiveness of the European market, the Commission concludes that there is no likelihood of recurrence of injury to the Union industry were the existing measures to be repealed.

F. **UNION INTEREST**

(120) As it has been concluded that there is no likelihood of recurrence of injury, no findings on Union interest are necessary.

G. **ANTI-DUMPING MEASURES**

(121) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures should be repealed. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.

(122) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain candles, tapers and the like originating in the PRC, imposed by Regulation (EC) No 393/2009 should be repealed and the proceeding terminated.

(123) The Committee established by Article 15(1) of Regulation (EC) No 1225/2009 did not deliver an opinion on the repeal of measures provided for in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The definitive antidumping duties on imports of certain candles, tapers and the like currently falling within CN code ex 3406 00 00 (TARIC code 3406 00 00 90) originating in the People's Republic of China are hereby repealed and the proceeding concerning these imports is terminated.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 August 2015.

For the Commission

The President

Jean-Claude JUNCKER