Commission Implementing Regulation (EU) 2018/788 of 30 May 2018 amending Implementing Regulation (EU) 2017/1993 imposing a definitive anti-dumping duty on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China as extended to imports of certain open mesh fabrics of glass fibres consigned from India, Indonesia, Malaysia, Taiwan and Thailand, whether declared as originating in these countries or not following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2018/788

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] (‘the basic Regulation’), and in particular Articles 11(4) and 13(4) thereof,

Whereas:

1. MEASURES IN FORCE

(1) By Regulation (EU) No 791/2011[(2)] the Council imposed a residual anti-dumping duty of 62,9 % on imports of certain open mesh fabrics of glass fibres, originating in the People's Republic of China. Following an anti-circumvention investigation under Article 13 of the basic Regulation, these measures were later extended to imports consigned from India and Indonesia, whether declared as originating in India and Indonesia or not, by Council Implementing Regulation (EU) No 1371/2013[(3)] (‘the extended measures’). By the same Regulation, an Indian exporting producer was exempted from these extended measures. Later, by Commission Implementing Regulation (EU) 2015/1507[(4)] another Indian exporting producer was also exempted from the extended measures.

(2) Following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, the anti-dumping measures were extended also to Malaysia[(5)], Taiwan and Thailand[(6)].

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(3) The measures currently in force are anti-dumping duties imposed by Commission Implementing Regulation (EU) 2017/1993[7] following an expiry review that confirmed the continuation of the measures.

2. REQUEST FOR A REVIEW

(4) The European Commission ('the Commission') subsequently received a request for an exemption from the anti-dumping measures applicable to imports of the product under review originating in the People's Republic of China, as extended to imports consigned from India, whether declared as originating in India or not, under Articles 11(4) and 13(4) of the basic Regulation.

(5) The request was lodged on 26 January 2017 by SPG Glass Fibre PVT. LTD ('the applicant'), an exporting producer of the product under review in India ('the country concerned'). This request was limited in scope to the possibility of obtaining an exemption from the extended measures as far as the applicant is concerned.

(6) The Commission examined the evidence submitted by the applicant and considered it sufficient to justify the initiation of an investigation pursuant to Articles 11(4) and 13(4) of the basic Regulation. The Commission thus initiated an investigation on 1 September 2017 by publishing Commission Implementing Regulation (EU) 2017/1514[8] in the *Official Journal of the European Union*.

(7) Furthermore, pursuant to Article 3 of Implementing Regulation (EU) 2017/1514, the Commission directed customs authorities to take the appropriate steps to register imports of the product under review consigned from India and produced and sold for export to the Union by the applicant, in accordance with Article 14(5) of the basic Regulation.

3. PRODUCT UNDER REVIEW

(8) The product subject to the present review is open mesh fabrics of glass fibres, of a cell size of more than 1,8 mm both in length and in width and weighing more than 35 g/m^2, excluding glass fibre discs, originating in the People's Republic of China or consigned from India, whether declared as originating in India or not ('the product under review'), currently falling within CN codes ex 7019 51 00 and ex 7019 59 00.

4. INVESTIGATION

(a) Investigation period

(9) The reporting period covered the period from 1 July 2016 to 30 June 2017. Data was collected from the investigation period that led to the extended measures (1 April 2012 to 31 March 2013) until the end of the reporting period ('the review investigation period').

(10) The Commission officially advised the Union industry, the applicant and the Government of India of the initiation of the review. Interested parties were invited to make their views known and were informed of the possibility to request a hearing.

No comments were received, nor did interested parties request a hearing with the Commission.

(11) The Commission sent a questionnaire to the applicant and received a reply within the given deadline. The Commission sought and verified on the spot all the information necessary for the purposes of the review. A verification visit was carried out at the premises of the applicant in Mumbai and in Umbergaon, India.

(b) **The applicant**

(12) The applicant is SPG Glass Fibre PVT. LTD an exporting producer of the product under review in India.

(c) **Findings of the investigation**

(13) The Commission examined whether the conditions for granting an exemption under Article 11(4) and 13(4) of the basic Regulation were fulfilled.

(14) The investigation confirmed that the applicant had not exported the product under review to the Union during the investigation period of the anti-circumvention investigation that led to the extended measures, that is 1 April 2012 to 31 March 2013.

(15) The investigation confirmed that the applicant was not related to any Chinese exporters or producers subject to the anti-dumping measures.

(16) Furthermore, the investigation confirmed that the applicant is a genuine producer of the product under review not engaged in circumvention practices. The applicant is an integrated producer purchasing domestically produced glass spheres for the production of glass fibres and using the latter as the raw material for open mesh fabrics. The finished product has subsequently been sold on the domestic market in a continuous manner. More recently, as the applicant is aiming to export its goods, some export transactions to countries outside the European Union have taken place.

(17) The investigation confirmed that the applicant was not purchasing the finished product under review from the People's Republic of China in order to resell or tranship to the Union.

(18) The applicant was also able to produce written evidence of a contractually binding nature containing an obligation to ship the product under review to a customer in the Union. Actual shipments have not yet taken place, since it has been mutually agreed to await the outcome of this proceeding before proceeding with shipments.

(19) The findings above were disclosed to the applicant and the Union industry, which were given the opportunity to provide comments. The applicant submitted that it agreed to the Commission's findings.

(20) Comments on disclosure were made by the Union industry, objecting to the exemption. In particular, it expressed doubts concerning the integrated nature of SPG's production, and the finding that the raw materials were not of Chinese origin. It also contested that SPG would endeavour to produce glass fibre itself as this would entail

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an outdated melting process with prohibitively high energy costs. It complained that the public file did not allow it to address these concerns, especially in relation to earlier data on the record.

(21) The Commission added an explanatory note to the public file which confirms that SPG's sourcing of C-type glass fibre yarn and roving from China was replaced by SPG's own production of glass fibres from glass spheres, sourced in India, as from 2016 when the appropriate machinery was purchased, and thus made SPG an integrated producer of the product concerned. These facts and the accompanying increase in energy costs were confirmed during the on-spot verification. However, the findings do not allow for judging the appropriateness of the production process. The Union industry's claims were therefore rejected.

(d) **Conclusions**

(22) In accordance with the findings described in recitals (13) to (18), the Commission concludes that the applicant fulfils the conditions for an exemption under Articles 11(4) and 13(4) of the basic Regulation and should be added to the list of companies that are exempted from the anti-dumping duty imposed by Implementing Regulation (EU) 2017/1993.

(23) The exemption from the extended measures granted to imports of the product under review produced by the applicant, in accordance with Article 13(4) of the basic Regulation, remains valid on condition that the facts as finally ascertained justify the exemption. Should new prima facie evidence indicate otherwise, an investigation may be initiated by the Commission to establish whether withdrawal of the exemption is warranted.

(24) The exemption from the extended measures granted to imports of the product under review produced by the applicant is made on the basis of the findings of the present review. This exemption is thus exclusively applicable to imports of the product under review consigned from India and produced by the abovementioned specific legal entity. Imported product under review produced by any company not specifically mentioned in Article 1(3) of Implementing Regulation (EU) 2017/1993 with its name, including entities related to those specifically mentioned, should not benefit from the exemption and should be subject to the residual duty rate as imposed by that Regulation.

(25) Implementing Regulation (EU) 2017/1993 should be amended to include SPG Glass Fibre PVT. LTD in its Article 1(3).

(26) In order to benefit from the exemption an invoice conforming to certain requirements should be produced to the customs authorities. It is noted that this same requirement is applicable to Montex Glass Fibre Industries Pvt.Ltd and to Pyrotek India Pvt. Ltd These companies have already received an exemption from the measures in force. As that condition was not reproduced in Implementing Regulation (EU) 2017/1993, the omission is corrected through this Regulation.

5. COMITOLOGY REQUIREMENTS