Commission Regulation (EU) No 1042/2010 of 16 November 2010 imposing a provisional anti-dumping duty on imports of coated fine paper 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:

1. PROCEDURE

1.1. Initiation

(1) On 18 February 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 concerning imports into the Union of coated fine paper 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 4 January 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 dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned by the proceeding

(3) The Commission officially advised 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 proceeding. The Commission also advised producers in the United States of America (USA) and an association of producers (a paper association) and, at a later stage, a producer in Thailand of the initiation of the proceedings, as the USA and Thailand were each 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 out in the Notice of Initiation. All interested 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, Union producers and unrelated importers, sampling was envisaged in the Notice of initiation 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 samples, all known exporting producers and their known paper association, all known 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.

(5) As explained in recital 28 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.

(6) In order to allow the known 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 exporting producers known to be concerned and to the authorities of the PRC. As explained in recitals 33 and 53 below, one group of exporting producers in the PRC requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that it did not meet the conditions for MET, while the other group of exporting producers in the PRC requested IT.

(7) As explained in recital 29 below, it was decided that sampling was not necessary for Union producers.

(8) As explained in recital 30 below, it was decided that sampling was not necessary for unrelated importers.

(9) The Commission sent questionnaires to all parties known to be concerned and to all other parties that requested so 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 (a paper association), the representatives of the country concerned, known importers, known users, known producers in the USA, an association of producers (a paper association) in the USA and a producer in Thailand.

(10) Replies to the questionnaires and other submissions were received from two groups of Chinese exporting producers, the complainant association (the European association of fine paper manufacturers or ‘CEPIFINE’), the four complainant Union producers and one additional Union producer, 16 unrelated importers and traders, 17

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users and 3 printing and paper associations and from one producer in the USA which was envisaged as analogue country.

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

(a) 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,

— Papierfabrik Scheufelen GmbH, Lenningen, Germany.

(b) 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).

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

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

(c) Companies related to the exporting producers in the PRC

— Gold East (Hongkong) Trading Co., Ltd, Hong Kong,

— Chenming (HK) Limited, Hong Kong,

— Asia Pulp & Paper Italia SRL, Padova, Italy.

(d) Importers in the Union

— Cartaria Subalpina, Turin, Italy,

— Middleton Paper, Walsall, UK,

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— Paperlinx, Northampton, UK.

(12) In view of the need to establish a normal value for the exporting producer in the PRC in the absence of MET, a verification visit to establish normal value on the basis of data from an analogue country, the USA in this case, took place at the premises of the following company:

— S.D. Warren Company d/b/a Sappi Fine Paper North America, Boston, Massachusetts, USA.

1.3. Investigation period and period considered

(13) The investigation of dumping 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

(14) 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/m2 or more but not exceeding 400 g/m2 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.

(15) CFP is high quality paper and paperboard generally used for 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.

(16) 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.

(17) 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

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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.

(18) However, in contrast 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 16 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.

(19) 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.

(20) 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.

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

(22) 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 undertaken for a sample of CFP for web-fed printing (including products produced by the Union industry) 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. Firstly, 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. Secondly, as far as the testing of samples of CFP for web-fed printing is concerned, such tests were not made by an independent expert and the reliability and objectivity of such tests were therefore considered insufficient to base any conclusions thereon. Therefore, the resistance to picking was provisionally found to be a reliable technical characteristic to distinguish between CFP used in web-fed and the one used in sheet-fed printing.

(23) During the course of the investigation, certain parties also claimed that multi-ply paper and multi-ply paperboard (as defined in the next recital) should be excluded from the scope of the investigation. They claimed that multi-ply paper and multi-