Council Implementing Regulation (EU) No 21/2013 of 10 January 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China to imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not

COUNCIL IMPLEMENTING REGULATION (EU) No 21/2013

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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 13 thereof,

Having regard to the proposal from the European Commission,

Whereas:

1. **PROCEDURE**

1.1. **Existing measures**

(1) By Implementing Regulation (EU) No 791/2011[(2)] ('the original Regulation') the Council imposed a definitive anti-dumping duty of 62,9 % on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China ('the PRC') for all other companies than the ones mentioned in Article 1(2) and Annex I to that Regulation. These measures will hereinafter be referred to as 'the measures in force' and the investigation that led to the measures imposed by the original Regulation will be hereinafter referred to as 'the original investigation'.

1.2. **Request**

(2) On 10 April 2012, the European Commission ('the Commission') received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain open mesh fabrics of glass fibres originating in the PRC and to make imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not, subject to registration.

(3) The request was lodged by Saint-Gobain Adfors CZ s.r.o., Tolnatext Fonalfeldolgozo es Muszakiszovet-gyarto Bt., Valmieras 'Stikla Skiedra' AS and Vitrulan Technical Textiles GmbH, four Union producers of certain open mesh fabrics of glass fibres.

(4) The request contained sufficient prima facie evidence that following the imposition of the measures in force, a significant change in the pattern of trade involving exports from the PRC, Taiwan and Thailand to the Union occurred, for which there was insufficient due cause or economic justification other than the imposition of the measures in force. This change in the pattern of trade stemmed allegedly from the transhipment of certain open mesh fabrics of glass fibres originating in the PRC via Taiwan and Thailand.

(5) Furthermore, the evidence pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantity and price. The evidence showed that these increased imports from Taiwan and Thailand were made at prices below the non-injurious price established in the original investigation.

(6) Finally, there was evidence that prices of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand were dumped in relation to the normal value established during the original investigation.

1.3. **Initiation**

(7) Having determined, after consulting the Advisory Committee, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, initiated an investigation by Commission Regulation (EU) No 437/2012[(3)] ('the initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation the Commission, by the initiating Regulation, also directed the customs authorities to register imports of certain open mesh fabrics of glass fibres consigned from Taiwan and Thailand.

1.4. **Investigation**

(8) The Commission officially advised the authorities of the PRC, Taiwan and Thailand, the exporting producers in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires were sent to the known producers/exporters in the PRC, Taiwan and Thailand known to the Commission from the request or through the Taipei Representative Office and the Mission of the Kingdom of Thailand to the European Union. Questionnaires were also sent to importers in the Union named in the request. 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 initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.

(9) The anti-circumvention questionnaire was sent to eight companies in Taiwan and to seven companies in Thailand. Some Taiwanese and Thai companies came

forward and claimed that they do not want to be considered as interested parties as they do not produce the product under investigation and/or do not have any exports to the Union. The remaining known companies from the two countries concerned did not come forward at all. None of the companies submitted a reply to the questionnaire. The anti-circumvention questionnaire was also sent to 44 companies in the PRC. However, those exporting producers in the PRC neither came forward nor submitted a reply to the questionnaire. Questionnaires were also sent to importers in the Union but none of them came forward nor did they submit replies to the questionnaire.

1.5. **Investigation period**

(10) The investigation period covered the period from 1 January 2009 to 31 March 2012 ('the IP'). Data were collected for the IP to investigate, inter alia, the alleged change in the pattern of trade. More detailed data were collected for the reporting period from 1 April 2011 to 31 March 2012 ('the RP') in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. **RESULTS OF THE INVESTIGATION**

2.1. **General considerations**

(11) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether there was a change in the pattern of trade between the PRC, Taiwan, Thailand and the Union; if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty; if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the product under investigation; and whether there was evidence of dumping in relation to the normal values previously established in the original investigation, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. **Product concerned and the product under investigation**

(12) The product concerned is as defined in the original investigation: 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, excluding fibreglass discs, originating in the People's Republic of China, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00.

(13) The product under investigation is the same as that defined in the previous recital, but consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not.

(14) The investigation showed that open mesh fabrics of glass fibres, as defined above, exported from the PRC to the Union and those consigned from Taiwan and Thailand to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. **Degree of cooperation and determination of the trade volumes**

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 21/2013. (See end of Document for details)*

Taiwan

(15) As stated in recital 9, none of the companies submitted a reply to the questionnaire, i.e. there was no cooperation from the Taiwanese exporting producers, and consequently no on the spot verification visits were carried out. The findings in respect of imports of certain open mesh fabrics of glass fibres from Taiwan into the Union and exports of the product concerned from the PRC to Taiwan had to be made on the basis of facts available in accordance with Article 18(1) of the basic Regulation. In this case Comext data was used to determine overall import volumes from Taiwan to the Union and Chinese national statistics were used for the determination of the overall exports from the PRC to Taiwan.

Thailand

(16) The Thai exporting producers did not cooperate either as they also did not submit replies to the questionnaire, thus no on the spot verification visits were carried out. The findings in respect of imports of certain open mesh fabrics of glass fibres from Thailand into the Union and exports of the product concerned from the PRC to Thailand had to be made on the basis of facts available in accordance with Article 18(1) of the basic Regulation. In this case Comext data was used to determine overall import volumes from Thailand to the Union and Chinese national statistics were used for the determination of the overall exports from the PRC to Thailand.

The People's Republic of China

(17) There was no cooperation from the Chinese exporting producers. Therefore, findings in respect of imports of the product concerned into the Union and exports of certain open mesh fabrics of glass fibres from the PRC to Taiwan and Thailand had to be made on the basis of facts available in accordance with Article 18(1) of the basic Regulation. In this case Comext data was again used to determine overall import volumes from the PRC to the Union. Chinese national statistics were used for the determination of the overall exports from the PRC to Taiwan and Thailand.

(18) The import volume recorded in Comext statistics covers a larger product group than the product concerned and the product under investigation. However, based on estimates provided by the Union industry, it could be established that a significant part of this import volume covered the product concerned and the product under investigation. Accordingly, the data could be used to establish a change in the pattern of trade.

2.4. **Change in the pattern of trade**

Imports of certain open mesh fabrics of glass fibres into the Union

(19) Imports of the product concerned from the PRC to the Union dropped dramatically subsequent to the imposition of the provisional measures in February 2011[(4)] and of the definitive measures in August 2011 by the original Regulation.

Taiwan

(20) Total exports of the product under investigation from Taiwan to the Union increased significantly in 2011 and particularly following the imposition of the

definitive measures in August 2011. Based on Comext data, exports from Taiwan to the Union surged suddenly in the second semester of 2011 whereas they were at insignificant levels in previous years. Those imports exploded further in the quarter January-March 2012, following the initiation in November 2011 of the anti-circumvention investigation on open mesh fabrics originating in the PRC and consigned via Malaysia[(5)]. That trend is confirmed by the corresponding Chinese statistics with regard to exports of open mesh fabrics of glass fibres to Taiwan from the PRC.

Thailand

(21) As far as Thailand is concerned, the total exports to the Union of the product under investigation also increased sharply in 2011. Based on Comext data, exports from Thailand to the Union exploded in the quarter June-August 2011 whereas they were insignificant in previous years. Those imports also present a further surge in the quarter January-March 2012, following the initiation in November 2011 of the anti-circumvention investigation on open mesh fabrics originating in the PRC and consigned via Malaysia[(6)]. That trend is confirmed by the corresponding Chinese statistics with regard to exports of open mesh fabrics of glass fibres to Thailand from the PRC.

(22) Table 1 shows import quantities of certain open mesh fabrics of glass fibres from the PRC, Taiwan and Thailand into the Union from 1 January 2009 to 31 March 2012.

Table 1

Import volumes(millions of m^2)	**2009**	**2010**	**2011**	**1.4.2011-31.3.2012**
PRC	294,9	383,72	193,07	121,3
Taiwan	1,33	1,03	10,67	17,07
Thailand	0,66	0,04	10,4	24,11

Source: Comext statistics.

The Comext data is provided in kilograms while the measurement of the product concerned is in square meters. The Union Industry provided conversion rates for the two codes covered by the proceeding which were used to calculate the figures in the Tables.

(23) The data clearly show that imports from Taiwan and Thailand into the Union were negligible in 2009 and 2010. However, in 2011, following the imposition of the measures, imports surged suddenly and partly replaced the exports from the PRC on the Union market in terms of volume. Moreover, since the imposition of the measures in force, the decrease of the exports from the PRC to the Union has been significant (70 %).

Exports from the PRC to Taiwan and Thailand

(24) A dramatic increase of exports of open mesh fabrics of glass fibres can be observed from the PRC to Taiwan within the same period. From a relatively small number in 2009 (748 000 m^2), exports surged to 14,39 million m^2 in the RP.