Commission Regulation (EU) No 138/2011 of 16 February 2011 imposing a provisional anti-dumping duty on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China

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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 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 20 May 2010, the European Commission (the Commission) announced, by a notice published in the *Official Journal of the European Union*[(2)] (Notice of initiation), the initiation of an anti-dumping proceeding with regard to imports into the Union of certain open mesh fabrics of glass fibres originating in the People's Republic of China ('PRC' or 'the country concerned').

(2) The anti-dumping proceeding was initiated following a complaint lodged on 6 April 2010 by Saint-Gobain Vertex s.r.o., Tolnatex Fonalfeldolgozo es Muszakiszovetgyarto, Valmieras 'Stikla Skiedra' AS and Vitrulan Technical Textiles GmbH (the complainants), representing a major proportion, in this case more than 25 %, of the total Union production of certain open mesh fabrics. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainants, other known Union producers, the known exporting producers in the PRC, and the representatives of the PRC, known importers and users, of the initiation of the proceeding. The Commission also advised producers in the United States of America (USA), Canada, Croatia, Turkey and Thailand, as these countries were envisaged as a possible analogue country. 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. All interested

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 138/2011. (See end of Document for details)*

parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

(4) In view of the apparent high number of exporting producers in the PRC, unrelated importers and Union producers, sampling was envisaged in the Notice of initiation for the determination of dumping and injury in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and if so, to select a sample, all known exporting producers in the PRC, importers and Union producers, 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 during the period from 1 April 2009 to 31 March 2010. The authorities of the PRC were also consulted.

(5) Sixteen replies were received to the sampling exercise from exporting producers in the PRC covering 86 % of imports during the investigation period as defined in the recital below. Therefore, the cooperation is considered to be high.

(6) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of exporting producers based on the largest representative volume of exports of the product concerned to the Union which could reasonably be investigated within the time available. The sample selected consists of two individual exporting producers and one exporting producer group consisting of four related companies, representing 42 % of imports to the Union during the Investigation Period (IP) as defined in recital 13 below. In accordance with Article 17(2) of the basic Regulation, the parties concerned and the PRC authorities were consulted on the selection of sample and raised no objection.

(7) With regard to Union industry, twelve producers provided the requested information and agreed to be included in the sample. On this basis, the Commission selected a sample composed of the four biggest Union producers in terms of sales and production representing, 70 % of the total sales by Union industry as defined in recital 59 below.

(8) Only four unrelated importers provided the requested information within the deadlines set out in the Notice of initiation. Therefore, it was decided that sampling with regard to unrelated importers was not necessary.

(9) In order to allow sampled exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the sampled exporting producers. All sampled exporting producers requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET. In addition, one exporting producer consisting of a group of related companies which was not included in the sample, requested individual examination under Article 17(3) of the basic Regulation.

(10) The Commission sent questionnaires to the sampled exporting producers, as well as to the non-sampled exporting producer that had requested individual

examination, to the four sampled Union producers, the four cooperating unrelated importers and to all known users in the Union. Questionnaires were also sent to producers in the USA which was the proposed analogue country as mentioned in the Notice of initiation, and to producers in other possible analogue countries. Questionnaire replies were received from the sampled exporting producers in the PRC and from the one cooperating producer who requested individual examination, from one producer in the United States of America and one producer in Canada, envisaged analogue country as explained in recital 43 below, from all sampled Union producers and from four unrelated importers. No users supplied the Commission with any information or made themselves known in the course of this investigation.

(11) The Commission sought and verified all the information deemed necessary for the purpose of analysis of MET/IT and for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of the following companies:

(a) *Exporting producers in the PRC*
- Yuyao Mingda Fiberglass Co., Ltd
- Ningbo Weishan Duo Bao Building Materials Co., Ltd
- Grand Composite Group composed of:
  - Grand Composite Co. Ltd
  - Ningbo Grand Fiberglass Co. Ltd
  - Ningbo Grand Industrial Co. Ltd

(b) *Union producers*
- Saint Gobain Vertex s.r.o, Czech Republic
- Tolnatex Fonalfeldolgozo es Muszakiszovetgyarto, Hungary
- Vitrulan Technical Textiles GmbH, Germany
- Valmieras Stikla Skiedra AS, Latvia

(c) *Unrelated importers*
- Masterplast, Hungary

(12) In view of the need to establish a normal value for the exporting producers in the PRC to which MET might not be granted, a verification to establish normal value on the basis of data from Canada as analogue country took place at the premises of the following company:

(d) *Producer in analogue country*
- Saint Gobain Technical Fabrics, Midland, Canada

3. **Investigation period**

(13) The investigation of dumping and injury covered the period from 1 April 2009 to 31 March 2010 (‘investigation period’ or ‘IP’). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2006 to the end of the investigation period (period considered).

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B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(14) The product concerned 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 originating in the PRC (the product concerned) and currently falling within CN codes ex 7019 40 00, ex 7019 51 00, ex 7019 59 00, ex 7019 90 91 and ex 7019 90 99.

(15) Open mesh fabrics are made of glass fibre yarns and can be found in different cell sizes and weight per square meter. They are mostly used as reinforcement material in the construction sector (external thermal insulation, marble/floor reinforcement, wall repair).

(16) After initiation, an exporting producer in the PRC that manufactures fibreglass discs requested clarification whether that product type is included in the product definition. The Union industry was consulted and was of the opinion that such discs may be considered as downstream product and thus are not necessarily covered by the product definition. Since at this stage of the proceeding information at the Commission's disposal does not yet allow for a definitive conclusion concerning its basic characteristics, it was decided to provisionally treat fibreglass discs as forming part of the product concerned, pending collection of further information and considerations from interested parties in the remainder of the investigation.

2. Like product

(17) The investigation has shown that open mesh fabrics of glass fibres produced and sold on the domestic market of the PRC and on the domestic market of Canada, which served provisionally as an analogue country, as well as the open mesh fabrics of glass fibres produced and sold in the Union by the Union producers have essentially the same basic physical, chemical and technical characteristics and the same basic uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. General methodology

(18) The general methodology set out hereinafter has been applied to the cooperating exporting producers in PRC to establishing whether or not they were practicing dumping.

2. Market Economy Treatment (MET)

(19) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation. Briefly and for ease of reference only, these criteria are set out in summarised form below:

1. business decisions are made in response to market signals, without significant State interference, and costs reflect market values;

2. firms have one clear set of basic accounting records, which are independently audited in line with international accounting standards and are applied for all purposes;

3. there are no significant distortions carried over from the former non-market economy system;

4. bankruptcy and property laws guarantee stability and legal certainty; and

5. exchange rate conversions are carried out at market rates.

(20) In the present investigation, all sampled exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadline.

(21) For all the abovementioned sampled exporting producers, the Commission sought all information deemed necessary and verified the information submitted in the MET claim forms and all other information deemed necessary at the premises of the following companies:

— Yuyao Mingda Fiberglass Co., Ltd
— Ningbo Weishan Duo Bao Building Materials Co., Ltd
— Grand Composite Group, composed of:
  — Grand Composite Co. Ltd
  — gbo Grand Fiberglass Co. Ltd
  — Ningbo Grand Industrial Co. Ltd
— The fourth company of the sampled group of related companies is located in British Virgin Islands and was therefore not part of the MET assessment.

(22) The investigation initially established that two sampled exporting producers in the PRC fulfilled all the criteria set forth in Article 2(7)(c) of the basic Regulation to be granted MET while the third sampled exporting producer consisting of a group of related companies failed to meet criterion 2 in respect of the international accounting standards. In particular, it was found that certain costs, revenues and accounts did not accurately reflect the true financial situation of the companies in the group. Moreover, the lack of completeness of the accounts was not mentioned in the auditor's report.

(23) The Commission officially disclosed the results of the MET findings to the exporting producers concerned in the PRC, and the complainants. They were also given an opportunity to make their views known in writing and to request a hearing if there were particular reasons to be heard.

(24) Following the disclosure of the MET findings, comments were only received from the sampled exporting producer/group which was not granted MET. However, these comments were not such as to change the findings in this regard as they did not