



EUROPEAN COMMISSION

Brussels, 29.5.2012  
COM(2012) 233 final

2012/0117 (NLE)

Proposal for a

### **COUNCIL REGULATION**

**amending Council Implementing Regulation (EU) No 917/2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China, by adding a company to the list of producers from the People's Republic of China listed in Annex I**

## EXPLANATORY MEMORANDUM

### 1. Context of the proposal

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') in the proceeding concerning imports of ceramic tiles originating in the People's Republic of China.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

Council Implementing Regulation (EU) No 917/2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China.

- **Consistency with other policies and objectives of the Union**

Not applicable.

### 2. Consultation of interested parties and impact assessment

- **Consultation of interested parties**

Interested parties concerned by the proceeding have had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not make provisions for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

### 3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The attached proposal for a Council Regulation is based on the definitive finding that one Chinese exporting producer has met all criteria to be granted the new exporting

producer status and therefore be subject to the weighted average anti-dumping duty of 30.6%.

- **Legal basis**

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

Council Implementing Regulation (EU) No 917/2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Union, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

Other means would not be adequate because the basic Regulation does not provide for alternative options.

#### 4. BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

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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<sup>1</sup> (the basic Regulation), and in particular Article 9 thereof,

Having regard to Council Implementing Regulation (EU) No 917/2011<sup>2</sup> imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of ceramic tiles originating in the People's Republic of China ('Council Implementing Regulation (EU) No 917/2011') and in particular Article 3 thereof,

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

Whereas:

### **A. PREVIOUS PROCEDURE**

- (1) By Implementing Regulation (EU) No 917/2011, the Council imposed a definitive anti-dumping duty on imports into the Union of ceramic tiles originating in the People's Republic of China ('China'). Given the large number of cooperating exporting producers in China in the investigation that led to the imposition of the anti-dumping duty ('the original investigation'), a sample of Chinese exporting producers was selected and individual duty rates ranging from 26.3% to 36.5% were imposed on the companies included in the sample, while other cooperating companies not included in the sample were attributed a duty rate of 30.6%. A duty rate of 69.7% was imposed on all other Chinese companies.
- (2) Article 3 of Council Implementing Regulation (EU) No 917/2011 stipulates that where any new exporting producer in China provides sufficient evidence to the Commission that:

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<sup>1</sup> OJ L 343, 22.12.2009, p. 51.

<sup>2</sup> OJ L 238, 15.9.2011, p. 1.

- it did not export to the Union the products described in Article 1(1) of that Regulation during the investigation period (1 April 2009 to 31 March 2010) ('the investigation period') (the first criterion);
- it is not related to any of the exporters or producers in China which are subject to the anti-dumping measures imposed by that Regulation (the second criterion); and
- it has actually exported to the Union the products concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union (the third criterion);

then Article 1(2) of that Regulation can be amended by granting the new exporting producer the duty rate applicable to the cooperating companies not included in the sample, i.e. 30.6%.

### **B. NEW EXPORTING PRODUCER REQUEST**

- (3) A Chinese company ('the applicant') has applied to be granted the same treatment as the companies cooperating in the original investigation not included in the sample ('new exporting producer treatment').
- (4) An examination has been carried out to determine whether the applicant fulfils the criteria for being granted new exporting producer treatment as set out in Article 3 of Council Implementing Regulation (EU) No 917/2011.
- (5) A questionnaire was sent to the applicant who was asked to supply evidence to demonstrate that it met the three criteria mentioned above.
- (6) The evidence provided by the Chinese exporting producer was considered sufficient to show that it fulfils the criteria set out in Article 3 of Council Implementing Regulation (EU) No 917/2011. This exporting producer can therefore be granted the duty rate applicable to the cooperating companies not included in the sample (i.e. 30.6%) and consequently its name can be added to the list of exporting producers in Annex I to Council Implementing Regulation (EU) No 917/2011.
- (7) The applicant and the Union industry have been informed of the findings of the examination and were given the opportunity to submit their comments.
- (8) All arguments and submissions made by interested parties were analysed and duly taken into account where warranted,

HAS ADOPTED THIS REGULATION:

*Article 1*

The following company shall be added to the list of producers from the People's Republic of China listed in Annex I to Council Implementing Regulation (EU) No 917/2011:

<b>Name</b>	<b>TARIC additional code</b>
Onna Ceramic Industries (China) Co., Ltd.	B293

*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,

*For the Council*  
*The President*