

Executive summary of the

**request for a partial interim review in accordance with Art. 11 para. 3 of
Regulation (EU) 2016/1036 of the anti-dumping measures applicable to imports of high
tenacity yarn of polyester, originating in the People's Republic of China**

submitted by Taylor Wessing Partnerschaftsgesellschaft mbB
on behalf of American & Efird Slovenia (A&E Europe)

1. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EU) No 1105/2010 of 29 November 2010 ("**AD Regulation**").

On 28 November 2015, the European Commission published a Notice of initiation of an expiry review of the anti-dumping duty applicable to imports of high tenacity yarn of polyester, originating in the People's Republic of China ("**PRC**"). Pending the completion of the expiry review investigation, the measures continue to be in force.

2. Request for review

The request for a partial interim review pursuant to Art. 11 para. 3 of Council Regulation (EC) No 1225/2009 (now: Regulation (EU) 2016/1036 of the European Parliament and of the Council on protection against dumped imports from countries not members of the European Union) – basic Regulation – was lodged by Taylor Wessing on behalf of American & Efird Slovenia (A&E Europe) ("**applicant**") on 7 March 2011. With letter dated 27 March 2013 the applicant confirmed its request to review the definition of the product concerned in the AD Regulation. Following the publication of a notice of the impending expiry of the anti-dumping measures in force, the applicant confirmed, once more, its request to reassess the definition of the products covered by the AD Regulation and – if a continuation of the anti-dumping measures was to be intended – to limit the definition of the product concerned (submissions dated 31 August 2015, 9 December 2015 and 24 May 2016). A consolidated request for interim review was submitted on 9 September 2016. The request is limited to the examination of the product scope as regards the clarification that certain product types, i.e. greige sewing thread yarns, fall not within the scope of the anti-dumping measures applicable to imports of high tenacity yarn of polyester originating in the PRC.

The applicant requests the exclusion of greige sewing thread yarns from the scope of the existing anti-dumping measures and requests amending the exclusion criteria accordingly:

*"high tenacity yarn of polyesters (other than "Z"-twisted thread put on a perforated plastic **dye tube**, of a weight – including support – not exceeding 2.000 g), not put up for retail sale, including monofilament of less than 67 decitex, currently falling within CN Code ex 5402 20 00 and originating in the People's Republic of China"*

3. General information on the applicant

The applicant is based in Maribor, Slovenia. It primarily serves the European automobile and apparel industries as a producer of industrial high-tech synthetic threads and bands. The applicant has currently about 156 employees.

The applicant imports certain greige sewing thread yarns which are sold under the brand names *Perma Core* and *Filan Poly* (“**A&E imported products**”) for use as sewing thread only from its joint-venture affiliates Hengmei Spinning Company Limited and Huamei Thread Company Limited located in the PRC which are currently subject to the anti-dumping duty imposed by the AD Regulation.

4. Product under review

High tenacity yarn of polyesters as covered by the AD Regulation and greige sewing thread yarns such as those imported by the applicant do not share the same characteristics. First, the applicant observes that high tenacity yarn of polyesters are not plied and twisted and, in particular, are not furnished with a final “Z”-twist. Second, the high tenacity yarn of polyester to which the AD complaint refers was not further processed in the PRC and was therefore not ready for dyeing and finishing when being imported into the European Union. Third, it needs to be stressed that high tenacity yarn of polyesters are priced significantly lower than the greige sewing thread yarns. Fourth, it should be noted that the greige sewing thread yarn packages imported into the European Union are much smaller than the polyester packages subject to the AD Regulation. Fifth, greige sewing thread yarns are not suitable for use in the applications referenced in Recital 10 of the AD Regulation.

Finally, it needed to be observed that the breadth of most CN Codes is too broad of being used as a sole determinate in an anti-dumping case.

4.1 Technical specification

The greige sewing thread yarns are immediately visually distinctive from the yarns covered by the AD Regulation, because the greige sewing thread yarns are plied and twisted and have a distinguishing so-called “**Z**”-twist. In contrast, the yarns encompassed by the AD Regulation are simply single yarns.

The AD Regulation targets high tenacity yarn of polyesters and exempts sewing thread. This explicit mentioning in the definition of the product concerned demonstrates that not all yarns of polyester are to be covered by the duty; products designed for the use as sewing

thread are not destined to be targeted by the AD Regulation. Whereas sewing threads are special kinds of yarns, the yarns covered by the AD Regulation are simply single yarns that are not plied and twisted. The distinguishing characteristic of sewing thread, in contrast to the simple yarns targeted by the AD Regulation, is that sewing thread is twisted together in a “Z”-direction. Indeed, as indicated in note 5 c) section XI of Annex I to Regulation (EEC) No 2658/87 amended by Commission Implementing Regulation (EU) 2015/1754 of 6 October 2015, a “Z”-twist is a recognized fundamental characteristic of sewing thread and therefore distinguishes it from other kinds of yarn that typically have no “Z”-twist.

The only reason expressed as to why the greige sewing threads are not considered as sewing thread (in a technical sense) and consequently not excluded from the anti-dumping duty is in fact that they exceed the 1 000 g threshold defined in note 5 a) section XI of Annex I to Regulation (EEC) No 2658/87 amended by Commission Implementing Regulation (EU) 2015/1754 of 6 October 2015. It needs to be pointed out, though, that the dye tube is not part of the core product and does not change the products’ material physical characteristics. The dye tubes add no value to the strength or other characteristics of the thread. It is simply a means to facilitate the subsequent dyeing process in the European Union. Finally, it is to be pointed out that there is no plausible reason why products with a total weight of less than 1 000 g might be considered sewing thread while products having identical technical and physical characteristics (i.e. multiple (folded) or cabled yarn, dressed for use as sewing thread and with a final “Z” twist) but only marginally exceeding such weight threshold shall be subject to the anti-dumping duty.

4.2 Process of production

Whereas the greige sewing thread yarn goes through a number of manufacturing steps in the PRC prior to being shipped to the European Union for dyeing, finishing and finish winding, the products subject to the AD Regulation are still continuous polyester filament at the moment of release for free circulation. It follows that the high tenacity yarn of polyester is not suited for sewing thread, but can be used “*in a number of diverse applications such as tyre reinforcement, broad fabrics, seatbelts, airbags, ropes, nets and a number of industrial applications*” (Recital 10 of the AD Regulation). Moreover, the greige sewing thread yarn is higher value added than the commodity high tenacity polyester filament targeted by the AD Regulation.

4.3 Pricing level

The assumption that the products subject to the AD Regulation are not plied and twisted is, in particular, indicated by the pricing level of the products originally investigated by the Eu-

ropean Commission. The latter are priced significantly lower than the plied greige sewing thread yarns like Filan Poly Greige Sewing Thread Yarns. While the applicant concedes that average prices comprise a broad range of prices for different product types, it is to be mentioned that the average price for greige plied and twisted yarn products in the European Union – not only Perma Core Greige Sewing Thread Yarn and Filan Poly Greige Sewing Thread Yarns – is significantly higher than the average prices mentioned in the Recitals of the Provisional AD Regulation.

4.4 Physical specification (dye support)

Greige sewing thread yarns are imported into the European Union on **perforated plastic dye tubes**. It should be noted in this respect that the Perma Core and the Filan Poly packages imported by the applicant are much smaller than the polyester packages subject to the AD Regulation. The high tenacity yarn of polyester is wound on solid cardboard tubes. Whereas the greige sewing thread yarn packages weigh less than 2 000 g, the high tenacity polyester packages weigh between 4.5 and 17.25 kilos. These packages are not suited for the dyeing process.

4.5 Application areas

The high tenacity yarn of polyester encompassed by the AD Regulation is suitable for yarn applications such as knitting and weaving, but not for use as sewing thread. In contrast, greige sewing thread yarn is not used in weaving to produce garments, but for the **seams in garments** and other sewn products.

The leading manufacturer of high tenacity yarn of polyesters in the European Union, Durafiber Technologies, expressly confirms that A&E imported products are technically different from the products which had been targeted by the AD complaint. A&E imported products

“are not suited for use in producing tyre reinforcement, conveyor belts, broad fabrics, safety belt ropes/net or other products which are made from the High Tenacity yarns that are the subject/target of the EU Antidumping case.”

4.6 Applicable CN Code

The high tenacity yarn of polyester is currently falling within CN Code 5402 20 00. According to note 6 section XI of Annex I to Regulation (EEC) No 2658/87 amended by Commission Implementing Regulation (EU) 2015/1754 of 6 October 2015

the expression 'high-tenacity yarn' means yarn having a tenacity, expressed in cN/tex (centinewtons per tex), greater than the following:

[...]

- multiple (folded) or cabled yarn [...] of polyesters: 53 cN/tex.

Eventually, as greige sewing thread yarns are polyester, some properties, such as tenacity, are going to be very close to high tenacity yarn of polyesters subject to the AD Regulation. Therefore, the greige sewing thread yarn risks falling under CN Code 5402 20 00 despite the differences outlined above. In particular, greige sewing thread yarns are technically sewing thread. The product is, however, materially excluded from the classification of sewing thread, and hence subject to the anti-dumping duty, only because a formal criteria of the explanatory notes, i.e. the 1 000 g threshold, is not met (see sec. 4.1).

Although the tariff code given in anti-dumping regulations is for information purposes only, without creating a constitutive effect, in practice, reference is made to the CN Code by applying the relevant anti-dumping regulation without further investigation. For the determination of CN code 5402 20 00, in turn, the focus in the import procedure in Slovenia lies exclusively on the yarn tenacity.

Anti-dumping regulations usually foresee a special term ("ex [CN code]" indicating that not all products within the respective CN code are necessarily subject to the imposed anti-dumping duties. In the present case, the applicant notes, however, that the European Commission did not indicate the term "ex" in the AD Regulation.

5. Known parties to the investigation

5.1 European Manmade Fibres Association (Applicant of the expiry review)

- Durafiber Technologies

5.2 Users of high tenacity yarn of polyesters in the Union

- Continental AG,
- Oppermann Automotive Webbing GmbH,
- Katradis Marine Ropes Industry SA,

- Mehler Technologies GmbH,
- E. Oppermann GmbH,
- Oppermann Industrial Webbing SRO,
- Contitech Transportbandsysteme GmbH.

5.3 Other potential importers of greige sewing thread yarns would include

- Amann
- Coats
- CT Point.

5.4 Users of finished sewing thread yarns in the Union made from these greige sewing threads include

- Volkswagen AG.