Council Implementing Regulation (EU) No 248/2011 of 9 March 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain continuous filament glass fibre products 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 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 9(4) thereof,

Having regard to the proposal submitted by the European Commission (the Commission) after having consulted the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EU) No 812/2010[(2)] (the provisional Regulation) imposed a provisional anti-dumping duty on imports of certain continuous filament glass fibre products originating in the People's Republic of China (PRC).

(2) The proceeding was initiated as a result of a complaint lodged on 3 November 2009 (the complaint) by the European Glass Fibre Producers Association (APFE, now renamed 'GlassFibreEurope') (the complainant) on behalf of producers representing a major proportion, in this case more than 50 % of the total Union production of certain continuous filament glass fibre products.

(3) It is recalled that, as set out in recital 14 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2008 to 30 September 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).

B. SUBSEQUENT PROCEDURE

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional measures (provisional disclosure), several interested parties made written submissions making known their views on the

provisional findings. The parties who so requested were granted the opportunity to be heard.

(5) The Commission continued to seek information it deemed necessary for its definitive findings. In addition to the verifications mentioned in recital 11 of the provisional Regulation, a further verification was carried out at the premises of Saertex in Saerbeck, Germany, one of the users of glass fibres which had cooperated by replying to a users' questionnaire.

(6) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain continuous filament glass fibre products originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty, as revised in accordance with this Regulation (final disclosure). They were also granted a period of time within which they could make representations subsequent to this disclosure.

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

1. **Scope of investigation: imports originating in Malaysia, Taiwan and Turkey**

(8) One exporting producer claimed that imports of certain continuous filament glass fibre products originating in Malaysia, Taiwan and Turkey should have been included in the scope of the present investigation. It argued that the exclusion of these countries was discriminatory as, according to the provisional findings, the volume of imports from these three countries would not be negligible and there would be prima facie evidence of undercutting.

(9) In this respect, it should first be noted that at initiation stage, there was no prima facie evidence of dumping, injury and causal link, as required pursuant to Article 5(2) of the basic Regulation, which would justify the initiation of an anti-dumping proceeding on imports from these countries. On the contrary, as concerns import volumes, the complainants submitted information that imports and market shares from other countries had decreased since 2004.

(10) As concerns Malaysia, Taiwan and Turkey, the analysis at the provisional stage confirmed that imports from both Taiwan and Turkey decreased over the period considered (from 2,0 % to 1,5 % and from 2,9 % to 2,5 % respectively) whereas imports from Malaysia increased slightly, from 1,0 % to 1,7 %. Although these import levels are above the *de minimis* import levels required pursuant to Article 5(7) of the basic Regulation, other requirements for including these countries in the investigation were not satisfied. In particular, no information has been received that would point at dumping from either one of these countries. The claim for the inclusion of Malaysia, Taiwan and Turkey is therefore rejected.

C. **PRODUCT CONCERNED AND THE LIKE PRODUCT**

1. **Product concerned**

(11) It is recalled that, as set out in recital 15 of the provisional Regulation, the product concerned as described in the Notice of initiation is chopped glass fibre strands, of a length of not more than 50 mm; glass fibre rovings; slivers and yarns of glass fibre filaments; and mats made of glass fibre filaments excluding mats of glass wool and currently falling within CN codes 7019 11 00, 7019 12 00, 7019 19 10 and ex 7019 31 00 (the product concerned).

(12) In addition, as set out in recital 19 of the provisional Regulation, it was decided to provisionally treat yarns as forming part of the product concerned although this was subject to further investigation and consideration at the definitive stage.

1.1. *Yarns*

(13) Following the disclosure of provisional measures, the claim for exclusion of yarns was further investigated. In this respect it is recalled that a large number of submissions claiming that yarns should be excluded had been received prior to the imposition of provisional measures (see recitals 18 and 19 of the provisional Regulation). In addition, after the imposition of provisional measures, a substantive amount of additional and more detailed information was received from interested parties. All these comments were analysed in detail as explained below.

(14) Several interested parties claimed that yarns should be distinguished from the other three basic product types mentioned in recital 17 of the provisional Regulation because: (i) yarns would have different physical and chemical characteristics, (ii) the production process of yarns and of the other three basic product types would be different, and (iii) yarns would be used for different purposes.

(15) As concerns the arguments (i) and (ii), evidence was submitted that pointed to distinctive features of rovings, chopped strands and mats at the one side, and yarns at the other side. More specifically, the information indicated that mats and chopped strands are typically made from rovings and not from yarns. After final disclosure, the Union industry contested this separation, claiming that some speciality chopped strands would in fact be made of yarns. However, the existence of some specialty chopped strands made from yarns does not imply that yarns should be considered as falling within the definition of the product concerned (see also recital 20 below).

(16) With regard to the first claim concerning the differences in basic chemical and physical characteristics, a study of a leading research institute was submitted by an interested party. This study compared, inter alia, the physical and chemical characteristics of rovings and yarns. After final disclosure, some reservations were made as to the findings of this comparison which in turn provoked some important comments from certain users of yarns. From this information it can be concluded that an essential chemical component of rovings, mats and chopped strands is ‘silane’, a chemical coupling agent facilitating the absorption of resin for matrixes. Yarns are usually not made with such chemical agent but rather with a starch oil based chemical substance (size) which is added as a lubricant and protective agent in order for the yarn

to withstand the rigours of high-speed weaving. In contrast to the rovings, where the coupling agent helps to absorb resin, 'size' repels resin. As concerns the basic chemical characteristics, it was also established that the glass raw material for yarns has a more stable composition and higher uniformity of particle size than the raw material for the other product types.

(17) From the point of view of physical characteristics, yarns appear not to share the same basic physical characteristics as the other product types. Firstly, it is generally acknowledged that yarns are in general a finer material with a much lower fibre diameter and linear density than rovings. Secondly, yarns are the only product type which is twisted (though zero twist yarns also exist).

(18) With regard to the second claim concerning the differences in the production process, although all parties acknowledge that the four basic product types are manufactured from molten glass containing silica sand, soda ash, limestone, kaolin and dolomite, which is drawn through a multi-hole heat resistant platinum-rhodium trays (bushings), there are certain important differences in the production process of yarns as compared to the other products under investigation. Firstly, for the production of yarns, higher precision and stable temperature control as well as energy input are required, with more strict controlling parameters applied (bushing output, etc.). As the holes in the bushings are smaller, the production output is substantially lower in comparison to the other products. Therefore, furnaces are usually used for producing either yarns or rovings — indeed, for economic reasons glass fibres producers do not alternate in the production of these two products on the same furnace. Another difference in the production process is that, subsequent to the bushing process, yarns go through the process of twisting.

(19) With regard to the argument (iii) concerning the differences in the applications, it was found that the different chemical characteristics of yarns as compared to rovings, chopped strands and mats are linked to the different uses of yarns. Although it had provisionally been concluded that 'almost all the different types of the product concerned (…) are basically used for the same purposes', based on the comments received after provisional disclosure this issue was further investigated and it was established that, whereas rovings, chopped strands and mats were used to reinforce plastics in composites, yarns were primarily used in the production of much lighter weight engineered materials for technical fabric applications such as high performance insulation, protection and filtration applications. In some cases, yarns might also be suitable for reinforcing purposes, but this would be in a very limited number of instances only and even then, in view of the relatively very high cost price of yarns as compared to rovings, very often unlikely for economic reasons.

(20) In view of the above differences, it is not surprising that the market also perceives yarns as different from the other three products. Indeed, a market report published in an independent magazine specialised in composite products was submitted by both users and the Union industry. This report, which was in no way related to this anti-dumping proceeding, firstly explained that, for reasons of production and uses, a distinction should be made between yarns and rovings. It then analysed in detail the

global glass fibre production capacity for the two groups: (i) rovings, chopped strands and mats altogether; and (ii) yarns[(3)].

(21) As concerns the potential substitutability of yarns with the other basic product types, it should be noted that, as already stated in recital 19 of the provisional Regulation, this would in theory be possible as yarns could be used in a limited number of applications instead of other types. However, following further analysis the Commission found that in practice this would not at all be an economically viable option due to the substantial cost difference in the cost of manufacturing yarns compared to that of other products, which can be explained by the differences of the production process mentioned in recital 18 above.

(22) In the complaint on the basis of which this investigation was initiated, it was explicitly mentioned that the product concerned has one unique function and thus purpose or use, namely the reinforcement of plastics in composites. However, the above analysis established that differences in the production process of yarns as compared to rovings (and chopped strands and mats) resulted in fundamental different basic physical and chemical characteristics, in view of different applications of yarns including several uses other than composite material. The comments received in this respect after final disclosure were not such as to alter this conclusion.

(23) In the light of above, the claim to exclude yarns on the basis of different physical and chemical characteristics and different uses as compared to rovings, chopped strands and mats, is hereby accepted. It is thus concluded that yarns should be excluded from the definition of the product concerned as defined in the provisional Regulation. Yarns are therefore definitively excluded from the proceeding.

(24) It should also be noted that a claim on exclusion of thin yarns was submitted by an interested party, but this has no more relevance in view of the exclusion of all yarns from the product scope.

1.2. *Texturised rovings*

(25) One interested party claimed the exclusion of texturised rovings. This claim was based on the argumentation that texturised rovings should be treated according to the same principle as impregnated rovings, because the product is no longer a roving but a more downstream product.

(26) In this respect it is important to repeat the reason for excluding certain impregnated rovings. Indeed, certain rovings and yarns were excluded since these types were specially treated by coating and impregnating and they have a loss of ignition of more than 3 %, giving them different physical and chemical characteristics.

(27) As concerns texturised rovings, it is understood that these are rovings that are not coated or impregnated and which have a loss of ignition value of between 0,3 % and 0,13 %. They are therefore clearly different products as compared to the impregnated rovings which were excluded at the provisional stage. Secondly, it was found that, like the other rovings, chopped strands and mats, texturised rovings are primarily used for reinforcing plastics in composites. They are therefore clearly covered by the product