Commission Regulation (EU) No 478/2010 of 1 June 2010 imposing a provisional anti-dumping duty on imports of high tenacity yarn of polyesters 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 8 September 2009, 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 high tenacity yarn of polyesters originating in the People's Republic of China (PRC), the Republic of Korea (Korea) and Taiwan (the countries concerned).

(2) The proceeding was initiated as a result of a complaint lodged on 27 July 2009 by CIRFS — European Man-made Fibres Association (the complainant) on behalf of producers of high tenacity yarn of polyesters representing a major proportion, in this case more than 60 % of the total Union production of high tenacity yarn of polyesters. 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 an investigation.

1.2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant Union producers, other known Union producers, the exporting producers, importers, users, other parties known to be concerned, and representatives of the PRC, Korea and Taiwan 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.

(4) The complainant, other Union producers, exporting producers in the PRC, Korea and Taiwan, importers and users made their views known. 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 in the PRC and Korea and 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 a sample, all known exporting producers in the PRC and Korea and Union 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 during the period from 1 July 2008 to 30 June 2009.

(6) As explained in recitals 22 to 27 below, eleven exporting producers in the PRC provided the requested information and agreed to be included in a sample. With regards to Korea, four exporting producers provided the requested information and agreed to be included in the sample.

(7) On the basis of the information received from the cooperating exporting producers, the Commission selected a sample of three exporting producers in the PRC or groups of related companies having the largest volume of exports to the Union. All exporting producers concerned, as well as their association and the authorities of the PRC, were consulted and agreed on the selection of the sample.

(8) In the case of Korea only four exporting producers provided the required information for the sampling exercise. In view of the low number of exporting producers which indicated their willingness to cooperate, it was decided that sampling was not necessary.

(9) In order to allow 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 in the PRC and to the exporting producers that requested such forms with the intention to apply for individual examination pursuant to Article 17(3) of the basic Regulation.

(10) 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 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.

(11) Two exporting producers which were not included in the sample because they did not meet the criteria set in Article 17(1) of the basic Regulation claimed an individual margin pursuant to Article 17(3) of the basic Regulation. It was considered however that individual examination of the exporting producers concerned, would have led to additional on-the-spot visits and specific analysis, and would have thus been unduly burdensome and would have prevented the timely completion of

the investigation. Therefore, it was provisionally concluded that the request for an individual examination of the said exporting producers could not be accepted.

(12) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation, namely to four Union producers, ten importers and 68 users.

(13) Replies were received from the complainant Union producers and one additional Union producer which supported this investigation, two unrelated importers and 33 users.

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

Producers in the Union:

— Brilen SA, Barbastro, Spain,

— Performance Fibers, Bascharage, Luxemburg and its related companies Performance Fibers Longlaville, Longwy, France; Performance Fibers GmbH, Bad Hersfeld Germany; Performance Fibers, Bobingen, Germany; Performance Fibers, Guben, Germany,

— Polyester High Performance, Wuppertal, Germany,

— Sioen, Mouscron, Belgium.

Importers in the Union:

— Protex Advanced Textiles GmbH, Rosendahl, Germany.

Users in the Union:

— Autoliv Romania SA, Brasov, Romania,

— Guth & Wolf GmbH, Gütersloh, Germany,

— Michelin, Clermont Ferrand, France,

— Mitas AS, Prague, Czech Republic.

Exporting producers in the PRC:

— Zhejiang Guxiandao Industrial Fibre Co., Ltd, Shaoxing,

— Zhejiang Hailide New Material Co., Ltd, Haining,

— Zhejiang Unifull Industrial Fibre Co., Ltd, Huzhou.

Exporting producers in Korea:

— Hyosung Corporation, Seoul,

— Kolon Industries Inc, Seoul,

— KP Chemtech Corporation, Ulsan,

— Samyang Corporation, Seoul.

Exporting producers in Taiwan:

— Far Eastern Textiles Co., Ltd, Taipei,

— Shinkong Corporation, Tapei.

Related importers in the Union:

— Hyosung Luxembourg SA, Luxembourg.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 478/2010. (See end of Document for details)*

Producers in the analogue country:

— Performance Fibers, Inc. and Performance Fibers Operations, Inc., Richmond, USA.

1.3. **Investigation period**

(15) The investigation of dumping and injury covered the period from 1 July 2008 to 30 June 2009 (‘investigation period’ or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from January 2005 to the end of the investigation period (period considered).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

(16) The product concerned is high tenacity yarn of polyesters (other than sewing thread), not put up for retail sale, including monofilament of less than 67 decitex originating in the PRC, Korea and Taiwan (‘the product concerned’ or ‘HTY’) currently falling within CN code 5402 20 00.

(17) The product concerned features outstanding properties and is used in a number of diverse applications such as tyre reinforcement, broad fabrics, conveyor belts, safety belt ropes, nets and geo-synthetic products.

(18) During the course of the investigation, certain parties claimed that the yarn used in the production of tyres, the so called ‘High Modulus Low Shrinkage’ (HMLS) yarn, should be excluded from the scope of the investigation. They claimed that HMLS has different characteristics and applications compared to other HTY.

(19) The investigation, however, showed that, although HMLS yarn has some distinctive characteristics compared to other HTY, (e.g., modulus, shrinkage, tensile strength and fatigue resistance), the different types of the product concerned all share the same basic physical and chemical characteristics. They are therefore considered to constitute one single product.

2.2. **Like product**

(20) The product exported to the Union from the PRC, Korea and Taiwan, and the product produced and sold domestically in Korea and Taiwan as well as in the PRC by the Chinese exporting producer which was granted MET and also the one manufactured and sold in the Union by the Union producers were found to have the same basic physical and technical characteristics as well as the same uses. They are therefore provisionally considered as alike within the meaning of Article 1(4) of the basic Regulation.

3. SAMPLING

3.1. **Sampling of importers**

(21) In view of the large number of importers identified from the complaint, sampling was envisaged for importers in the notice of initiation in accordance with

Article 17(1) of the basic Regulation. However, after examination of the information submitted and given the low number of importers which indicated their willingness to cooperate, it was decided that sampling was not necessary.

3.2. **Sampling for exporting producers in the PRC**

(22) In view of the large number of exporting producers in the PRC, sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17(1) of the basic Regulation.

(23) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers in the PRC were requested to make themselves known within 15 days from the date of the initiation of the investigation and to provide basic information on their export and domestic sales, their precise activities with regard to the production of the product concerned and the names and activities of all their related companies involved in the production and/or selling of the product concerned.

(24) The authorities of the PRC and the producers association, i.e. the China Chamber of Commerce for Import and Export of Textiles, were also consulted for the selection of a representative sample.

3.2.1. *Pre-selection of cooperating exporting producers*

(25) In total, eleven exporting producers, including groups of related companies in the PRC, came forward and provided the requested information within the given deadline set in the notice of initiation. All of them reported exports of the product concerned to the Union during the IP and expressed a wish to participate in the sample. Thus, these eleven exporting producers were considered to be cooperating in the present investigation (cooperating exporting producers).

(26) Exporting producers which did not make themselves known within the aforesaid deadline or did not provide the requested information in due time, were considered as non-cooperating with the investigation. The comparison between Eurostat import data and the volume of exports to the Union of the product concerned reported for the IP by the companies mentioned in recital 25 suggests that the cooperation of Chinese exporting producers was very high as mentioned in recital 73 below.

3.2.2. *Selection of the sample of cooperating exporting producers in the PRC*

(27) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample based on the largest representative volume of exports of HTY to the Union which could reasonably be investigated within the time available. The sample selected consists of three companies or groups of related companies, representing more than 65 % of the total volume of exports to the Union of the product concerned. In accordance with Article 17(2) of the basic Regulation, all exporting producers concerned, as well as their association and the authorities of the PRC, were consulted and agreed on the selection of the sample.