Council Implementing Regulation (EU) No 452/2011 of 6 May 2011 imposing a definitive anti-subsidy duty on imports of coated fine paper originating in the People's Republic of China

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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 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 15(1) thereof,

Having regard to the proposal submitted by the European Commission ('the Commission') after consulting the Advisory Committee,

Whereas:

1. **PROCEDURE**

1.1. *INITIATION*

(1) On 17 April 2010, the Commission published a notice in the *Official Journal of the European Union*[(2)] ('Notice of initiation'), on the initiation of anti-subsidy proceedings with regard to imports into the Union of coated fine paper originating in the People's Republic of China ('PRC' or the 'country concerned').

(2) The anti-subsidy proceedings were initiated following a complaint lodged on 4 March 2010 by CEPIFINE, the European association of fine paper manufacturers, ('the complainant') on behalf of producers representing a major proportion, in this case more than 25 %, of the total Union production of coated fine paper. The complaint contained *prima facie* evidence of subsidisation of coated fine paper and of material injury resulting that subsidisation, which was considered sufficient to justify the initiation of proceedings.

(3) Prior to the initiation of the proceedings and in accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of the PRC ('the GOC') that it had received a properly documented complaint alleging that subsidised imports of coated fine paper originating in the PRC were causing material injury to the Union industry. The GOC was invited for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution. The GOC accepted the offer of consultations and consultations were subsequently held. During the consultations, no mutually agreed solution could be

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arrived at. However, due note was taken of comments made by the authorities of the GOC as regards the allegations contained in the complaint concerning the lack of countervailability of the schemes. Following the consultations, submissions were received from the GOC.

1.2. *ANTI-DUMPING PROCEEDING*

(4) On 18 February 2010, the Commission published a notice in the *Official Journal of the European Union*[3], on the initiation of an anti-dumping proceeding concerning imports into the Union of coated fine paper originating in the PRC.

(5) On 17 November 2010, by Regulation (EU) No 1042/10[4], the Commission imposed a provisional anti-dumping duty on imports of coated fine paper originating in the PRC.

(6) The injury analyses performed in the present anti-subsidy and the parallel anti-dumping investigation are identical, since the definition of the Union industry, the representative Union producers and the investigation period are the same in both investigations. For this reason, comments on injury aspects put forward in both these proceedings were taken into account in both proceedings.

1.3. *PARTIES CONCERNED BY THE PROCEEDING*

(7) The Commission officially notified the complainant, other known Union producers, the known exporting producers in the PRC and an association of producers (a paper association), the representatives of the country concerned, known importers and known users of the initiation of the proceedings. 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 Notice of initiation.

(8) In view of the apparent high number of exporting producers, Union producers and unrelated importers, sampling was envisaged in the Notice of initiation in accordance with Article 27 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and if so, to select samples, all exporting producers and their known paper association, all Union producers and unrelated importers were asked to make themselves known to the Commission and to provide, as specified in the Notice of initiation, basic information on their activities related to the product concerned (as defined in section 2.1 below) during the period from 1 January 2009 to 31 December 2009. The authorities of the PRC were also consulted.

(9) As explained in recital (51) below, two Chinese exporting producer groups provided the requested information and agreed to be included in a sample. On the basis of the above it was decided that sampling was not necessary for exporting producers in the PRC.

(10) As explained in recital (53) below, it was decided that sampling was not necessary for Union producers.

(11) As explained in recital (54) below, it was decided that sampling was not necessary for unrelated importers.

(12) The Commission sent questionnaires to all parties known to be concerned and to all other parties that so requested within the deadlines set out in the Notice of initiation, namely the complainant, other known Union producers, the known exporting producers in the PRC and an association of producers, the representatives of the country concerned, known importers and known users.

(13) Replies to the questionnaires and other submissions were received from two groups of Chinese exporting producers, CEPIFINE, the four complainant Union producers and one additional Union producer, 13 unrelated importers and traders, 5 users and one association of the printing industry.

(14) The Commission sought and verified all information deemed necessary for the determination of subsidisation, resulting injury and Union interest. Verification visits were carried out at the premises of the following State authority and companies:

(a) *Government of the People Republic of China*

— Chinese Ministry of Commerce, Beijing, China

(b) *Union producers and association*

— CEPIFINE, Brussels, Belgium

— Sappi Fine Paper Europe, Brussels, Belgium

— LECTA Group (CARTIERE DEL GARDA SpA, Riva del Garda, Italy CONDAT SAS, Le Plessis Robinson, France and TORRASPAPEL, S.A., Barcelona, Spain), Barcelona, Spain

— Burgo Group spa, Altavilla Vicentina, Italy and its related companies Burgo Distribuzione srl, Milan, Italy and Ebix sa, Barcelona, Spain

— Papierfabriek Scheufelen GmbH, Lenningen, Germany

(c) *Exporting producers in the PRC*

(1) Sinar Mas Paper (China) Investment Co Ltd, the holding company of the Asia Pulp & Paper Group (‘APP’)

— Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC

— Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC

— Ningbo Zhonghua Paper Co., Ltd, Ningbo City, Zhejiang Province, PRC

— Ningbo Asia Pulp & Paper Co., Ltd, Ningbo City, Zhejiang Province PRC

(2) Chenming Paper Group (‘Chenming’)

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— Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC

— Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC

(d) *Importers in the Union*

— Cartaria Subalpina, Turin, Italy

— Paperlinx, Northampton, UK

1.4. *INVESTIGATION PERIOD AND PERIOD CONSIDERED*

(15) The investigation of subsidisation and injury covered the period from 1 January 2009 to 31 December 2009 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2006 to the end of the IP ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. *PRODUCT CONCERNED*

(16) The product concerned is coated fine paper which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheets or rolls, and with a weight of 70 g/m^2 or more but not exceeding 400 g/m^2 and brightness of more than 84 (measured according to ISO 2470-1), originating in the PRC ('the product concerned' or 'CFP') currently falling within CN codes ex 4810 13 20, ex 4810 13 80, ex 4810 14 20, ex 4810 14 80, ex 4810 19 10, ex 4810 19 90, ex 4810 22 10, ex 4810 22 90, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10, ex 4810 99 30 and ex 4810 99 90.

(17) CFP is high quality paper and paperboard generally used for the printing of reading material such as magazines, catalogues, annual reports, yearbooks. The product concerned includes both sheets and rolls suitable for use in sheet-fed ('cut star') printing machines. Rolls suitable for use in sheet-fed presses ('cutter rolls') are designed to be cut into pieces before printing, and are thus considered to be substitutable and directly competitive with sheets.

(18) The product concerned does not include rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking – accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD). Also, in contrast to rolls used in sheet-fed printing machines, rolls for use in web-fed presses are normally directly fed into the printing machines and are not cut beforehand.

(19) One party claimed that the product scope of the investigation was too narrowly defined and that rolls of CFP suitable for web-fed printing should have been included. It was claimed that web-fed rolls and the ones included in the scope of the present

investigation (cutter rolls and sheets) shared the same basic technical and physical characteristics and were not distinguishable from one another. Furthermore it was claimed that both were used for high quality printing and that they were therefore to some extent interchangeable.

(20) However, contrary to the above claim, the investigation confirmed that there are indeed distinct technical and physical characteristics such as humidity and stiffness between paper used in web-fed and the one used in sheet-fed printing. The investigation further confirmed that the technical characteristics listed in recital (18) above are unique to rolls suitable for use in web-fed presses. Due to these differences paper used in web-fed or the one used in sheet-fed printing cannot be used in the same type of printing machine and they are therefore not interchangeable. It is noted that all parties agreed that the two types of paper are distinct as regards their surface strength and tensile strength.

(21) Furthermore, the party in question claimed that customers view CFP in the form of sheets, cutter rolls and web rolls as a single market and thus distribution channels are the same. The different technical characteristics are only reflected in minor price differences among these product groups.

(22) However, the investigation revealed that the two types of rolls are also non-interchangeable from an economic point of view because rolls for web-fed printing are used for mass-volume printing jobs and are generally made to order and require just-in-time delivery, therefore these products are not stocked by intermediaries but are shipped directly to the final users, i.e. they are also sold through a different distribution channel than rolls used in sheet-fed printing. The different production process and the different economies of scale in the printing process are reflected in distinct price differences.

(23) Furthermore, no rolls for use in web-fed presses were imported from the PRC during the period considered. It may also be considered unlikely that these products would be imported in the future as sourcing these products from far away is economically not viable for the reasons mentioned in the previous recital.

(24) On this basis, these claims were rejected.

(25) The same party claimed that the resistance to picking was not a suitable technical characteristic for differentiating between products as this test would be of a general nature and test results may moreover be affected by the moisture content of the paper tested. The party further claimed that on the basis of some other tests conducted in its own laboratory measuring the resistance to picking of web rolls produced by the Union producers, it can be seen that these products would not fall into the current product definition which would show that the criterion of 'resistance to picking' for distinguishing CFP used in web-fed and sheet-fed printing is unsuitable. With this evidence the party alleged that the exclusion of web rolls was made on an arbitrary basis.

(26) No evidence was submitted with regard to the claim that the moisture content of the paper may render test results for ISO test standard ISO 3783:2006 unreliable.

(27) The test results presented by the exporting producer consisted of a summary of the test results performed in its own laboratory. Crucially, the results were not made