Council Implementing Regulation (EU) No 907/2011 of 6 September 2011 amending Implementing Regulation (EU) No 1105/2010 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of high tenacity yarn of polyesters originating in the People's Republic of China, and terminating the proceeding concerning imports of high tenacity yarn of polyesters originating in the Republic of Korea and Taiwan

COUNCIL IMPLEMENTING REGULATION (EU) No 907/2011

of 6 September 2011

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation), and in particular Article 9 thereof,

Having regard to Council Implementing Regulation (EU) No 1105/2010 of 29 November 2010 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of high tenacity yarn of polyesters originating in the People's Republic of China and terminating the proceeding concerning imports of high tenacity yarn of polyesters originating in the Republic of Korea and Taiwan[(2)], and in particular Article 4 thereof,

Having regard to the proposal submitted by the European Commission (the Commission) after consulting the Advisory Committee,

Whereas:

A. **MEASURES IN FORCE**

(1) By Implementing Regulation (EU) No 1105/2010, the Council imposed a definitive anti-dumping duty on imports of high tenacity yarn of polyesters (other than sewing thread), not put up for retail sale, including monofilament of less than 67 decitex, originating in the People's Republic of China (PRC), currently falling within CN code 5402 20 00 (the product concerned).

(2) Given the large number of cooperating exporting producers in the investigation that led to the imposition of the anti-dumping duty (the original investigation) in the PRC, a sample of Chinese exporting producers was selected and individual duty rates ranging from 0 % to 5,5 % were imposed on the companies included in the sample, while other cooperating companies not included in the sample

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were attributed a duty rate of 5,3 %. Two cooperating non-sampled companies were granted individual examination within the meaning of Article 17(3) of the basic Regulation, they received duties of 0 % and 9,8 %. A duty rate of 9,8 % for the PRC was imposed on all other companies.

(3) Article 4 of Implementing Regulation (EU) No 1105/2010 gives the possibility to new Chinese exporting producers which meet the criteria set out in that Article to be granted the duty rate applicable to the cooperating companies not included in the sample, i.e. 5,3 %.

B. NEW EXPORTING PRODUCERS' REQUESTS

(4) Two companies (the applicants) have requested to be granted 'new exporting producer treatment' (NEPT).

(5) An examination has been carried out to determine whether each of the applicants fulfils the criteria for being granted NEPT as set out in Article 4 of Implementing Regulation (EU) No 1105/2010, by verifying that the applicant:

— is a producer of the product concerned in the PRC,

— did not export the product concerned to the Union during the investigation period on which the measures are based (1 July 2008 to 30 June 2009),

— is not related to any of the exporters or producers in the PRC which are subject to the measures imposed by that Regulation,

— 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.

(6) Questionnaires were sent to the applicants who were asked to supply evidence to demonstrate that they met the criteria mentioned above.

(7) The Commission sought and verified all information it deemed necessary for the purpose of determining whether the criteria set out in Article 4 of Implementing Regulation (EU) No 1105/2010 had been fulfilled. Verification visits were carried out at the premises of the two applicants:

— Jiangsu Hengli Chemical Fibre Co. Ltd,

— Amann Twisting Yancheng Co. Ltd.

C. FINDINGS

(8) Concerning one applicant, Jiangsu Hengli Chemical Fibre Co. Ltd, the examination of the information submitted showed that it had provided sufficient evidence to prove that it meets the criteria set out in Article 4 of Implementing Regulation (EU) No 1105/2010. Therefore, this applicant could be granted the weighted average duty rate for the cooperating companies not included in the sample (i.e. 5,3 %) in accordance with Article 4 of Implementing Regulation (EU) No 1105/2010, and should be added to the list of exporting producers of Article 1(2) of that Regulation.

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(9) Concerning the other applicant, Amann Twisting Yancheng Co. Ltd, the examination of the information submitted showed that it had not provided sufficient evidence to prove that it meets the criteria set out in Article 4 of Implementing Regulation (EU) No 1105/2010. In particular, the investigation revealed that the main raw material used in the manufacturing process, high tenacity yarn of polyesters, is not produced by the applicant but purchased from unrelated suppliers. The filament is processed by the applicant through different production steps, including twisting, and finally exported under the definition of the product concerned. As the applicant did not produce the product concerned but actually merely processed it, it was concluded that Amann Twisting Yancheng Co. Ltd cannot be considered to be a producer of the product concerned. It therefore does not fulfil the requirement for NEPT that the company requesting it must be a 'producer' of the product concerned.

(10) Its request for NEPT was therefore rejected.

D. MODIFICATION OF THE LIST OF COMPANIES BENEFITING FROM INDIVIDUAL DUTY RATES

(11) In consideration of the findings of the investigation as indicated in recital 8, it is concluded that the company Jiangsu Hengli Chemical Fibre Co. Ltd should be added to the list of individual companies mentioned under Article 1(2) of Implementing Regulation (EU) No 1105/2010 with a duty rate of 5,3 %.

(12) The applicants and the Union industry have been informed of the findings of the investigation and were given the opportunity to submit their comments.

(13) All arguments and submissions made by interested parties were analysed and duly taken into account where warranted,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex referred to in Article 1(2) of Implementing Regulation (EU) No 1105/2010 shall be replaced by the following:

ANNEX CHINESE COOPERATING EXPORTING PRODUCERS NOT SAMPLEDTARIC Additional Code A977Company nameCityHeilongjiang Longdi Co. LtdHarbinJiangsu Hengli Chemical Fibre Co. LtdWujiangHyosung Chemical Fiber (Jiaxing) Co. LtdJiaxingShanghai Wenlong Chemical Fiber Co. LtdShanghaiShaoxing Haifu Chemistry Fibre Co. LtdShaoxingSinopec Shanghai Petrochemical CompanyShanghaiWuxi Taiji Industry Co. LtdWuxi

Article 2

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.