

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

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 Vitruvan 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 therefrom, 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 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

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 131, 20.5.2010, p. 6.

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).

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/m² 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 rebut the deficiencies but provided general explanations about the fact that only one private person controlled the whole group and that the companies in the group were going through a transitional phase in the process of integrating their business.

- (25) Just prior to the dumping verification visits, the Commission received some allegations supported in the one instance by documentation concerning the two exporting producers in the PRC to which it was initially proposed to grant MET. These allegations were examined during the dumping verification visits.

- (26) For the first exporting producer, the allegation received specifically claimed that it had provided falsified Articles of Association in its MET claim form and during the MET verification visit. The Commission was provided with copies of the allegedly genuine Articles of Association and the corresponding Joint Venture Contract between the company's shareholders. During the dumping verification visit, the exporting producer provided a certified copy of its Articles of Association

registered with the local authority which was the same undated document as that provided by the company in its MET claim form and during the MET on-spot visit.

- (27) The comparison of this document with the one received by the Commission as described in recitals 25 and 26 above revealed differences in the dates, in the parties involved and in certain provisions regarding restrictions on labour hiring. Further differences were found regarding sales restrictions when comparing the Joint Venture contract submitted with the company's MET claim form and the one received by the Commission.
- (28) A letter was sent to this exporting producer informing them that this information might give grounds to apply Article 18 of the basic Regulation and asking them to provide comments. The reply of the exporting producer did not provide sufficient explanations on the differences that would lift the doubts on the authenticity of the initial documents and information provided by the exporting producer in its MET Claim form submission.
- (29) For the second exporting producer the allegation received specifically referred to falsified audited accounts. This allegation was examined on spot and discrepancies were identified to the balances carried forward from the 2006 un-audited accounts to the first audited financial statements of 2007. In addition no audit fee charges and payments for the years 2007 and 2008 were booked in the company's records.
- (30) A letter was also sent to this exporting producer informing them about the discrepancies found on spot and asking them to provide comments. They were also informed that these new findings may give grounds to apply Article 18 of the basic Regulation. The reply of the exporting producer did not provide any additional information that would lift the doubts as to the accuracy and completeness of the figures presented in its financial statements. On the contrary, in its reply, the exporting producer admitted the existence of two different sets of accounts with different figures for 2006 and that its accounts for 2007 and 2008 contained errors which were not reported upon by the auditor.
- (31) Based on the above new findings it was considered that the first exporting producer provided misleading information within the course of the investigation. On this basis it was decided to apply Article 18 of the basic Regulation and reverse the original proposal to grant them MET.
- (32) For the second exporting producer it was decided to refuse MET on the grounds that it did not fulfil criterion 2 of the MET assessment.

3. Individual Treatment (IT)

- (33) Pursuant to Article 2(7)(a) of the basic Regulation a countrywide duty, if any, is established for countries

falling under that Article, except in those cases where companies are able to demonstrate that they meet the criteria set out in Article 9(5) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out below:

- in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits,
- export prices and quantities, and conditions and terms of sale are freely determined,
- the majority of the shares belong to private persons. State officials appearing on the Boards of Directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference,
- exchange rate conversions are carried out at the market rate, and
- State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(34) The three sampled exporting producers which requested MET also claimed IT in the event they would not be granted MET. Based on the above findings, Article 18 of the basic Regulation was applied to the first exporting producer and IT was therefore refused. The second exporting producer was found to meet the conditions of Article 9(5) of the basic Regulation and thus could be granted IT.

(35) For the third exporting producer (group of companies) that was found not to fulfil the MET criteria, it was decided to grant IT as it was found that the company fulfils the conditions of Article 9(5) of the basic Regulation.

(36) On the basis of the information available, it was provisionally established that the following two exporting producers in the PRC which were included in the sample meet all the requirements for IT as set forth in Article 9(5) of the basic regulation.

- Yuyao Mingda Fiberglass Co., Ltd
- Grand Composite Group, composed of:
 - Grand Composite Co. Ltd
 - Ningbo Grand Fiberglass Co. Ltd
 - Ningbo Grand Industrial Co. Ltd

4. Individual Examination

- (37) The non-sampled group of related companies which requested individual examination also requested MET or IT, should the investigation establish that they did not meet the conditions for MET, and replied to the MET claim form within the given deadline.
- (38) The information submitted in the MET claim form by the company that requested individual examination was not verified. This will be examined subsequently.

5. Normal value

(a) Choice of the analogue country

- (39) According to Article 2(7)(a) of the basic Regulation, normal value for exporting producers not granted MET shall be established on the basis of the domestic prices or constructed normal value in an analogue country.
- (40) In the Notice of initiation, the Commission indicated its intention to use the United States of America as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment thereon.
- (41) Four cooperating exporting producers stated that the USA would not be an appropriate analogue country, because the glass fibre yarns that they use and which is the main raw material for the production of the product concerned, is of a different glass type than the one used by the Chinese exporting producers, thus more expensive. They also proposed that Turkey and Thailand be used instead as the producers of the product concerned in these two countries use the same glass type fibre yarns as the Chinese exporting producers.
- (42) The Commission examined whether other countries could be a reasonable choice of analogue country and questionnaires were sent to producers of the product concerned in Canada, Croatia, Turkey and Thailand. Only one of the producers of the product concerned in the USA and the sole producer in Canada replied to the questionnaires.
- (43) Both the Canadian and USA markets were examined to determine their suitability to be used as analogue country. In regard to Canada, although there is only one producer of the product concerned, it was found that this country has an open market with no import duty and that competition on the market was ensured by significant imports of the product concerned from several third countries. In addition, it was found that the Canadian producer manufactures all types of the product concerned unlike the US producer who manufactures only one type of the like product, which allows calculations of a normal value for each type of the product concerned. The investigation showed that

Canada could provisionally be considered as an appropriate analogue country for the purpose of establishing normal value.

- (44) The data submitted in the cooperating Canadian producer's reply were verified *in situ* and found to be reliable information on which a normal value could be based.
- (45) It is therefore provisionally concluded that Canada is an appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.

(b) Determination of normal value

- (46) Pursuant to Article 2(7)(a) of the basic Regulation normal value was established on the basis of verified information received from the producer in the analogue country as set out below.
- (47) The domestic sales of the Canadian producer of the like product were found to be representative in terms of volume compared to the volume of the product concerned exported to the Union by the cooperating exporting producers.
- (48) During the investigation period, sales on the domestic market to unrelated customers were found to be made in the ordinary course of trade for all types of the like product manufactured by the Canadian producer. However, because of differences in quality between the like product produced and sold in Canada and the product concerned from PRC, it was considered more appropriate to construct normal value in order to be able to take into account these differences and ensure fair comparison as described in recital 52.
- (49) Pursuant to Article 2(6)(c) of the basic regulation, the amounts for SG&A and profits were established on the basis of the data of the Canadian producer.

(c) Export prices for the exporting producers granted IT

- (50) As two of the sampled cooperating exporting producers granted IT made export sales to the Union directly to independent customers in the Union, the export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

(d) Comparison

- (51) The normal value and export prices were compared on an ex-works basis.
- (52) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences

affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Normal value was adjusted for differences in quality of inputs such as chemicals, coating and raw materials (glass type of yarns). Further adjustments were made, where appropriate, in respect indirect taxes, ocean freight, insurance, handling and ancillary costs, packing, credit, bank charges and commissions in all cases where they were found to be reasonable, accurate and supported by verified evidence.

6. Dumping margins

(a) *For the cooperating sampled exporting producers granted IT*

- (53) Pursuant to Article 2(11) and (12) of the basic Regulation, the dumping margins for the two sampled cooperating exporting producers granted IT, were established on the basis of a comparison of a weighted average normal value established for the analogue country with each company's weighted average export price of the product concerned to the Union as established above.
- (54) On this basis, the provisional dumping margins expressed as a percentage of the cif Union frontier price, duty unpaid, are:

Company	Provisional dumping margin
Yuyao Mingda Fiberglass Co. Ltd	62,9 %
Grand Composite Co. Ltd and its related company Ningbo Grand Fiberglass Co. Ltd	48,4 %

(b) *For all other exporting producers*

- (55) The dumping margin for cooperating exporting producers in the PRC, not included in the sample was calculated as an average of the two sampled exporting producers granted IT in accordance with Article 9(6) of the basic Regulation.
- (56) In order to calculate the countrywide dumping margin applicable to all other non-cooperating exporting producers in the PRC as well as to the sampled exporting producer that was subject to Article 18 of the basic Regulation, the level of cooperation was first established by comparing the volume of exports to the Union reported by the cooperating exporting producers with that of Eurostat statistics.
- (57) Given the high level of co-operation in the investigation, the co-operating companies representing around 86 % of all imports from the PRC during the IP, the countrywide dumping margin was established by using the highest of the dumping margins found for the two exporting producers granted IT.
- (58) On this basis the provisional sample weighted average dumping margin and the countrywide level of dumping as a percentage of the cif Union frontier price, duty unpaid are:

Sample Weighted Average for the cooperating exporting producers not included in the sample (see Annex I)	57,7 %
Residual for non-cooperating exporting producers and Ningbo Weishan Duo Bao Building Materials Co. Ltd	62,9 %

D. INJURY

1. Union production

- (59) During the IP, the like product was manufactured by 19 producers in the Union. These producers constitute the total Union industry production within the meaning of Article 4(1) of the basic Regulation. Given that information was collected or available from all the 19 producers which supported the complaint, these producers will be hereafter referred to as the 'Union industry'.
- (60) As indicated in recital 7 above, 12 Union producers provided the requested information and agreed to be included in a sample. A sample of four producers was selected, representing around 70 % of total estimated Union production.

2. Union consumption

- (61) The calculation of Union consumption was based on figures contained in the complaint and supplemented by verified figures obtained from producers and importers cooperating in the investigation. The Union consumption was thus established on the basis of the volume of sales in the Union of the like product produced by the Union industry, and the volume of imports of the product concerned from the PRC and third countries.

- (62) On this basis the Union consumption developed as follows:

	2006	2007	2008	2009	IP
EU Consumption in square meters	534 641 644	644 081 493	673 885 434	584 086 575	597 082 715
<i>Index 2006 = 100</i>	100	120	126	109	112

Source: Complaint supplemented by cooperating companies data and Eurostat figures.

- (63) The consumption of the product concerned and the like product in the Union increased by 12 % over the period considered. It increased by 26 % between 2006 and 2008 and then decreased by 17 % between 2008 and 2009. During the IP consumption again increased slightly. The temporary fall in 2009 can be attributed to a downturn in the construction market.

3. Imports from the country concerned

(a) Volume, price and market share of dumped imports from the country concerned

- (64) The volume of imports of the product concerned from the PRC increased by 48 % through the period considered. Following the trend of consumption and the downturn in the construction sector it slightly dropped in 2009. Nevertheless a long term upward trend of these imports is clear and the increase in import volumes was much sharper than the increase in Union consumption.

	2006	2007	2008	2009	IP
Chinese imports in square meters	206 145 893	290 395 250	318 345 286	294 111 736	304 218 214
<i>Index 2006 = 100</i>	100	141	154	143	148

Source: Eurostat and complaint.

- (65) Increasing volumes of imports of the product concerned from the PRC were accompanied by the decrease in the average import price which dropped by 12 % between 2006 and the IP.

	2006	2007	2008	2009	IP
Prices of Chinese imports in euro	0,19	0,19	0,19	0,17	0,17
<i>Index 2006 = 100</i>	100	99	101	89	88

Source: Eurostat and complaint.

- (66) The market share of the imports from the country concerned increased by 32 % in the period considered, which in that case means a gain of almost 13 percentage points. In the IP the imports from the country concerned represented a market share as high as 51 %.

	2006	2007	2008	2009	IP
Market share of Chinese imports	38,6 %	45,1 %	47,2 %	50,4 %	51,0 %
<i>Index 2006 = 100</i>	100	117	123	131	132

Source: Calculation.

(b) Effect of dumped imports on prices

- (67) For the purpose of analysing price undercutting, the import prices of the cooperating Chinese exporting producers were compared with the sampled Union producers' prices during the IP, on an average to average basis. The sampled Union producers' prices were adjusted to a net ex-works level, and compared with cif import prices. The latter prices were adjusted for the import duty and post importation costs. Furthermore, due to quality differences between the product concerned imported from the PRC and the like product produced by the Union industry, an additional quality adjustment was made to the Chinese import prices. This adjustment reflects differences in parameters such as machine and cross-machine direction, tensile strength and elongation which were not fully covered as parameters in the product control number.
- (68) Taking into account the quality adjustment, the weighted average undercutting margin found, expressed as a percentage of the Union industry's prices was between 29,5 % and 30,2 % during the IP.

4. Situation of the Union industry*(a) Preliminary remarks*

- (69) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indicators having a bearing on the state of the Union industry.
- (70) It is recalled that as mentioned in recital 7 above, the Commission selected a sample composed of the four largest Union producers in terms of sales and production.
- (71) The indicators referring to macroeconomic data, such as production, capacity, sales volume, market share etc, relate to the whole Union industry (tables below refer to macro data as a source). Remaining indicators are based on verified data from the sampled producers. These indicators are referred to as micro data.
- (72) During the investigation it was found that a part of the Union industry's sales was channelled through related companies. The companies claimed that these transactions should be treated as unrelated sales as they claimed that the relations between the companies were not direct and that the sales were made at arms-length. However, it is provisionally decided to exclude these transactions from the injury margin calculations and from the indicators of injury as the Commission will continue further analysis on these specific sales. The exception has been made for the related sales between two of the sampled companies for which the resale mechanism was explained and could be verified.

*(b) Injury indicators**Production, capacity and capacity utilisation*

	2006	2007	2008	2009	IP
Production in square meters	382 225 680	428 658 047	457 433 396	374 603 756	367 613 247
<i>Index 2006 = 100</i>	100	112	120	98	96
Capacity in square meters	496 396 987	510 307 199	579 029 615	527 610 924	548 676 487
<i>Index 2006 = 100</i>	100	103	117	106	111
Capacity utilisation	77 %	84 %	79 %	71 %	67 %

Source: Macro data.

- (73) During the period considered, the Union industry's production volume decreased by 4 %. In general, the production output followed the trend in consumption i.e. an increase in the years 2006-2008 followed by a sharp decrease in 2009 and again a slight decrease during the IP. Thus, unlike the consumption, the production of the Union industry did not recover in the IP but rather continued to drop.
- (74) The Union industry's capacity utilisation rate decreased in the period considered by 10 percentage points from 77 % in 2006 to 67 % in the IP. However, it should be noted that it can be partially attributed to the fact that the capacity itself slightly increased as a result of investments of the Union producers.

Stocks

	2006	2007	2008	2009	IP
Closing stocks in square meters	14 084 616	37 105 459	46 426 609	45 326 596	40 164 077
<i>Index 2006 = 100</i>	100	263	330	322	285

Source: Macro data.

- (75) The Union industry's stock level almost tripled during the period considered. This trend coincides with the decreasing volumes of sales and production. Expressed in relation to the production volume the level of stocks increased from less than 4 % in 2006 to above 11 % in the IP.

Sales volume and market share

	2006	2007	2008	2009	IP
Sales volume in square meters	308 323 107	332 203 996	338 119 822	272 575 708	274 270 229
<i>Index 2006 = 100</i>	100	108	110	88	89
Union industry sales market share	58 %	52 %	50 %	47 %	46 %
<i>Index 2006 = 100</i>	100	89	87	81	80

Source: Macro data.

- (76) The sales volume of the Union industry decreased during the period considered by 11 % which resulted in the loss of market share of 12 percentage points from 58 % to 46 % of the total Union consumption.
- (77) Sales prices

	2006	2007	2008	2009	IP
Sales prices in euro	0,39	0,42	0,41	0,39	0,38
<i>Index 2006 = 100</i>	100	106	105	99	97

Source: Micro data.

- (78) The average sales price of the Union industry to unrelated parties in the Union decreased by 3 % over the period considered. The Union industry did not decrease its sales prices significantly in order to compete with the dumped imports. This, however, contributed to a loss of significant market share throughout the period considered.

Profitability

	2006	2007	2008	2009	IP
Average pre-tax profit	6 %	18 %	14 %	10 %	12 %
<i>Index 2006 = 100</i>	100	309	234	166	212

Source: Micro data.

Investments, return on investment, cash flow and the ability to raise capital

	2006	2007	2008	2009	IP
Investments (euro)	1 674 651	4 727 666	4 630 523	4 703 158	5 049 713
Return on net assets	5 %	24 %	16 %	5 %	9 %
Cash flow (euro)	11 176 326	16 454 101	15 469 513	11 883 024	14 031 017

Source: Micro data.

- (79) As explained in recital 68 above, over the period considered there was significant price pressure exerted by Chinese imports on the Union market. Nevertheless, the Union industry managed to maintain good financial condition between 2006 and 2007 when profitability increased from 6 % to 18 %. Thereafter it started to decrease and stood at 12 % in the IP. Other financial indicators, such as return on assets and cash flow also remained positive. In other words, the Union industry did not engage in aggressive price competition with the Chinese imports. Instead they chose to engage into a restructuring process, investing in new production technologies to increase the quality of their product and to reduce costs of production in the long term. However, this was at the expense of decreased sales volume and loss of market share to their Chinese competitors. It should be mentioned that the above profit calculation does not take into account the extraordinary restructuring costs reported by some of the sampled producers. Should these costs be taken into account the profitability of the Union industry would be substantially lower. This would consequently adversely affect the other financial indicators listed above.
- (80) Over the period considered the Union industry was still able to maintain a high level of investment with the aim of reducing costs of manufacturing and developing a more efficient method of production. Investments in the IP more than tripled in comparison to the figure of the year 2006.
- (81) Ability to raise capital was not considered to be an issue by the Union industry during the period considered.
- (82) Employment, productivity and wages

	2006	2007	2008	2009	IP
Employment	1,492	1,431	1,492	1,247	1,180
<i>Index 2006 = 100</i>	100	96	100	84	79
Average labour cost per worker (euro)	14,046	14,761	16,423	15,471	15,360
Productivity per worker (square m.)	237,853	283,882	281,761	277,954	289,066

Source: Micro data except Employment — macro data.

- (83) The number of employees of the Union industry involved with the like product decreased significantly during the period considered by 21 %. Despite the high level of remunerations, starting from 2008 the Union industry additionally reduced average labour costs per worker. As a result productivity, expressed in terms of output per worker, increased over the period considered.

(c) Magnitude of dumping

- (84) Given the volume and the prices of dumped imports from the country concerned the impact on the Union market of the actual margin of dumping cannot be considered to be negligible during the IP.

5. Conclusion on injury

- (85) As it clearly appears from the above injury analysis, during the period considered the Union industry suffered substantial losses in sales and production volume, in capacity utilisation, market share and in the number of employees, which decreased significantly by 21 % following restructuring efforts by the industry. Therefore the Union industry was not able to take advantage of the growth of the market, which was entirely taken over by the Chinese imports. Indeed, the 48 % increase in the import volume during the period considered was much higher than the 12 % increase in the Union consumption.
- (86) It is considered that a continued significant price undercutting by the Chinese dumped imports of the prices of the Union industry will continue to adversely affect the sales volume and thus inevitably the financial economic situation of the Union industry. In the medium term the profitability and other financial indicators of the European companies are expected to deteriorate.
- (87) In the light of the foregoing, it is provisionally established that the Union industry has suffered injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

1. Introduction

- (88) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned had caused injury to the Union industry to a degree sufficient to be considered as material. Known factors other than the dumped imports, which could at the same time have injured the Union industry, were also examined in order to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effects of the dumped imports

- (89) Over the period considered the volume of dumped imports of the product concerned from the PRC increased by nearly 50 % and gained a substantial market share in the Union market. In parallel there was a direct and comparable deterioration of the economic situation of the Union industry being the other significant player on the Union market as imports from other sources are negligible.
- (90) The continuous increase in volume of dumped imports was accompanied by significant undercutting of the prices of the Union industry. Over the period considered the average import price from the PRC derived from Eurostat import statistics was around 50 % lower than the average price of the Union industry. Even after an adjustment for quality differences, the undercutting margins calculated for the Chinese exporting producers granted IT were around 35 % during the IP. It can therefore be reasonably concluded that the dumped imports were responsible for some price depression in 2009 and in the IP but above all, for the significant loss in market share experienced by the Union industry during the period considered.
- (91) In view of the coincidence in time between, on the one hand, the surge of dumped imports at prices undercutting the Union industry's prices and, on the other hand, the Union industry's loss of sales and production volume, decrease in market shares, it is provisionally concluded that the dumped imports are causing material injury to the Union industry.

3. Effects of other factors

(a) Export performance of the Union industry

	2006	2007	2008	2009	IP
Export in square metres	48 288 843	39 478 526	43 447 744	35 884 733	36 003 755
Index 2006 = 100	100	82	90	74	75

Source: Macro data.

- (92) The export volume of the Union industry decreased by 25 % during the period considered but exports represented on average only about 8 % of total sales. Therefore, the impact of decreased exports on the overall performance of the Union industry was rather limited.

(b) Imports from third countries

- (93) Imports from third countries were negligible during the period considered and could not have contributed to the injury suffered by the Union industry.

(c) Impact of crisis in the construction industry

- (94) The impact of the economic crisis in the construction industry can clearly be seen in the consumption data as from 2009. However, the crisis should have affected both the Union industry and the Chinese exporters in a similar way. However, the injury investigation showed that the Chinese imports continued to gain market share at the expense of the Union industry even during the crisis.

- (95) In addition, the impact of the crisis had certain negative effects on the Union market during a relatively short period as there were signs of recovery already in the IP.

- (96) Hence, the impact of the crisis did not break the causal link between the dumped imports and the injury suffered by the Union industry.

4. Conclusion on causation

- (97) Based in the above, it is provisionally concluded that the material injury to the Union industry was caused by the dumped imports concerned.

- (98) A number of factors other than the dumped imports were examined but none of these could explain the serious losses in market share, production and sales volume which occurred in the period considered and in particular during the IP. These losses by the Union industry coincide with the increases in volumes of dumped imports of the product concerned from the PRC.

- (99) Given the above analysis which has properly distinguished and separated the effects of all the known factors on the situation of the Union industry from the injurious effects of the dumped imports, it is provisionally concluded that the imports from the PRC have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

F. UNION INTEREST

1. General remarks

- (100) In accordance with Article 21 of the basic Regulation it was examined whether, despite the provisional conclusion on the existence of injurious dumping, compelling reasons existed that could lead to the conclusion that it is not in the Union interest to adopt provisional anti-dumping measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

2. Interest of the Union industry

- (101) The injury analysis has clearly demonstrated that the Union industry has suffered from the dumped imports. The increased presence of dumped imports in recent years caused a suppression of sales in the Union market and a significant loss of market share of the Union industry.
- (102) The investigation has shown that any increase in the market share of the dumped imports from the country concerned has been gained at the direct expense of the Union industry. It should be underlined that product concerned is an important product in terms of the turnover of the sampled Union producers being up to 40 % of their sales turnover. Without the imposition of measures further deterioration of the Union industry's situation appears very likely in view of the long lasting price pressure exerted by the dumped imports from the PRC on the Union market. Moreover the efforts undertaken by the Union industry to restructure and improve the quality of their product would be fully undermined. The imposition of measures will restore the import price to non-injurious levels, allowing the Union industry to compete under fair trade circumstances.
- (103) It is therefore provisionally concluded that imposing measures would clearly be in the interest of the Union industry.

3. Interest of importers

- (104) The likely impact of measures on importers has been considered in accordance with Article 21(2) of the basic Regulation. In this respect it is noted that four unrelated importers have cooperated in the investigation with total imports of the product concerned accounting for 15 % of imports from the PRC in the IP.
- (105) Based on data verified on spot for the biggest of the cooperating importers the impact of measures on this company should not be significant as the product concerned represents only small part of its turnover.
- (106) The company pointed out, however that the Union industry's total production capacity is lower than the current demand which is allegedly expected to grow. The company pointed out also that there are limited sources of supply from third countries. Therefore, it expects disruptions in supplies should the level of duties be too high. In this regard it should be noted that in view of the significant undercutting the proposed level of measures, which takes into account the quality differences between the product concerned imported from the PRC and like product produced by the Union industry, is not expected to eliminate imports of the product concerned from the PRC to the Union.

4. Interest of users and consumers

- (107) Questionnaires were sent to 13 known users. However, none of them submitted a reply nor decided to cooperate in the procedure. Also no representations were received from consumers' organisations following the publication of the notice of initiation of this proceeding.
- (108) Therefore, in a view of lack of information on the proportion of the product concerned in the cost of production of the downstream products or on the share of sales of downstream products in relation to the total turnover of the users, it is not possible at this stage of the investigation to assess the impact of the measures on these companies. The lack of cooperation, however, can be seen as an indication of a rather limited impact on users.

5. Conclusion on Union interest

- (109) In the light of the above, it was provisionally concluded that overall, based on the information concerning the Union interest, there are no compelling reasons against the imposition of provisional measures on dumped imports of the product concerned from the PRC.

G. PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES

- (110) In view of the conclusions reached above with regard to dumping, resulting injury, causation and Union interest, provisional anti-dumping measures on imports of the product concerned from the PRC should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports.

1. Injury elimination level

- (111) The level of the provisional anti-dumping measures should be sufficient to eliminate the injury to the Union industry caused by the dumped imports, without exceeding the dumping margins found.
- (112) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs and obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports. The pre-tax profit margin used for this calculation was 12 % of turnover. This was the average profit level achieved by the Union industry in the years 2006-2007. Bearing in mind that the profitability for the product concerned was affected by dumped imports it is clear that this level of profit is prudent and not excessive. On the basis mentioned above, a non-injurious price was calculated for the Union industry of the like product. Since the target profit is equal to the actual profit of the Union industry in the IP weighted average ex-works price was taken as a reference.
- (113) The necessary price increase was then determined for each of the cooperating Chinese exporting producer granted IT on the basis of a comparison of the weighted average import price of that company, as established for the undercutting calculations, with the average non-injurious price of products sold by the Union industry on the Union market. The difference resulting from this comparison was then expressed as a percentage of the average import cif value.
- (114) On this basis, the provisional injury margins expressed as a percentage of the cif Union frontier price, duty unpaid, are:

Company	Provisional injury margin
Yuyao Mingda Fiberglass Co. Ltd	69,1 %
Grand Composite Co. Ltd and its related company Ningbo Grand Fiberglass Co. Ltd	66,8 %

- (115) In line with the method used for the dumping margin calculation, injury margin for cooperating exporting producers in the PRC, not included in the sample was calculated as a weighted average of the two sampled exporting producers granted IT.
- (116) Following the method of dumping margin calculation, the countrywide injury margin applicable to all other non-cooperating exporting producers in the PRC as well as to the sampled exporting producer that was subject to Article 18 was established by using the highest of the margins found for the two exporting producers granted IT.
- (117) On this basis the provisional sample weighted average injury margin and the countrywide level of injury margin as a percentage of the cif Union frontier price, duty unpaid are:

Sample weighted average for the cooperating exporting producers not included in the sample	68,2 %
Residual for non-cooperating exporting producers and Ningbo Weishan Duo Bao Building Materials Co. Ltd	69,1 %

2. Provisional measures

- (118) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping measures should be imposed in respect of imports originating in the PRC at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule.
- (119) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the People's Republic of China and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (120) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.
- (121) In order to ensure a proper enforcement of the anti-dumping duty, the residual duty level should not only apply to the non-cooperating exporting producers but also to those producers which did not have any exports to the Union during the IP.
- (122) The dumping and injury margins as well as provisional anti-dumping duties are established as follows:

Company	Dumping margin	Injury margin	Provisional duty
Yuyao Mingda Fiberglass Co. Ltd	62,9 %	69,1 %	62,9 %
Grand Composite Co. Ltd and its related company Ningbo Grand Fiberglass Co. Ltd	48,4 %	66,8 %	48,4 %
Sample Weighted Average for the cooperating exporting producers not included in the sample	57,7 %	68,2 %	57,7 %
Residual for non-cooperating exporting producers and Ningbo Weishan Duo Bao Building Materials Co. Ltd	62,9 %	69,1 %	62,9 %

H. DISCLOSURE

- (123) The above provisional findings will be disclosed to all interested parties which will be invited to make their views known in writing and request a hearing. Their comments will be analysed and taken into consideration where warranted before any definitive determinations are made. Furthermore, it should be stated that the findings concerning the imposition of anti-dumping duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive findings,

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of 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/m², 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 (TARIC codes 7019 40 00 11, 7019 40 00 21, 7019 40 00 50, 7019 51 00 10, 7019 59 00 10, 7019 90 91 10 and 7019 90 99 50) and originating in the People's Republic of China.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and manufactured by the companies below shall be:

Company	Duty (%)	TARIC additional code
Yuyao Mingda Fiberglass Co. Ltd	62,9	B006
Grand Composite Co. Ltd and its related company Ningbo Grand Fiberglass Co. Ltd	48,4	B007
Companies listed in Annex I	57,7	B008
All other companies	62,9	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty applicable to all other companies shall apply.

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 1225/2009, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 February 2011.

For the Commission
The President
 José Manuel BARROSO

ANNEX I

Chinese cooperating exporting producers, not sampled (TARIC additional code B008)

- Jiangxi Dahua Fiberglass Group Co., Ltd
- Lanxi Jialu Fiberglass Net Industry Co., Ltd
- Cixi Oulong Fiberglass Co., Ltd
- Yuyao Feitian Fiberglass Co. Ltd
- Jiangsu Tianyu Fibre Co. Ltd
- Jia Xin Jinwei Fiber Glass Products Co., Ltd
- Jiangsu Jiuding New Material Co., Ltd
- Changshu Jiangnan Glass Fiber Co., Ltd
- Shandong Shenghao Fiber Glass Co., Ltd
- Yuyao Yuanda Fiberglass Mesh Co., Ltd
- Ningbo Kingsun Imp & Exp Co. Ltd
- Ningbo Integrated Plasticizing Co., Ltd
- Nankang Luobian Glass Fibre Co., Ltd
- Changshu Dongyu Insulated Compound Materials Co. Ltd

ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

1. The name and function of the official of the entity issuing the commercial invoice.
2. The following declaration:

I, the undersigned, certify that the (volume) of open mesh fabrics made of glass fibres sold for export to the European Union covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.

Date and signature'