Council Implementing Regulation (EU) No 1371/2013 of 16 December 2013 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 open mesh fabrics of glass fibres consigned from India and Indonesia, whether declared as originating in India and Indonesia or not

COUNCIL IMPLEMENTING REGULATION (EU) No 1371/2013

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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[(1)] (‘the basic Regulation’), and in particular Article 13 thereof,

Having regard to the proposal from the European Commission,

Whereas:

1. **PROCEDURE**

1.1 **Existing measures**

(1) By Implementing Regulation (EU) No 791/2011[(2)] (‘the original Regulation’) the Council imposed a definitive anti-dumping duty of 62,9 % on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China (‘the PRC’) for all other companies than the ones mentioned in Article 1(2) and Annex 1 of that Regulation. Those measures are the measures in force and the investigation that led to the measures is the original investigation.

(2) The measures in force were previously extended to Malaysia, by Council Implementing Regulation (EU) No 672/2012[(3)], and to Taiwan and Thailand, by Council Implementing Regulation (EU) No 21/2013[(4)].

1.2 **Request**

(3) On 25 February 2013, the European Commission (‘the Commission’) received a request under Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain open mesh fabrics of glass fibres originating in the PRC and to make imports of certain

open mesh fabrics of glass fibres consigned from India and Indonesia, whether declared as originating in India and Indonesia or not, subject to registration.

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

(5) The request contained sufficient *prima facie* evidence that following the imposition of the measures in force, a significant change in the pattern of trade involving exports from the PRC, India and Indonesia to the Union occurred, for which there was insufficient due cause or economic justification other than the imposition of the measures in force. This change in the pattern of trade stemmed allegedly from consignment of certain open mesh fabrics of glass fibres originating in the PRC via India and Indonesia and/or false declaration of origin of the Chinese products.

(6) Furthermore, the evidence pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantity and price. The evidence showed that the increased imports from India and Indonesia were made at prices below the non-injurious price established in the original investigation.

(7) Finally, there was evidence that prices of certain open mesh fabrics of glass fibres consigned from India and Indonesia were dumped in relation to the normal value established for the like product during the original investigation.

1.3 **Initiation**

(8) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation under Articles 13(3) and 14(5) of the basic Regulation, the Commission initiated an investigation by Commission Regulation (EU) No 322/2013[(5)] ('the initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation the Commission, by the initiating Regulation, also directed the customs authorities to register imports of certain open mesh fabrics of glass fibres consigned from India and Indonesia.

1.4 **Investigation**

(9) The Commission officially advised the authorities of the PRC, India and Indonesia, the producers/exporters in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires were sent to the producers/exporters in the PRC, India and Indonesia known to the Commission or which made themselves known within the deadlines specified in recital 15 of the initiating Regulation. Questionnaires were also sent to importers in the Union. Interested parties were given the opportunity to make 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 the facts available.

(10) Two exporting producers in India and one unrelated importer in the Union made themselves known and submitted replies to the questionnaires. Later the Union importer informed the Commission that it imported other products and it did not import any product under investigation in the past. No exporting producer in Indonesia submitted a reply. The following exporting producers in India submitted an exemption form reply:

— Montex Glass Fibre Industries Pvt.Ltd. ('Montex'), and

— Urja Products Pvt.Ltd.

(11) Subsequently, Urja Products Pvt.Ltd. informed the Commission that it does not produce the product under investigation and its products have different technical characteristics and different use (falling within other CN codes). Therefore, a verification visit was carried out only at the premises of Montex.

1.5 Investigation period

(12) The investigation period covered the period from 1 April 2009 to 31 March 2013 ('the IP'). Data were collected for the IP to investigate, *inter alia*, the alleged change in the pattern of trade. More detailed data were collected for the reporting period from 1 April 2012 to 31 March 2013 ('the RP') in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1 General considerations

(13) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether there was a change in the pattern of trade between the PRC, India, Indonesia and the Union; if that 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; 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 whether there was evidence of dumping in relation to the normal values previously established for the product concerned, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2 Product concerned and the product under investigation

(14) The product concerned is as defined in the original investigation: 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, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00.

(15) The product under investigation is the same as that defined in the previous recital, but consigned from India and Indonesia, whether declared as originating in India and Indonesia or not.

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 1371/2013. (See end of Document for details)*

(16) The investigation showed that open mesh fabrics of glass fibres, as defined above, exported from the PRC to the Union and those consigned from India and Indonesia to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3 **Level of cooperation**

2.3.1 *India*

(17) As stated in recital 10 above, only two Indian companies submitted an exemption form reply. As one of them, Urja Products Pvt.Ltd., was found not to be a producer of the product under investigation, there was only one cooperating company, Montex. The company represented only 1 % of the exports from India to the Union in the RP, compared to overall exports from India. This led to the application of Article 18 of the basic Regulation and findings with regard to India were based on facts available.

2.3.2 *Indonesia*

(18) As stated in recital (10), no Indonesian companies submitted a questionnaire reply. There was no cooperation from Indonesian companies. This led to the application of Article 18 of the basic Regulation and findings with regard to Indonesia were based on facts available.

2.3.3 *The PRC*

(19) There was no cooperation from the Chinese exporting producers. This led to the application of Article 18 of the basic Regulation and findings with regard to the PRC were based on facts available.

2.4 **Change in the pattern of trade**

(20) To determine whether there was a change in the pattern of trade, imports of the product under investigation from India and Indonesia into the Union and exports of the product under investigation from the PRC to India and Indonesia were assessed. Those imports were established on the basis of facts available under Article 18(1) of the basic Regulation given the relatively low or no cooperation of Indian, Indonesian and Chinese companies (see Section 2.3 above).

(21) To that end, COMEXT statistics[6], trade statistics from India and Indonesia received from the respective national authorities and Global Trade Information Services[7] statistics were used for the analysis. Accounting years starting on 1 April and finishing 31 March were used in order to use 12-month periods.

(22) The import volume recorded in COMEXT statistics covers a larger product group than the product concerned and the product under investigation. However, based on estimates provided by the Union industry, it could be established that a significant part of that import volume covered the product concerned and the product under

investigation. Accordingly, those data could be used to establish a change in the pattern of trade.

2.4.1 *Imports into the Union*

(23) COMEXT statistics show a significant change in the pattern of trade over the IP (see Table 1 below).

Table 1

Import volumes (millions of m^2)[a]	**April 2009/ March 2010**	**April 2010/ March 2011**	**April 2011/ March 2012**	**April 2012/ March 2013**
PRC	288,4	385,85	110,3	85,93
India	0,35	0,28	0,89	13,13
Indonesia	0,004	0,16	3,22	33,31

a The volume in Comext is reported in metric tonnes and converted to square meters according to UI conversion rates; i.e. for CN 70 195 100: 1 m^2 = 0,05kg, for CN 70 195 900: 1 m^2 = 0,14 kg.

Source: COMEXT statistics

Imports from the PRC

(24) According to COMEXT statistics imports of the product concerned from the PRC to the Union dropped dramatically subsequent to the imposition of the provisional measures in February 2011[(8)] and of the definitive measures in August 2011[(9)]. Table 1 above shows that between 2010/2011 and 2011/2012 the imports to the Union from the PRC dropped from 385,85 million m^2 to 110,30 million m^2 (by approximately 70 %) and between 2010/2011 and 2012/2013 (by approximately 80 %) further to 85,9 million m^2.
Imports from India

(25) According to COMEXT statistics, in the financial year 2009/2010 the quantities imported from India to the Union accounted for 0,35 million m^2, in the financial year 2010/2011 it was 0,28 million m^2 and it increased sharply between 2011/2012 and 2012/2013, reaching 13,13 million m^2 in the financial year 2012/2013.

(26) As stated in recital 17 above, the company Montex exported a very small quantity to the Union of the product under investigation in the IP – compared to overall exports from India it represents 1 % of the exports from India to the Union in the period of 2012/2013. Moreover, it was found that Montex exports the product under investigation under an incorrect CN code – 7019 52. Its exports had therefore to be added to the COMEXT statistics as shown in Table 1 above.
Imports from Indonesia

(27) According to COMEXT statistics, in the financial year 2009/2010 the quantities imported from Indonesia to the Union market accounted for 0,004 million