

# Minutes of the Hearing EU-Commission

Date: January 14<sup>th</sup> 2013 / 14:00-16:00

Participants: Mr Breker (WOB), Mr Christoph Fischer (CF), Mr Gielen (JG), Mr Holst (KH), Mr Kremeyer (BK), Mr Kriessler (MKR), Mr Tognana (AT),

Participants EU-Commission: Mr Per Ake Aidemark (PAA), Mr Arthur Braam (AB), Mr Laurens Elsen (LE), Ms Sonia Herrero-Rada (SHR), Ms Vanessa Peidro-Cid (VPC),



Reporter: Ms Morscher (VMO)

Who	Slide
CF	<p><b>Welcome/Introduction; Round of introduction</b></p> <p>Clarifies the goal of the hearing which is to have a dialogue and discuss about the differences in the findings of the EU and the group. And may have/give an explanation.</p>
MKR	<p>Presentation of the facts of the slide about the differences of PRODCOM data and the adjustments of the EU-Commission. Question: What adjustments did the EU-Commission made to calculate the numbers?</p>
AB	<p>"Cannot answer the question, maybe afterwards some comments could be made"</p>
MKR	<p>Presentation of the Annex B.3.3 and explanation the approach of the complainants: reduction of 20%.</p> <p>Demonstration of the calculation with the current PRODCOM numbers and the same approach (CN Code 6912 -20%) of the complainants.</p> <p>The Result is that the complainants only have a share of 23,67% of the EU Production (which does not correspond to the Article 5 (4) Council Regulation 1225/2009 → minimum share of 25%).</p>
SHR	<p>Question: Which data (date) was used?</p>
KH	<p>Current data (changes have been realized in October/November)</p>
JG	<p>The data before October/November were even higher, and the share would be much smaller.</p>
AB	<p>Cannot retrospectively adjust the data (concerning the standing of the complainants). The date of construction of the data (of the complainants) and the valid numbers than count. The Commission has analysed this numbers in detail. The calculation must be wrong.</p>
MKR	<p>There are two questions: the Numbers but also the estimations (adjustments) which have been made are not understandable.</p>
AB	<p>The 20% deduction is correct. The same 20% estimation was used from the EU-Commission</p>
AT	<p>But does the Commission started with the same data (EUROSTAT respectively PRODCOM)?</p>
AB	<p>Used the data from the Complainants and statistical data. AB thinks it was from EUROSTAT.</p> <p>AB confirms:</p> <ul style="list-style-type: none"> <li>- 20% reduction of 6912</li> <li>- PRODCOM data is the source (but date of construction)</li> </ul>



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MKR	From where did the EU-Commission take the 240.200.000 (kg)? Part of the complainant? No numbers from PRODCOM!
AT	The numbers were estimated and cross checked with statistical sources.

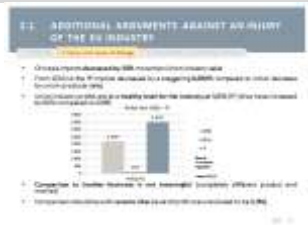
Who		Slide
WOB	The Sampling of the Chinese factories does not consider the province Guangdong. Although there are 199 manufacturers in Guangdong (more than in every other province in China). Why did the EU-Commission not consider one company from Guangdong? Another important aspect is that Guangdong manufacturer produce porcelain which is not produced in other provinces (i.e. Durable). Also the average export prices are much higher compared to the other provinces.	
EL	The Commission choose those manufacturers for the sample, which have the largest exports. This is the common practice and applicable, not other criteria were used.	
WOB	You now have the knowledge about the number of factories and the information concerning Guangdong. Do you use this now and change the sampling (make some adjustments to the sampling)?	
EL	We do not consider this and make a new sampling.	
MKR	How did the Commission find out, which manufacturers are the largest exporters?	
EL	The numbers filled out in Annex B were the basis to find out the largest exporters.	
AT	Makes remarks on the volume exported from Guangdong, the average export price, the produced products (bone china, durable) and points out that the sampling is not representative.	
EL	The Commission agrees. The point is taken. The Commission simply took the manufacturers with the largest volume. The number of companies which could be investigated was set up to 5. The volumes of the manufacturers as individual companies were taken. The province was not considered in the way presented.	
MKR	Mäser presented an alternative to the PCN where the provinces are considered. This could have been realized at an early stage.	
EL	It would be more accurate but this is very difficult and complicated.	
MKR	Difficult but fair.	
KH	KH asked the EU-Commission if they consider the differences between table- and kitchenware and simple cups, plates (with reference to the regulation ...). HK asked if the Commission did laboratory tests)	
PAA	No laboratory tests have been made. We compare tableware with plates.	
AT	Excursus: Complainants IPA (Italy) is not only producing in Europe but also importing from China (through a sister company). Therefore is should not be considered as a complaining party.	

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AB	Cannot answer the question, because the complainants are confidential. There is no problem if a company is importing from China, it depends on the range and volume of imports. The eventual imports are not included in the production.
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Who	Slide
CF	Is presenting the slide with the on-going Anti-Trust-Investigation in Europe. There are still no final results. If there is a cartel this would be effective on several injury factors/indicators. It might be possible that (with the AD) a cartel is protected?
AB	Do you have to add something new in this case?
CF	No we have still the same information status than before. But we are talking about 41% of the porcelain industry in Europe.
EL	The investigation is not closed yet, and we don't know the details. We might change the regulation when the investigation is closed.
CF	Is there a cartel or not?
EL	No we don't assume.
CF	So you waiting for the results from Germany and then might change?
AB	It is all in the Regulation
CF	In the regulation is written that it the industry is wide spread, but 41% is not really wide spread. IF there is a cartel it would have an impact on the injury factors
AB	It could only affect the injury factors.
KH	V&B already had a penalty because of an anti-trust-investigation (sanitary products).
CF	Repeats: Commission is waiting for a decision of the Bundeskartellamt.
EL	In theory when confirming this, it might have an impact. This has to be examined. For the EU-Commission waiting is not the solution. On the basis of the results of the Bundeskartellamt we do analyses. If a cartel exists, than an assessment has to be done if this have impacts on the AD-investigation.
PAA	At the moment there is no cartel (they assume).
AT	AT presents the figures on the slide concerning the profits of the EU industry (data taken out of the provisional regulation). The EU-industry do made profits in the IP (2011).
AB	You have to consider the whole period: starting point and endpoint (2008-2011).
AT	Remarks that the balance sheets of the companies show good profit margins. Excursus: Saturnia and their specialisation of the pizza plates. The EU-Commission tries to protect an industry that doesn't exist anymore.

## Slide








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Who		Slide
KH	KH explains that the union consumption mentioned in the regulation is different to the calculated union consumption. About 23,3%. KH questions if the trade statistics which are used for the calculation is the same basis as for the EU-Commission?	
AB	AB said that the commission will have a look on that. The Commission has their own source. But the formula (Consumption = Production – Export + Import) is the same.	
KH	So they way to reach the result is right. But the data is different?	
AB	Yes. We didn't use PRODCOM.	
MKR	You use PRODCOM but adjusted it?	
AB	We come to this later on.	
MKR	But this is important	
AB	For the Complaint we used PRODCOM. But in the regulation we used different numbers.	
KH	How do you come back?	
AB	We will explain it to you.	
EL	We give a formal answer to all of the participants.	
KH	The same problem with the data also comes up by calculating the imports. We used trade statistics and PRODCOM. And we also have different numbers at the imports.	
AD	The Commission will have a look on it and may change the data if they need to do so.	






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Who	Slide
JG	JG presents the slides concerning the production of the economic sector: profitability, labour costs, energy costs, average sales price. Comparing the prices of the local and export market. The export volume is increasing and the price level is different. The increase of the export decreases the average prices.
KH	In Brazil the EU-Commission finds the same situation.
JG	If the numbers were compared, there is no problem of the margins, looking from the sales and costs perspective. If the EU complainants increased the market (as all the other market players did) they had a margin from 13,8% (starting from 5,6% in 2008) if we assume they adjusted their prices.
	<p><i>No comment for the EU-Commission.</i></p>
MKR	MKR explains that Turkey is very successful in the EU (concerning the data in the provisional regulation), they increased their market share from 4,5 to 5,60% at a stable average price. Maybe Turkey is dumping? 5,6% is above the de minimis limit. May we learn about the status of the investigation on Turkey?
AB	This is not considered to break the causal link. We have not complained for Turkey.
MKR	But the non-discrimination principle? You don't need some complainants.
AB	We could have done an investigation, but we didn't.
EL	In general we work on the basis of a complaint. We don't need. There is no obligation for us to do so.

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Who		Slide
CF	In our understanding not only the Chinese are responsible for the injury factors. There are other factors like the Financial crisis, influence of Turkey, missing adaption of the EU producers to the changing consumer behaviour. We miss these factors in the regulation.	
	<i>No comment from the EU-Commission.</i>	
MKR	3 out of 5 sampled companies are here today. We all presented our papers, figures, balance sheets. We discussed long about the importation-, post-importation costs. (VPC nodes in agreement) It is simply wrong that we could absorb the measures, or that we have margins from 50-200%. The wording of the provisional regulation is misleading, the comparison with gross margins (importer side) and net profit (EU producer).	
AB	I could understand if you are upset (wrong wording). But this is an approximate estimation ...	
AT	Refers to recital 201, 202, 203 and 219 and the contradictive statements.	
CF	The EU-Commission received all the balance sheets of the sampled unrelated importers and could see that such margins are not realistic. Customers are coming to the companies and what is written in the provisional regulation is causing problems in the porcelain business.	
AB	There is nothing wrong with the 50-200%. The fast majority of the sampled companies proof this. If somebody reads it wrong it is not the problem of the EU Commission.	
MKR	That is not fair. Because it is misleading also the same thing with the mentioned employees. The EU commission on one hand speaks about the employees in the whole industry and the employees of the sampled importers. This is no fair comparison.	
AB	AB refers to recital 203/204 where it is stated that all interested parties are invited to give further information/inputs on this issue. Concerning the numbers of employees we estimate a total of people working with the product concerned of app. 7.000 (importer).	
MKR	But this is a misleading presentation of the facts in the provisional regulation.	
	<i>No comment of the EU-Commission.</i>	
KH, AT	Additional remarks to the margin, profit	

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Who		Slide
KH	KH presents the slides and states that also in the average price, the price development and the prices from China are different from the regulation and the own calculation.	
AB	Compared the numbers. They are more or less the same (Recital 117).	
MKR, KH	We double check this again.	
		
		
		
CF	Asks for the further approach and when we could expect an answer of the EU-Commission.	
AB	The Commission asks for a Hearing submission (the presentation) in two versions: limited and non-limited.	
	The Commission will analyse the comments (send in the statement from 17.12.2012) and prepare the findings for a final position which will then be send to all interested parties. This final position could be expected until mid/end February.	
PAA	The Commission will look at the arguments of every party. Eventually the findings will be revised. The interested parties will see that some things will be addressed or not. But there is no answer point by point.	
AT	Admits that this measure does already have consequences (damages) on the market. The market is confused and the importers have difficulties. The beneficiaries of the AD-Duty will not be the European companies.	
AB	We take note of the comments.	