Commission Implementing Regulation (EU) No 976/2014 of 15 September 2014 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres, originating in the People's Republic of China, to imports of certain slightly modified open mesh fabrics of glass fibres, also originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) No 976/2014

of 15 September 2014

extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres, originating in the People's Republic of China, to imports of certain slightly modified open mesh fabrics of glass fibres, also originating in the People's Republic of China

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 13 thereof,

Whereas:

1. PROCEDURE

1.1. Existing measures

(1) In August 2011, the Council, by Implementing Regulation (EU) No 791/2011[(2)], imposed a definitive anti-dumping duty ranging between 48,4 % and 62,9 % on imports of 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 fibreglass discs, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00 (the product concerned) and originating in the People's Republic of China. These measures will hereinafter be referred to as ‘the measures in force’ and the investigation that led to the measures in force will be hereinafter referred to as ‘the original investigation’.

(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.

(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.

1.2. **Request**

(5) In November 2013, the Commission received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on certain open mesh fabrics of glass fibres originating in the People's Republic of China by imports of certain slightly modified open mesh fabrics of glass fibres originating in the People's Republic of China, and to make such imports subject to registration.

(6) The request was lodged by Saint-Gobain Adfors CZ s.r.o., Tolnatext Fonalfeldolgozo, Valmieras Stikla Skiedra AS and Vitrulan Technical Textiles GmbH, four Union producers of certain open mesh fabrics of glass fibres.

(7) The request contained sufficient *prima facie* evidence that the anti-dumping measures on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China are being circumvented by means of imports of a certain slightly modified product originating in the PRC, containing by weight more rovings than yarns and therefore declared under CN code ex 7019 40 00, not subject to duties.

1.3. **Initiation**

(8) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission initiated an investigation by Regulation (EU) No 1356/2013[(6)] (the initiating Regulation) of the possible circumvention of anti-dumping measures imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China and also directed the customs authorities to register imports into the Union of 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 fibreglass discs, originating in the People's Republic of China, currently falling within CN code ex 7019 40 00 (TARIC codes 7019 40 00 11, 7019 40 00 21 and 7019 40 00 50), as from 19 December 2013.

1.4. **Product concerned and product under investigation**

(9) The product concerned is the same as defined in the original investigation, namely 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 fibreglass discs, originating in the People's Republic of China (PRC), currently falling within CN codes ex 7019 51 00 and ex 7019 59 00, containing by weight more yarns than rovings.

(10) The product under investigation, namely the product allegedly used for circumventing the original measures, is the same as that defined in recital 8, but containing by weight more rovings than yarns.

1.5. **Investigation and parties concerned by the investigation**

(11) The Commission officially advised the authorities of the PRC after the initiation of the investigation and sent questionnaires to the exporting producers in the PRC and importers in the Union known to be concerned. Interested parties were given the opportunity to make themselves and their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being based on facts available.

(12) No Chinese producer came forward and requested exemption from any possible extension of the current duties or made any submission relative to the investigation.

(13) The European Plastic Converters association asserted that it remained neutral on the outcome of the investigation. Other interested parties, such as unrelated importers and users, did not make any submission relative to the investigation.

(14) The Commission carried out on-the-spot investigations at the premises of the cooperating complainant Union producer Saint-Gobain Adfors CZ s.r.o., Czech Republic.

1.6. **Investigation and reporting periods**

(15) The investigation period was set from 1 April 2010 to 30 September 2013 (IP) in order to investigate the alleged change in the pattern of trade. The reporting period (RP) covered the period from 1 October 2012 to 30 September 2013 in order to investigate if the imports were made at prices below the non-injurious price established in the investigation that led to the existing measures.

2. **RESULTS OF THE INVESTIGATION**

2.1. **General considerations**

(16) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of possible circumvention practices was made by analysing successively: (1) whether there was a change in pattern of trade between the PRC and the Union; (2) if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty; (3) if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the product under investigation; and (4) whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. **Slight modification and essential characteristics**

(17) The investigation has shown that the product under investigation 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 fibreglass discs, originating in the PRC, containing by weight more rovings than yarns. Rovings and yarns consist of an assemblage of one or more strands of long (continuous) filaments of glass fibres. According to the notes of the Harmonised System, the main difference between rovings and yarns is that the assemblage of the first is loose with little or no twist (less than five turns per metre) while the assemblage of yarns is more twisted with more than five turns per metre. The product allegedly circumventing the measures is basically the same as the product concerned except that it contains by weight more rovings than yarns and therefore can currently be declared under CN code ex 7019 40 00, not subject to duties, while the product concerned contains by weight more yarns than rovings and currently falls under CN codes ex 7019 51 00 and ex 7019 59 00. In many cases the difference between the two products is not visible and the correct code can be established only by laboratory examinations.

(18) The investigation did not find any difference in the production process of the product under investigation and the product concerned, other than the proportion by weight between rovings and yarns that is used in each product. In addition, the cooperating complaining producer confirmed that the cost of production of the product under investigation in terms of raw material is similar to the cost of the product concerned, but the product under investigation requires more production time because the production machinery has to be operated at lower speed. This implies that there is no economic benefit for the exporting producers to produce the product under investigation other than the avoidance of the measures in force. Furthermore, it was found that some users of the product concerned switched to the product under investigation after the imposition of the provisional measures imposed on 17 February 2011 by Commission Regulation (EU) No 138/2011[7], which implies that there is no material difference between the product concerned and the product under investigation for the users.

(19) As mentioned in recital 15 of the provisional anti-dumping regulation, both products can be found in different cell sizes and weight per square metre and are mostly used as reinforcement material in the construction sector (external thermal insulation, marble/floor reinforcement, wall repair).

(20) No Chinese exporters or any of the other interested parties made any submission questioning these conclusions.

(21) Therefore, it is concluded that the product under investigation is only slightly modified compared to the product concerned and imported for no other economic justification but to circumvent the anti-dumping duties in place.

2.3. **Change in the pattern of trade**

(22) Given that no cooperation was received from Chinese exporters, the findings of the investigation were established on the basis of the information contained in the

complaint and cross-checked against and completed by the information contained in the Eurostat Comext trade database.

(23) The product concerned is declared under CN codes ex 7019 51 00 and ex 7019 59 00 and the product under investigation under CN code ex 7019 40 00. All these CN codes are broad and cover numerous other products which are different from the product concerned and product under investigation.

(24) It should be noted that the product under investigation is declared under the CN code ex 7019 40 00 which also covers other products called woven fabrics of rovings used in particular by the plastic converter industry for making high-end composite material used in the automotive, shipping, aircraft and wind blades industry. There was thus no direct way to investigate any possible change in the pattern of trade of the product under investigation in the Union market. Instead, use needed to be made of facts available.

(25) In the period 2010-2013, the Union plastic converter industry suffered from plant closures and significant downsizing of the manufacturing capacity, as a result of negative long-term market trends. As a consequence, a decrease of imports under CN code ex 7019 40 00 should have been observed, but the opposite was found, as shown in Table 1. Only in 2011 such imports decreased, followed by import increases in the years 2012 and the RP, This abnormal observation indicated that another reason caused the increase of imports under that code.

TABLE 1

Evolution of the imports of the product under investigation and the product concerned originating in the PRC

Total imports in the EU market (m^2)	**2010**	**2011**	**2012**	**RP(1.10.2012-30.9.2013)**
CN code 7019 40 00 (including the product under investigation)	118 702 857	67 954 286	109 676 429	120 453 571
CN codes 7019 51 00, 7019 59 00 under measures[a] (including the product concerned)	383 759 571	195 440 571	101 987 143	77 862 714

a In 2011 provisional measures were imposed on 18 February and definitive measures on 9 August.