Commission Regulation (EU) No 812/2010 of 15 September 2010 imposing a provisional anti-dumping duty on imports of certain continuous filament glass fibre products 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 17 December 2009, the Commission announced, by a notice published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding with regard to imports of certain continuous filament glass fibre products originating in the People's Republic of China ('PRC' or the 'country concerned').

(2) The proceeding was initiated as a result of a complaint lodged on 3 November 2009 by APFE - European Glass Fiber Producers Association ('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. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. **Parties concerned by the proceeding**

(3) The Commission officially advised the complainant, other known Union producers, the exporting producers and the representatives of the PRC, importers, suppliers and users known to be concerned, as well as their associations, of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

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(4) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(5) In view of the apparent high number of exporting producers, 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 exporting producers, 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 investigation period (1 October 2008 – 30 September 2009).

(6) Eight Chinese exporting producers or groups of exporting producers and seven Union producers or groups of producers provided the requested information and agreed to be included in the sample. After examination of the information submitted, and given the high number of exporting producers and Union producers which indicated their willingness to cooperate, it was decided that sampling was necessary with regard to these producers (see recitals (12) and (13) below).

(7) With regard to unrelated importers, at the sampling stage of the investigation, only three importers provided the requested information within the deadlines set out in the notice of initiation. It was therefore decided not to apply sampling and to send questionnaires to all importers that had come forward.

(8) In order to allow the 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 (groups of) companies 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.

(9) The Commission officially disclosed the results of the MET findings to the exporting producers concerned in the PRC, the authorities of the PRC and the complainant. 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.

(10) The Commission sent questionnaires to the sampled exporting producers, sampled Union producers, to importers, and to all known users and user associations. Full questionnaire replies were received from the sampled exporting producers in the PRC, from all sampled Union producers, two importers and 13 users.

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

(a) *Exporting producers in the PRC*

— Chongqing Polycomp International Corporation ('CPIC')

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— Jushi Group (Jushi Group Co., Ltd.; Jushi Group Chengdu Co., Ltd.; Jushi Group Jiujiang Co. Ltd.; Jushi P-D Interglas Co. Ltd.; China National Building Materials & Equipment Import and Export Corporation; CNBM International Corporation; Tongxiang Leishi Mineral Powder Co., Ltd.; Tongxiang Juzhen Mining Co., Ltd.; Tongxiang Jinshi Precious Metal Equipment Co., Ltd.; Zhejiang Songyang Mingshi Mining Co., Ltd. and Zhenshi Group Zhejiang Yushi Int Logistics), and

— New Changhai Group (Changzhou New Changhai Fiberglass Co., Ltd. and Jiangsu Changhai Composite Materials Holding Co., Ltd.)

(b) *Union producers*

— Johns Manville Slovakia, Trnava, Slovakia

— European Owens Corning Fiberglas, Brussels, Belgium

— Owens Corning France, Chambéry, France

— PPG Industries BV, Hoogezand, The Netherlands

(c) *Union users*

— Sabic Europe BV, Sittard, The Netherlands and Genk, Belgium

— Sabic Innovative Plastics BV, Bergen op Zoom, The Netherlands

(d) *Producer in the analogue country*

— Cam Elyaf Sanayii A.Ş, Turkey.

3. **Sampling**

(12) Out of the eight Chinese exporting producers or groups of exporting producers which came forward, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which could reasonably be investigated within the time available. The sample selected consists of three (groups of related) companies, representing over 70 % of the export volume of the co-operating parties from the PRC to the EU. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

(13) With regard to Union producers, seven producers provided the requested information and agreed to be included in the sample. On the basis of the information received from these cooperating Union producers, the Commission selected a sample of the three biggest in terms of sales and production (groups of) Union producers representing 64 % of the sales by all cooperating Union producers.

4. **Investigation period**

(14) The investigation of dumping and injury covered the period from 1 October 2008 to 30 September 2009 (‘investigation period’ or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from 2006 to the end of the investigation period (‘period considered’).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

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1. **Product concerned**

(15) 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').

(16) The product concerned is the raw material most often used to reinforce thermoplastic and thermoset resins in the composites industry. The resulting composite materials (glass fibre reinforced plastics) are used in a large number of industries: automotive industry, electric/electronics, wind mill blades, building/construction, tanks/pipes, consumer goods, aerospace/military, etc.

(17) There are four basic types of continuous filament glass fibre products covered by this proceeding – i.e. chopped strands, rovings, mats (other than of glass wool) and yarns. The investigation has shown that, despite differences in appearance and possible differences in final applications of various types, almost all the different types of the product concerned share the same basic physical, chemical and technical characteristics and are basically used for the same purposes. It was however found that slivers do not share the same basic chemical, physical and technical characteristics since they are not continuous filament glass fibres, but discontinuous strands of irregular length. The investigation also showed that certain very specific types of rovings and certain very specific types of yarns that are currently covered by CN Codes 7019 12 00 and 7019 19 10 respectively should be excluded since these types are specially treated by coating and impregnating and have a loss on ignition of more than 3 %, giving them different physical and chemical characteristics.

(18) Several downstream users of yarns have claimed that the latter should be excluded completely from the product scope of the proceeding, given the almost non-existing production base in the Union as well as lack of substitutability between yarns and other product types.

(19) However, the investigation has shown that at least one way demand substitutability exists (i.e. the yarn can be used in a number of applications instead of other types even if – given a relatively higher price of yarns - this would not always be an economically viable option) and the limited production base of a certain product type cannot per se be a reason for excluding such type from the product scope, as long as it shares the same basic physical, chemical and technical characteristics and uses with other types. Given that continuous glass fibre filament yarns have the same essential characteristics as other continuous glass fibre filament products and they are interchangeable to a certain extent, it was provisionally concluded that there were no grounds to exclude yarns from the product definition. It is however noted that special attention will be given to the further assessment of this claim.

2. **Like product**

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(20) The product concerned and the continuous glass fibre filament products produced and sold on the domestic market of the PRC, and on the domestic market of Turkey, which served provisionally as an analogue country, as well as the continuous glass fibre filament products produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment ('MET')

(21) 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.

(22) Briefly, and for ease of reference only, these criteria are set out in summarised form below:

1. business decisions and costs are made in response to market conditions and without significant State interference;
2. accounting records are independently audited, in line with international accounting standards and applied for all purposes;
3. there are no significant distortions carried over from the former non-market economy system;
4. legal certainty and stability is provided by bankruptcy and property laws;
5. currency exchanges are carried out at the market rate.

(23) In the present investigation, all three sampled exporting producers or groups requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines:

— Chongqing Polycomp International Corporation ('CPIC')

— Jushi Group, and

— New Changhai Group.

(24) For all the above mentioned sampled exporting producers or groups, 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 companies in question.

(25) The investigation established that two sampled exporting producers/groups in the PRC did not meet the requirements of the criteria set forth in Article 2(7)(c) of the basic Regulation to be granted MET.