Commission Implementing Regulation (EU) 2017/1993 of 6 November 2017 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 the Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1993

of 6 November 2017

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 the Regulation (EU) 2016/1036 of the European Parliament and of the Council

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 Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), by Regulation (EU) No 791/2011[(2)], the Council imposed a definitive anti-dumping duty ranging between 48,4 % and 62,9 % on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China ('the PRC' or 'country concerned'). These measures will hereinafter be referred to as 'the measures in force'.

(2) In July 2012, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 672/2012[(3)], the Council extended, from the measures in force, the duty applicable to all other companies to imports of the product concerned consigned from Malaysia, whether declared as originating in Malaysia or not.

(3) In January 2013, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 21/2013[(4)], the Council extended, from the measures in force, the duty applicable to all other companies to imports of the product concerned consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1993. (See end of Document for details)*

(4) In December 2013, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 1371/2013[(5)], the Council extended, from the measures in force, the duty applicable to all other companies to imports of the product concerned consigned from India and Indonesia, whether declared as originating in India and Indonesia or not.

(5) In September 2014, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 976/2014[(6)], the Commission also extended, from the measures in force, the duty to certain slightly modified open mesh fabrics of glass fibres originating in the People's Republic of China.

(6) Finally, in September 2015, following an investigation pursuant to Articles 11(3) and 13(4) of the basic Regulation, by Implementing Regulation (EU) 2015/1507[(7)], the Commission exempted certain Indian producers from the extension of the duty applicable to imports of the product concerned consigned from India, whether declared as originating in India or not.

1.2. **Request for an expiry review**

(7) Following the publication of a notice of impending expiry[(8)] of the anti-dumping measures in force on the imports of certain open mesh fabrics of glass fibres originating in the PRC, the Commission received a request for the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

(8) The request was lodged by the Alliance for the Defence of Open Mesh Fabrics ('ADOMF' or 'the applicant') on behalf of producers representing more than 25 % of the total Union production of certain open mesh fabrics of glass fibres.

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

1.3. **Initiation of an expiry review**

(10) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 9 August 2016, by notice published in the *Official Journal of the European Union*[(9)] ('the Notice of Initiation') the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. **Investigation**

Review investigation period and period considered

(11) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 July 2015 to 30 June 2016 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period (the 'period considered').

Parties concerned

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1993. (See end of Document for details)*

(12) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, exporting producers, importers and users in the Union known to be concerned, as well as the Chinese authorities of the initiation of the expiry review, and invited them to participate.

(13) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties who requested so, were granted a hearing with the Commission and/or the Hearing Officer in trade proceedings. In this context, four hearings, including two with the Hearing Officer, were organised at the request of some Union producers, the European Association of Technical Fabrics producers and Chinese producers.
Sampling

(a) *Sampling of exporting producers in the PRC*

(14) In the Notice of Initiation, the Commission stated that it might sample exporting producers, in accordance with Article 17 of the basic Regulation.

(15) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known 13 exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission requested the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(16) None of the Chinese exporting producers provided the requested information. The Chinese authorities were informed of the non-cooperation.

(17) The non-cooperating Chinese exporting producers nevertheless sent comments disputing the accuracy of the request and opposing the continuation of the measures.

(b) *Sampling of Union producers*

(18) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production, taking also into account the geographical spread. The preliminary sample consisted of three Union producers. The Commission invited interested parties to comment on the provisional sample. The sampled Union producer Asglatex Ohorn GmbH, which was not amongst the largest producers but qualified as an SME, provided a highly deficient questionnaire reply which moreover highlighted that certain volume information provided at the pre-initiation stage and on the basis of which it had been selected in the sample needed to be corrected. Moreover, it indicated that a verification of the information could be problematic due to the departure of the staff preparing the reply. Therefore, the Commission decided to change the sample by replacing this Union producer with the third largest Union producer,

Tolnatext Fonalfeldolgozo es Müszakiszovetgyarto Bt. Having received no comments on the revised sample within the deadline, the Commission confirmed the sample as revised. The final sample accounted for over 70 % of the total Union production and sales during the review investigation period and was therefore considered representative of the Union industry.

(c) *Sampling of unrelated importers*

(19) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known unrelated importers to provide the information specified in the Notice of Initiation.

(20) The Commission contacted 28 known importers/users. Only one of them replied to the sampling form, so sampling was not considered warranted.

Questionnaires

(21) The Commission sent questionnaires to three cooperating analogue country producers, the three sampled Union producers, three unrelated importers and five potential users in the Union.

(22) The Commission received questionnaire replies from the three sampled Union producers and from three producers in the potential analogue countries (Canada and India).

Verification visits

(23) The Commission sought and verified all the information deemed necessary for a determination of the likelihood of continuation or recurrence of dumping, the likelihood of recurrence of injury, and Union interest. Verification visits under Article 16 of the basic Regulation were carried out at the premises of the following companies:

(a) Union producers

— Saint Gobain Adfors cz S.r.o, Litomysl, Czech Republic,

— Tolnatext Fonalfeldolgozo es Müszakiszovetgyarto Bt., Tolna, Hungary,

— JSC Valmieras Stikla Skiedra, Valmiera, Latvia;

(b) Producer in the analogue country

— Saint-Gobain ADFORS Canada Ltd, Midland, Ontario, Canada.

Subsequent procedure

(24) On 26 June 2017, the Commission disclosed the essential facts and considerations on the basis of which it intended to repeal the anti-dumping duty in force (‘the disclosure’). All parties were granted a period within which they could make comments on the disclosure. The applicant made a written submission making known its views on the Commission's findings. In summary, the applicant contested the Commission's preliminary conclusion that injury was unlikely to recur if measures were allowed to lapse. Instead, it claimed that the expected increased imports would lead to a recurrence of material injury. This party also requested the intervention by the

Hearing Officer in trade proceedings ('the Hearing Officer') and it submitted additional information after that hearing.

(25) After a thorough analysis of information available to the Commission as well as information submitted subsequent to the disclosure, the Commission adjusted its findings. At the stage of the disclosure, the Commission was of the view that injury was unlikely to recur, if measures were allowed to lapse. However, after taking into account the information submitted after the disclosure, the Commission accepted the applicant's claim that the quality of the Chinese product had evolved to a level equivalent to that of the Union industry. That key determination resulted in the finding of undercutting and shed a markedly different light on the likelihood of recurrence of injury analysis.

(26) Consequently, on 6 September 2017, the Commission informed all parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China ('the additional disclosure'). After additional disclosure, the Commission received comments from different parties.

(27) The Chinese producers made a written submission making their views known on the Commission's findings and overall assessment. First, the Chinese producers claimed that the Commission would have allegedly changed the methodology used in the original investigation by not applying the quality adjustment in its undercutting calculations in the present case (see recital 97 below). As this alleged change would result in a different conclusion concerning the likelihood of recurrence of injury if the measures against the PRC were allowed to lapse, the Chinese producers contested that conclusion. In addition, they further noted that the additional disclosure did not contain a number of elements that were present in the first disclosure. Finally, they claimed that the Commission was no longer permitted to use the analogue country methodology since it anyway had allegedly changed the methodology used for the determination of the normal value as compared to the original investigation.

(28) The applicant made known its views claiming that opening an interim review, as suggested by the Commission in the additional disclosure, should be considered only if the Chinese exporting producers submit a properly reasoned request for such a review. In this respect, the Commission points out that it could consider whether it would be appropriate to initiate, ex officio, an interim review, to eventually determine the impact of the quality issue on export prices of the product concerned, and, therefore, on the dumping and injury margins, as well as the situation of the two groups of producers (the vertically-integrated and the other producers, also referred to as 'weavers', see recital 117) in detail with a view to ensuring that the performance indicators for these producers are not distorted by the dominance in the sample of one group over the other.

(29) In a hearing with the Commission's services after the additional disclosure, the Chinese authorities also made a statement claiming that the adjustment referred to in recital 97 below should be maintained.

(30) The comments submitted by the interested parties were considered and taken into account where appropriate.