



EUROPEAN COMMISSION

Brussels, 7.7.2011
COM(2011) 412 final

2011/0181 (NLE)

Proposal for a

COUNCIL REGULATION

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') in the anti-dumping proceeding concerning imports of certain Open Mesh Fabrics of glass fibres originating in the People's Republic of China ('PRC').

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

Commission Regulation (EU) No 138/2011 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).

- **Consistency with other policies and objectives of the Union**

Not applicable.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Interested parties concerned by the proceeding have had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not contain provisions for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

On 20 May 2010, the Commission initiated an anti-dumping proceeding concerning imports of certain open mesh fabrics of glass fibres originating in the PRC. The proceeding was initiated following a complaint by four Union producers ('the complainants') which represent more than 25% of the total Union production of certain open mesh fabrics of glass fibres.

By Regulation (EU) No 138/2011 the Commission imposed provisional anti-dumping duties on imports from the PRC.

The attached proposal for a Council Regulation is based on the definitive findings on dumping, injury, causation and Union interest which confirmed the provisional findings regarding imports from the PRC. In addition, one additional group of related exporting producers in the PRC who had requested individual examination were investigated and received an individual margin of dumping. Based on comments of interested parties to the disclosure of the provisional findings, some revisions were also made to the dumping and injury margins.

It is therefore proposed that the Council adopt the attached proposal for a Regulation in order to impose definitive measures on imports of open mesh fabrics of glass fibres originating in the PRC.

- **Legal basis**

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Union, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

Other means would not be adequate because the basic Regulation does not provide for alternative options.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

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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

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 Community¹ ('the basic Regulation'), and in particular Article 9(4) thereof,

Having regard to the proposal submitted by the European Commission ('the Commission') after having consulted the Advisory Committee,

Whereas:

A. PROCEDURE

1. Provisional measures

- (1) The Commission, by Regulation (EU) No 138/2011² ('the provisional Regulation') imposed a provisional anti-dumping duty on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China (PRC).
- (2) The proceeding was initiated following a complaint lodged on 6 April 2010 by St-Gobain Vertex s.r.o., Tolnatex Fonalfeldolgozo es Muszakiszovetgyarto, Valmieras "Stikla Skiedra" AS and Vitrolan 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 of glass fibres.
- (3) As set out in recital (13) of the provisional Regulation, 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').

¹ OJ L 343, 22.12.2009, p. 51.

² OJ L 43, 17.2.2011, p. 9.

2. Subsequent procedure

- (4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.
- (5) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. In addition to the verifications mentioned in recital (11) of the provisional Regulation, further verification visits were carried out at the premises of the following companies:

Exporting producer which had requested individual examination:

- Yuyao Feitian Fiberglass Co. Ltd

and its related trader:

- Yuyao Winter International Trade Co. Ltd

Unrelated importer in the Union:

- Vimaplas Tecnicos Lda., Portugal

- (6) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain open mesh fabrics of glass fibres originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty ('final disclosure'). All parties were granted a period of time within which they could make representations subsequent to this final disclosure.
- (7) The oral and written comments submitted by the interested parties were considered and taken into account where appropriate.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (8) The product concerned is, as set out in recital (14) of the provisional Regulation, 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 7019 90 99.
- (9) After the imposition of provisional measures, a further analysis showed that the product concerned cannot be classified under three of the five CN codes referred to in recital (8). Therefore CN codes ex 7019 90 91, ex 7019 90 99 and ex 7019 40 00 should be removed from the description of the product concerned.
- (10) It is also recalled that, as explained in recital (16) of the provisional Regulation, one Chinese exporting producer requested clarification whether fibreglass discs are

included in the product definition. The Union industry was of the opinion that fibreglass discs are a downstream product with different characteristics than those of the product concerned. However, it was decided to collect further information from interested parties before making a definitive conclusion on this issue.

- (11) Further to the provisional disclosure, evidence was submitted by the Union industry and the Federation of European Producers of Abrasives ('FEPA') representing the users of the fibreglass discs showing that there are a number of steps in the production process that have to be undertaken to convert glass fibre open mesh fabric into fibreglass discs. The physical shape of the disc is also different from the product concerned which is normally supplied in rolls (narrow or wide) and it is also normally intended for a different end use (reinforcement of grinding wheels). These arguments were shared by the Chinese exporting producer.
- (12) It is additionally noted that fibreglass discs were not produced or sold by any of the sampled exporting producers in the PRC or Union producers.
- (13) One Union producer of fibreglass discs which came forward after the imposition of provisional measures argued that fibreglass discs should not be excluded from the product scope. It claimed that fibreglass discs are not a downstream product but that a clear line between the product concerned and a downstream product should be drawn at the stage when open mesh rolls are coated. According to the company, the coating of open mesh rolls used in the construction sector is different from that of open mesh rolls that are later used for making fibreglass discs. In the latter case the rolls are coated with phenol resin. In other words, the chemical characteristics of open mesh rolls intended for making fibreglass discs are allegedly identical to those of the fibreglass discs. According to the company these types of open mesh rolls cannot be used in construction reinforcement, which is the main application of the product concerned. Therefore the company argued that if fibreglass discs were to be excluded from the product scope, open mesh rolls coated with phenol resin should also be excluded.
- (14) As explained above in recital (13) the company came forward only after the imposition of provisional measures and thus did not provide verifiable data in support of its claims. As no data was available from the investigation with regard to the different types of coating used, the company's claim could not be assessed in light of data obtained from the investigation. Moreover, regardless the coating, different types of open mesh rolls share the same basic physical characteristics and therefore open mesh rolls coated with phenol resin should not be excluded. This claim was therefore rejected.
- (15) Based on the data gathered during the investigation and the evidence submitted by the exporting producer mentioned in recital (10), the Union industry and FEPA in their comments to the provisional disclosure, the claim to exclude fibreglass discs from the product scope is hereby accepted. It is thus concluded that fibreglass discs as a downstream product do not share the same physical characteristics and have different uses as compared to open mesh fabrics and therefore should be excluded from the definition of the product concerned as defined in the provisional Regulation. Fibreglass discs are therefore definitively excluded from the proceeding.

2. Like product

- (16) In the absence of any other comments regarding the like product, recital 17 of the provisional Regulation is hereby confirmed.

C. DUMPING

1. Market Economy Treatment (MET)

- (17) As set out in recitals (18) to (32) of the provisional Regulation, it was initially proposed to grant MET to two companies but at a later stage of the proceeding it was decided to reverse this proposal after investigating allegations received concerning the MET status of the companies concerned which were found to be correct.
- (18) One exporting producer, to which Article 18 of the basic Regulation was applied, reiterated the arguments already brought forward when it was informed that the Commission intended to refuse MET. It argued again that the Articles of Association and the Joint Venture Contract received by the Commission were an old version which never entered into force and had therefore no impact on the findings of the company's MET assessment.
- (19) As set out in recital (28) of the provisional Regulation, these arguments could not remove the doubts on the authenticity of the initial documents and information provided by the exporting producer in its MET Claim form submission.
- (20) With regard of the argument that the application of the Article 18 (1) of the basic Regulation is disproportionate in this case, the Commission applies the provisions of this Article on a case by case basis according to the merits of each case. In the present proceeding the use of this Article has been considered appropriate as already indicated in recitals (26), (27) and (31) of the provisional Regulation, since the provision of the falsified documents casts doubts on all documents provided by the company.
- (21) The second exporting producer to which MET was refused but IT granted instead, disputed the grounds on which the Commission had reversed its decision. They considered that there was no new compelling evidence that would significantly undermine the original findings to justify the repeal of the initial decision for granting MET. They argued that the inaccuracies and incompleteness found in their financial statements and not reported by the auditor had no material impact on the reliability of these accounts.
- (22) As set out in recital (30) of the provisional Regulation, these arguments could not remove the doubts as to the accuracy and completeness of the figures presented in the financial statements.
- (23) They also consider that the outcome of the investigation and their individual duty rate is unfair and disproportionate since the company has cooperated within the course of the proceeding and is subject to the highest duty rate like the non cooperating companies and the company subject to Article 18 of the basic Regulation. In this regard it is noted that the company is subject to a duty which is the result of the usual methodology applied for companies granted IT.

(24) In the absence of any other comments concerning MET, recitals (18) to (32) are hereby confirmed.

2. Individual Examination (IE)

(25) As set out in recital (37) of the provisional Regulation, a non sampled group of related companies requested individual examination in accordance with Article 17(3) of the basic Regulation and replied to the MET claim form within the given deadline.

(26) As mentioned in recital (5) above a verification visit was carried out at the premises of the group of related companies and it was found that the companies did not meet criterion 1, 2 and 3 of Article 2(7)(c) of the basic Regulation.

(27) With regard to criterion one, the two related companies failed to provide sufficient evidence concerning the shareholders' contribution to the companies' capital. The shareholders took over the companies initially established with State funds without paying any contribution themselves. In addition, contrary to the requirements of the Articles of Association, no shareholders' meetings were held, no minutes of these meetings were provided raising doubts whether business decisions were taken by the shareholders without any State interference. In light of the above, it is considered that the companies could not demonstrate that their business decisions are not made without significant State interference.

(28) With regard to criterion two, the investigation showed that the accounting records of two related companies were not audited in line with international accounting standards since they contained a number of accounting shortcomings and errors such as taxes booked/paid; continuous errors in dividends payable account; missing depreciation were found which were not mentioned in the audit reports.

(29) Concerning criterion three, one related company failed to provide their Land Use Right Agreement, no booking in their accounts was found and no proof of payment was provided. The second company obtained a land use right from its related company at no cost which is not booked in its records and thus not depreciated.

(30) In view of the above it was proposed to refuse MET to the group of companies that requested individual examination.

(31) The Commission officially disclosed the results of the MET findings to the group of related companies concerned in the PRC and to 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. No comments were received following disclosure of the MET findings.

3. Individual Treatment (IT)

(32) It was provisionally established that one of the sampled exporting producer group of companies in the PRC to which MET was denied, met all the requirements for IT.

(33) In addition, as set out in recital (35) of the provisional Regulation, the exporting producer to which MET was reversed, met the conditions of Article 9(5) of the basic Regulation to be granted IT instead.

- (34) The Union industry questioned the decision to grant IT to the company for which the decision to grant MET was reversed, claiming that the incomplete accounts and the discrepancies discredit the entire dataset of the company. However, it was found that the irregularities found in the accounts had no impact on the reliability of the export prices of the company. The claim of the Union industry was therefore rejected.
- (35) In view of the above, the initial conclusion that two of the three sampled exporting producers met all requirements for IT is therefore confirmed. Recitals (33) to (36) of the provisional Regulation with regard to individual treatment are hereby confirmed.
- (36) In addition, the group of the two related companies that requested individual examination, also requested IT, should the investigation establish that they did not meet the conditions for MET. It was found that they fulfilled the conditions of Article 9(5) of the basic Regulation to be granted IT.
- (37) The Union industry questioned also the decision to grant IT to the group of two related companies claiming that as the companies' data was proven to be unreliable for the assessment of MET then this data could not be considered sufficient for granting IT. The claim of the Union industry was rejected as it was found that the irregularities identified in regard to the MET assessment had no impact on the eligibility for an individual duty rate and therefore IT could be granted.

4. Normal value

(a) Choice of the analogue country

- (38) No comments were received on the choice of the analogue country. Therefore, it is confirmed that Canada was an appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation. Recitals (39) to (45) of the provisional Regulation are hereby confirmed.

(b) Determination of normal value

- (39) It is recalled that it was considered more appropriate to construct normal value in order to take into account differences in quality between the like product produced and sold in Canada and the product concerned from the PRC. Normal value was therefore constructed using the cost of manufacturing of the Canadian producer plus a reasonable amount for selling, general and administrative expenses ("SG&A") and for profit on the domestic market.
- (40) The companies that were granted IT disputed the calculation of the constructed normal value ("NV"), and one of them particularly questioned whether it was constructed per product type. It was confirmed that the NV was constructed per product type on the basis of data obtained from the sole producer of the product concerned in the analogue country. Given the need for confidentiality, NV was disclosed in the form of price ranges.
- (41) Three parties claimed that the disclosed NV did not provide a reasonable understanding of the facts and considerations on the basis of which the dumping margin was determined. All companies requested more details on the construction of the NV including the amount of the various adjustments made to the NV in order to take into account the quality differences. However, having regard to the obligation to

respect confidentiality of the data, it was considered that the companies were provided with all the information that could be disclosed.

- (42) Therefore this claim was rejected. Recitals (46) to (49) of the provisional Regulation with regard to the determination of the normal value are hereby confirmed.

(c) Export prices for the exporting producers granted IT

- (43) One of the companies granted IT at the provisional stage, requested explanation of the calculation of the packaging costs as they considered that the disclosed data on packaging did not show a consistent correlation to either the volume or the value of transactions. Since this company had not claimed any packaging costs in its reply to the anti-dumping questionnaire, packaging cost was therefore calculated on the basis of information obtained from the other two sampled exporting producers.
- (44) In the absence of any other comments with regard to the determination of the export price, recital 50 of the provisional Regulation is hereby confirmed.
- (45) Following disclosure of the definitive findings, the group of related companies that is to be granted IT claimed that commission costs should not have been taken into account while calculating the various allowances deducted from the export price. The claim was accepted and export price was adjusted accordingly while the group's dumping margin was revised as a result.

(d) Comparison

- (46) In the absence of any comments with regard to the comparison of the normal value and the export prices on an ex-works basis, recitals (51) and (52) of the provisional Regulation are hereby confirmed.

5. Dumping margins

(a) For the cooperating exporting producers granted IT

- (47) One importer of the product concerned in the Union welcomed the imposition of the provisional measures as they would restore the import price to non-injurious levels. Nevertheless, he considered that a difference of more than 10% between the various duties imposed could distort the market. Hence, he requested that the measures be revised so that the company granted IT subject to the lower individual duty rate should not benefit from it. The importer claimed that the risk of circumvention from the exporting producer with the lower individual duty rate was increased. However, no additional information or proof was provided to substantiate this claim, it was therefore disregarded.
- (48) On this basis the definitive dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are:

Company	Definitive dumping margin
Yuyao Mingda Fiberglass Co., Ltd	62,9%

Grand Composite Co., Ltd and its related company Ningbo Grand Fiberglass Co., Ltd	48,4%
Yuyao Feitian Fiberglass Co., Ltd	60,7%

(b) For all other exporting producers

- (49) In the absence of any comments with regard to the dumping margins recitals (53) to (57) of the provisional Regulation are hereby confirmed.
- (50) On this basis the country-wide level of dumping is definitely established at 62,9% of the CIF Union frontier price, duty unpaid and recital (58) of the provisional Regulation is hereby confirmed.

D. INJURY

1. Union production

- (51) It is made clear that in recital (59) of the provisional Regulation the term 'Union industry' refers to all Union producers. In the absence of any comments concerning the Union production, recital (60) of the provisional Regulation is hereby confirmed.

2. Union consumption

- (52) As explained in recital (9), CN codes ex 7019 90 91, ex 7019 90 99 and ex 7019 40 00 should be removed from the description of the product concerned. The exclusion of these codes did not alter the findings as regards Union consumption, including imports, which were based on figures contained in the complaint, supplemented by verified figures obtained from cooperating companies and Eurostat figures.
- (53) In the absence of any comments concerning the Union consumption, recitals (61) to (63) of the provisional Regulation are hereby confirmed.

3. Imports from the country concerned

- (54) In the absence of any comments concerning the volume, price and market share of the dumped imports from the country concerned, the findings set out in recitals (64) to (66) of the provisional Regulation are hereby confirmed.
- (55) In the absence of any comments concerning price undercutting, the methodology described in recitals (67) and (68) of the provisional Regulation to establish price undercutting, including the quality adjustment is confirmed. However, following the individual examination granted after the imposition of provisional measures to one group of exporting producers in the PRC, the price comparison of similar product types was reassessed. This reassessment confirmed that the dumped imports from the PRC were undercutting the Union industry's prices by 30-35% during the IP.

4. Situation of the Union industry

- (56) In the absence of any comments regarding the situation of the Union industry, recitals (69) to (84) of the provisional Regulation are hereby confirmed.

5. Conclusion on injury

- (57) In the absence of any comments regarding the conclusion on injury, recitals (85) to (87) of the provisional Regulation are hereby confirmed.

E. CAUSATION

1. Effects of the dumped imports

- (58) In the absence of any comments regarding effects of the dumped imports, recitals (89) to (91) of the provisional Regulation are hereby confirmed.

2. Effects of other factors

- (59) In the absence of any comments regarding effects of other factors, recitals (92) to (96) of the provisional Regulation are hereby confirmed.

3. Conclusion on causation

- (60) In the absence of any comments regarding conclusion on causation, recitals (97) to (99) of the provisional Regulation are hereby confirmed.

F. UNION INTEREST

1. Interest of the Union industry

- (61) In the absence of any comments with regard to the interest of the Union industry, recitals (101) to (103) of the provisional Regulation are hereby confirmed.

2. Interest of importers

- (62) In the absence of comments on the interest of importers, it was concluded that the imposition of definitive measures on imports of the product concerned would not be against the interests of importers.

3. Interest of users and consumers

- (63) It is recalled that at the provisional stage of the investigation no cooperation of users or consumers' organizations was received. Following the publication of the provisional Regulation, one users' association submitted comments. However, the comments addressed only the potential negative impact of imposition of measures on the fibreglass discs, should they not be excluded from the product scope. As described in recital (15) it is considered that the fibreglass discs should be excluded from the product scope. Therefore the imposition of definitive anti-dumping measures will not have a negative impact on users of fibreglass discs.

- (64) In the absence of any other comments on the interest of users and consumers, it was concluded that the imposition of definitive measures on imports of the product concerned would not be against their interests.

4. Conclusion on Union interest

- (65) Based on the above it was concluded that there are no compelling reasons against the imposition of definitive anti-dumping duties on imports of open mesh fabrics of glass fibres originating in the PRC.

G. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

- (66) Further to the provisional disclosure one Chinese exporting producer claimed that it was not provided with sufficiently detailed data on its injury margin calculation as data regarding the volumes, values and prices of the Union industry per product type were not disclosed. The company argued that since the sample consisted of four Union producers this information could not be considered as confidential. However, it should be noted that some product types were sold in the IP by a very limited number of Union producers. It was therefore considered prudent not to disclose prices, volumes and values of such transactions. Furthermore, revealing the detailed figures for each and every product type is not considered necessary in order to provide parties with a sufficient understanding of the calculation methodology and the result of the calculation.
- (67) The same Chinese exporting producer questioned the target profit used in the injury margin calculation, in particular the fact that the target profit was identical to the Union industry's weighted average profit during the IP. It also questioned the use of the data from the sampled Union producers when establishing the target profit as opposed to data referring to the Union industry as a whole. Finally, it questioned the level of the target profit used compared to the one used in another recent investigation concerning a closely related product sector.
- (68) As explained in recital (112) of the provisional Regulation the target profit reflects the average profit achieved by the Union industry in the years 2006-2007 whereas the weighted average profit in the IP was calculated based on the data of the four sampled companies. In addition, as explained in recital (79) of the provisional Regulation this profit did not take into account the extraordinary restructuring costs reported by some of the sampled producers. It is therefore a mere coincidence that these two profit figures are identical.
- (69) As regards the question of which data to use for the determination of the target profit, it should be noted that when sampling is applied, the profit level is one of the micro indicators of the injury analysis. Consequently the figure established for the sample is deemed representative for the Union industry as a whole. In an investigation where sampling is applied, the target profit used in the injury margin calculation is always based on data collected from the sampled companies.
- (70) Finally, regarding the reference made to the target profit used in another anti-dumping investigation, it should be underlined that the findings and conclusions of each investigation are based on the data collected from the cooperating companies of each investigation, for a specific product description and period of time. Therefore it is impossible to draw a direct link between the findings of these two separate investigations and two different IP.

- (71) With regard to the injury elimination level, as a result of the correction of a clerical error in the calculation of the provisional injury margin concerning one exporting producer its margin was adjusted upward. This fact however does not affect the level of the anti-dumping duty of this company since the duty is based on the dumping margin.
- (72) It should also be noted that as a result of granting IT to another group of Chinese exporting producers as explained in recital (32), an individual injury margin was calculated for them.
- (73) As a consequence of revisions referred to in recital (71) the weighted average injury margin for the cooperating exporting producers not included in the sample and the residual injury margin for non cooperating producers were also revised.
- (74) On this basis, the definitive injury margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are:

Company	Definitive injury margin
Yuyao Mingda Fiberglass Co., Ltd	69,1%
Grand Composite Co., Ltd and its related company Ningbo Grand Fiberglass Co., Ltd	77,4%
Yuayo Feitian Fiberglass Co., Ltd	87,6%
Sample weighted average for the cooperating exporting producers not included in the sample	72,1%
Residual margin for non cooperating exporting producers and Ningbo Weishan Duo Bao Building Materials Co., Ltd.	87,6%

2. Definitive measures

- (75) In the light of the foregoing, it is considered that, in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed in respect of imports of the product concerned at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule. Accordingly, all duty rates should be set at the level of the dumping margins found.
- (76) The proposed anti-dumping duties are the following:

Company	Injury elimination margin	Dumping margin	Anti-dumping duty rate
Yuyao Mingda Fiberglass Co., Ltd	69,1%	62,9%	62,9%
Grand Composite Co., Ltd and its related	77,4%	48,4%	48,4%

company Ningbo Grand Fiberglass Co., Ltd

Yuayo Feitian Fiberglass Co., Ltd	87,6%	60,7%	60,7%
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Sample weighted average for the cooperating exporting producers not included in the sample	72,1%	57,7%	57,7%
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Residual for non cooperating exporting producers and Ningbo Weishan Duo Bao Building Materials Co., Ltd	87,6%	62,9%	62,9%
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- (77) 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 with its name and address, 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'.
- (78) Any claim requesting the application of an individual company anti-dumping duty rate (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 Commission³ 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 then be amended accordingly by updating the list of companies benefiting from individual duty rates.
- (79) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties. They were also granted a period within which they could make representations subsequent to final disclosure. The comments submitted by the parties were duly considered, and, where appropriate, the findings have been modified accordingly.
- (80) The group of two related companies that requested individual examination and was granted IT expressed its intention to offer an undertaking. However, the group did not send any offer for undertaking within the deadline set out in Article 8(2) of the basic Regulation and thus it could not be taken into consideration.
- (81) In order to ensure equal treatment between any new exporters and the cooperating companies not included in the sample, mentioned in the Annex to this Regulation, provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporters which would otherwise be entitled to a

³ European Commission, Directorate-General for Trade, Directorate H, Office N105 04/090, 1049 Brussels, Belgium.

review pursuant to Article 11(4) of the basic Regulation as this article does not apply where sampling has been used.

3. Definitive collection of provisional duties

- (82) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, be definitively collected to the extent of the amount of the definitive duties imposed. As fibreglass discs are now excluded from the product scope (see recital 14), the amounts provisionally secured on imports of fibreglass discs should be released. Where the definitive duties are lower than the provisional duties, amounts provisionally secured in excess of the definitive rate of anti-dumping duties shall be released.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive 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, excluding fibreglass discs, currently falling within CN codes ex 7019 51 00 and ex 7019 59 00 (TARIC codes 7019 51 00 10 and 7019 59 00 10) 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	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 the Annex II. 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

1. The amounts secured by way of the provisional anti-dumping duty pursuant to Commission Regulation (EU) No 138/2011 on imports of fibreglass discs originating in the People's Republic of China shall be released.
2. The amounts secured by way of the provisional anti-dumping duty pursuant to Commission Regulation (EU) No 138/2011 on imports of certain open mesh fabrics of glass fibres originating in the People's Republic of China shall be definitively collected in so far as it concerns products currently falling within CN codes ex 7019 51 00 and ex 7019 59 00. The amounts secured in excess of the definitive rates of the anti-dumping duty shall be released, including amounts which would have been secured for products currently falling within CN codes ex 7019 40 00, ex 7019 90 91 and ex 7019 90 99.

Article 3

Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

- it did not export to the Union the product described in Article 1(1) during the investigation period (1 April 2009 to 30 March 2010),
- it is not related to any of the exporters or producers in the People's Republic of China which are subject to the measures imposed by this Regulation,
- it has actually exported to the Union the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Union,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(2) by adding the new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty rate of 57,7%.

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,

For the Council

The President

[...]

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

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 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 the People's Republic of China. I declare that the information provided in this invoice is complete and correct.

Date and signature"