

COMMISSION IMPLEMENTING REGULATION (EU) No 976/2014**of 15 September 2014****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 slightly modified open mesh fabrics of glass fibres, also 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 13 thereof,

Whereas:

1. PROCEDURE**1.1. Existing measures**

- (1) In August 2011, the Council, by Implementing Regulation (EU) No 791/2011 ⁽²⁾, imposed a definitive anti-dumping duty ranging between 48,4 % and 62,9 % 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, excluding fibreglass discs, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00 (the product concerned) and originating in the People's Republic of China. These measures will hereinafter be referred to as 'the measures in force' and the investigation that led to the measures in force will be hereinafter referred to as 'the original investigation'.
- (2) In July 2012, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 672/2012 ⁽³⁾ the Council extended, from the measures in force, the duty applicable to all other companies to imports of the product concerned consigned from Malaysia, whether declared as originating in Malaysia or not.
- (3) In January 2013, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 21/2013 ⁽⁴⁾ the Council extended, from the measures in force, the duty applicable to all other companies to imports of the product concerned consigned from Taiwan and Thailand, whether declared as originating in Taiwan and Thailand or not.
- (4) In December 2013, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, by Implementing Regulation (EU) No 1371/2013 ⁽⁵⁾ the Council extended, from the measures in force, the duty applicable to all other companies to imports of the product concerned consigned from India and Indonesia, whether declared as originating in India and Indonesia or not.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ Council Implementing Regulation (EU) No 791/2011 of 3 August 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China (OJ L 204, 9.8.2011, p. 1).

⁽³⁾ Council Implementing Regulation (EU) No 672/2012 of 16 July 2012 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 Malaysia, whether declared as originating in Malaysia or not (OJ L 196, 24.7.2012, p. 1).

⁽⁴⁾ 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 (OJ L 11, 16.1.2013, p. 1).

⁽⁵⁾ Council Implementing Regulation (EU) No 1371/2013 of 16 December 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 India and Indonesia, whether declared as originating in India and Indonesia or not (OJ L 346, 20.12.2013, p. 20).

1.2. Request

- (5) In November 2013, 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 certain open mesh fabrics of glass fibres originating in the People's Republic of China by imports of certain slightly modified open mesh fabrics of glass fibres originating in the People's Republic of China, and to make such imports subject to registration.
- (6) The request was lodged by Saint-Gobain Adfors CZ s.r.o., Tolnatek Fonalfeldolgozo, Valmieras Stikla Skiedra AS and Vitruvan Technical Textiles GmbH, four Union producers of certain open mesh fabrics of glass fibres.
- (7) The request contained sufficient *prima facie* evidence that the anti-dumping measures on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China are being circumvented by means of imports of a certain slightly modified product originating in the PRC, containing by weight more rovings than yarns and therefore declared under CN code ex 7019 40 00, not subject to duties.

1.3. Initiation

- (8) 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 Regulation (EU) No 1356/2013 ⁽¹⁾ (the initiating Regulation) of the possible circumvention of anti-dumping measures imposed on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China and also directed the customs authorities to register imports into the Union 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, excluding fibreglass discs, originating in the People's Republic of China, currently falling within CN code ex 7019 40 00 (TARIC codes 7019 40 00 11, 7019 40 00 21 and 7019 40 00 50), as from 19 December 2013.

1.4. Product concerned and product under investigation

- (9) The product concerned is the same as defined in the original investigation, namely 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, excluding fibreglass discs, originating in the People's Republic of China (PRC), currently falling within CN codes ex 7019 51 00 and ex 7019 59 00, containing by weight more yarns than rovings.
- (10) The product under investigation, namely the product allegedly used for circumventing the original measures, is the same as that defined in recital 8, but containing by weight more rovings than yarns.

1.5. Investigation and parties concerned by the investigation

- (11) The Commission officially advised the authorities of the PRC after the initiation of the investigation and sent questionnaires to the exporting producers in the PRC and importers in the Union known to be concerned. Interested parties were given the opportunity to make themselves and 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 facts available.
- (12) No Chinese producer came forward and requested exemption from any possible extension of the current duties or made any submission relative to the investigation.
- (13) The European Plastic Converters association asserted that it remained neutral on the outcome of the investigation. Other interested parties, such as unrelated importers and users, did not make any submission relative to the investigation.

⁽¹⁾ Commission Regulation (EU) No 1356/2013 of 17 December 2013 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 791/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China by imports of certain slightly modified open mesh fabrics of glass fibres originating in the People's Republic of China, and making such imports subject to registration (OJ L 341, 18.12.2013, p. 43).

- (14) The Commission carried out on-the-spot investigations at the premises of the cooperating complainant Union producer Saint-Gobain Adfors CZ s.r.o., Czech Republic.

1.6. Investigation and reporting periods

- (15) The investigation period was set from 1 April 2010 to 30 September 2013 (IP) in order to investigate the alleged change in the pattern of trade. The reporting period (RP) covered the period from 1 October 2012 to 30 September 2013 in order to investigate if the imports were made at prices below the non-injurious price established in the investigation that led to the existing measures.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (16) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of possible circumvention practices was made by analysing successively: (1) whether there was a change in pattern of trade between the PRC and the Union; (2) 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; (3) 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 (4) whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. Slight modification and essential characteristics

- (17) The investigation has shown that the product under investigation 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, excluding fibreglass discs, originating in the PRC, containing by weight more rovings than yarns. Rovings and yarns consist of an assemblage of one or more strands of long (continuous) filaments of glass fibres. According to the notes of the Harmonised System, the main difference between rovings and yarns is that the assemblage of the first is loose with little or no twist (less than five turns per metre) while the assemblage of yarns is more twisted with more than five turns per metre. The product allegedly circumventing the measures is basically the same as the product concerned except that it contains by weight more rovings than yarns and therefore can currently be declared under CN code ex 7019 40 00, not subject to duties, while the product concerned contains by weight more yarns than rovings and currently falls under CN codes ex 7019 51 00 and ex 7019 59 00. In many cases the difference between the two products is not visible and the correct code can be established only by laboratory examinations.
- (18) The investigation did not find any difference in the production process of the product under investigation and the product concerned, other than the proportion by weight between rovings and yarns that is used in each product. In addition, the cooperating complaining producer confirmed that the cost of production of the product under investigation in terms of raw material is similar to the cost of the product concerned, but the product under investigation requires more production time because the production machinery has to be operated at lower speed. This implies that there is no economic benefit for the exporting producers to produce the product under investigation other than the avoidance of the measures in force. Furthermore, it was found that some users of the product concerned switched to the product under investigation after the imposition of the provisional measures imposed on 17 February 2011 by Commission Regulation (EU) No 138/2011⁽¹⁾, which implies that there is no material difference between the product concerned and the product under investigation for the users.
- (19) As mentioned in recital 15 of the provisional anti-dumping regulation, both products can be found in different cell sizes and weight per square metre and are mostly used as reinforcement material in the construction sector (external thermal insulation, marble/floor reinforcement, wall repair).
- (20) No Chinese exporters or any of the other interested parties made any submission questioning these conclusions.

⁽¹⁾ 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 (OJ L 43, 17.2.2011, p. 9).

- (21) Therefore, it is concluded that the product under investigation is only slightly modified compared to the product concerned and imported for no other economic justification but to circumvent the anti-dumping duties in place.

2.3. Change in the pattern of trade

- (22) Given that no cooperation was received from Chinese exporters, the findings of the investigation were established on the basis of the information contained in the complaint and cross-checked against and completed by the information contained in the Eurostat Comext trade database.
- (23) The product concerned is declared under CN codes ex 7019 51 00 and ex 7019 59 00 and the product under investigation under CN code ex 7019 40 00. All these CN codes are broad and cover numerous other products which are different from the product concerned and product under investigation.
- (24) It should be noted that the product under investigation is declared under the CN code ex 7019 40 00 which also covers other products called woven fabrics of rovings used in particular by the plastic converter industry for making high-end composite material used in the automotive, shipping, aircraft and wind blades industry. There was thus no direct way to investigate any possible change in the pattern of trade of the product under investigation in the Union market. Instead, use needed to be made of facts available.
- (25) In the period 2010-2013, the Union plastic converter industry suffered from plant closures and significant down-sizing of the manufacturing capacity, as a result of negative long-term market trends. As a consequence, a decrease of imports under CN code ex 7019 40 00 should have been observed, but the opposite was found, as shown in Table 1. Only in 2011 such imports decreased, followed by import increases in the years 2012 and the RP. This abnormal observation indicated that another reason caused the increase of imports under that code.

Table 1

Evolution of the imports of the product under investigation and the product concerned originating in the PRC

Total imports in the EU market (m ²)	2010	2011	2012	RP (1.10.2012- 30.9.2013)
CN code 7019 40 00 (including the product under investigation)	118 702 857	67 954 286	109 676 429	120 453 571
CN codes 7019 51 00, 7019 59 00 under measures (*) (including the product concerned)	383 759 571	195 440 571	101 987 143	77 862 714

(*) In 2011 provisional measures were imposed on 18 February and definitive measures on 9 August.

- (26) Further examining of the trends in the Union market revealed that in 4 Member States (Latvia, the Netherlands, Slovenia and Slovakia) there was a significant increase in imports in CN code 7019 40 00, which could not be explained by these countries' own needs as they do not have any significant converter industry. For the RP, imports under CN code ex 7019 40 00 in the four countries represented 32 % of all imports to the Union under that code.
- (27) As shown in Table 2 there were only very few imports under CN code ex 7019 40 00 in those four countries before the imposition of the initial duties in 2011 and there was a significant increase of imports in 2012 and the RP, shortly after the anti-dumping measures were imposed.
- (28) The increase in imports shown in the table indicates a change in pattern of trade that occurred following the imposition of measures.

Table 2

Evolution of the imports in Latvia, the Netherlands, Slovenia and Slovakia of the product under investigation originating the PRC

Total imports in Latvia, the Netherlands, Slovenia and Slovakia (m ²)	2010	2011	2012	RP (1.10.2012- 30.9.2013)
CN code 7019 40 00 (including the product under investigation)	2 427 857	6 934 285	46 680 000	39 018 571
CN codes 7019 51 00, 7019 59 00 under measures (*) (including the product concerned)	59 469 857	47 970 857	14 711 285	15 857 142

(*) In 2011 provisional measures were imposed on 18 February and definitive measures on 9 August.

Conclusion on the change of pattern of trade

- (29) Based on the facts available, it is considered that the overall increase in imports of the product under investigation after the imposition of the anti-dumping measures and the parallel decrease in the imports of the product concerned constitute a significant change in the pattern of trade.

2.4. Nature of the circumvention practice and insufficient due cause or economic justification

- (30) Article 13(1) of the basic Regulation requires that the change in pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of duty.
- (31) Both the product concerned and the product under investigation are mostly used as reinforcement material in the construction sector (external thermal insulation, marble/floor reinforcement, wall repair) and the end-users of both products are the same. The slight modification of the product under investigation does not impart any different substantial characteristic with regard to the product concerned. Also, there is no price difference between these products in the Union market.
- (32) The investigation did not bring to light any other due cause or economic justification for the imports of the product under investigation other than the avoidance of the payment of the duty in force on imports of the product concerned.
- (33) It is therefore concluded that, in the absence of any other sufficient due cause or economic justification within the meaning of the third sentence of Article 13(1) of the basic Regulation, the change in the pattern of trade between the PRC and the Union was due to the imposition of the measures in force.

2.5. Undermining of the remedial effects of the duty in terms of the prices and/or the quantities of the like product

- (34) To assess whether the imports of the product under investigation, in terms of quantities and prices, undermined the remedial effects to the measures in force, data provided by the complainants were used, and cross-checked against and completed by the information contained in the Eurostat Comext trade database.
- (35) The increase in imports of the product under investigation from the PRC as from the imposition of the provisional measures was significant in terms of quantities.
- (36) The comparison of the injury elimination level as established in the original Regulation and the weighted average export price showed significant underselling. It was therefore concluded that the remedial effects of the measures in force are being undermined both in terms of quantities and prices.

2.6. Evidence of dumping in relation to the normal value previously established for the like product

- (37) Finally, in accordance with Article 13(1) of the basic Regulation it was examined whether there was evidence of dumping in relation to the normal value previously established in the original investigation.

- (38) In the original investigation the normal value was established on the basis of prices in Canada, which in that investigation was found to be an appropriate market economy analogue country for the PRC. In line with Article 13(1) of the basic Regulation it was considered appropriate to use the normal value as previously established in the original investigation.
- (39) In the absence of cooperation by any Chinese producer of the product under investigation, the export prices of the product under investigation were based on facts available, i.e. on the average export price of the product under investigation during the RP as reported in Comext, and reproduced in Table 3.
- (40) In the original investigation, Canada was used as analogue country. The normal value that was used for the dumping calculations of the product concerned is ranging between 0,168 EUR/m² and 0,257 EUR/m². The average normal value in the original investigation was 0,193 EUR/m².
- (41) In accordance with Article 2(11) and 2(12) of the basic Regulation, dumping was established by comparing the respective average normal values per product type as established in the original Regulation and the corresponding average export prices of the product under investigation during the RP, expressed as a percentage of the CIF price at the Union frontier duty unpaid. This comparison showed the existence of dumping.

Table 3

Average import prices EUR/m² for the product under investigation declared under CN code ex 7019 40 00 originating in China

Average prices of product under investigation declared under CN code ex 7019 40 00 (EUR/m ²)	2010	2011	2012	RP (1.10.2012-30.9.2013)
CIF (*) (All Member States)	0,159	0,173	0,166	0,147
CIF (*) (Latvia, the Netherlands, Slovenia and Slovakia)	0,194	0,104	0,097	0,061

(*) Source Comext.

The volume in Comext is reported in metric tonnes and converted to square metres according to the conversion rate:
1 m² = 0,14 kg.

3. REQUESTS FOR EXEMPTION

- (42) As no interested parties came forward following initiation, no requests for exemption from the possible extension of the measures in accordance with Article 13(4) of the basic Regulation were made.
- (43) Without prejudice to Article 11(3) of the basic Regulation, the Chinese exporting producers which did not come forward in this proceeding and did not export the product under investigation to the Union in the RP and which consider lodging a request for an exemption from the extended anti-dumping duty pursuant to Articles 11(4) and 13(4) of the basic Regulation will be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted. Such exemption may be granted after the assessment of the market situation, production capacity and capacity utilisation, procurement and sales and the likelihood of continuation of practices for which there is insufficient due cause or economic justification and the evidence of dumping. The Commission would normally also carry out an on-the-spot verification visit. The request should be addressed to the Commission, with all relevant information, in particular any modification in the company's activities linked to the production and sales.
- (44) Where an exemption is warranted, the Commission will, after consultation of the Advisory Committee, propose the amendment of the extended measures in force accordingly. Subsequently, any exemption granted will be monitored to ensure compliance with the conditions set out therein.

4. MEASURES

- (45) In view of the findings above, it was concluded that the definitive anti-dumping duty 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, excluding fibreglass discs, currently falling in CN codes ex 7019 51 00 and ex 7019 59 00 and originating in the PRC was circumvented by imports of a certain slightly modified product currently falling in CN code ex 7019 40 00, originating in the PRC.

- (46) In accordance with the first sentence of Article 13(1) of the basic Regulation, the anti-dumping measures in force on imports of the product concerned originating in the PRC, should be extended to imports of the product under investigation.
- (47) Pursuant to Articles 13(3) and 14(5) of the basic Regulation, which provide that any extended measures shall be applied against registered imports from the date of registration, the anti-dumping duty should be collected on all imports into the Union 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, excluding fibreglass discs, originating in the PRC and currently falling within CN code ex 7019 40 00 (TARIC codes 7019 40 00 11, 7019 40 00 21 and 7019 40 00 50) which entered the Union under registration imposed by the initiating Regulation.

5. DISCLOSURE

- (48) All interested parties were informed of the essential facts and considerations leading to the above conclusions and were invited to comment. No arguments were presented which gave rise to a modification of the findings.
- (49) The measures provided in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Implementing Regulation (EU) No 791/2011 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, excluding fibreglass discs, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00 and originating in the People's Republic of China, is hereby extended to imports into the Union 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, excluding fibreglass discs, currently falling within CN code ex 7019 40 00 (TARIC codes 7019 40 00 11, 7019 40 00 21 and 7019 40 00 50) and originating in the People's Republic of China.

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

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
Yuyao Feitian Fiberglass Co., Ltd	60,7	B122
Companies listed in Annex I of Implementing Regulation (EU) No 791/2011	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 of Implementing Regulation (EU) No 791/2011. If no such invoice is presented, the duty applicable to all other companies shall apply.

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

Article 2

The duty shall be collected on imports registered in accordance with Article 2 of Implementing Regulation (EU) No 1356/2013 and Articles 13(3) and 14(5) of Regulation (EC) No 1225/2009 into the Union 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 35g/m², excluding fibreglass discs, currently falling within CN code ex 7019 40 00 (TARIC codes 7019 40 00 11, 7019 40 00 21 and 7019 40 00 50), originating in the People's Republic of China.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 2 of Regulation (EU) No 1356/2013.

Article 4

This Regulation shall enter into force on the day following that of 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, 15 September 2014.

For the Commission

The President

José Manuel BARROSO
