Council Regulation (EC) No 893/2008 of 10 September 2008 maintaining the anti-dumping duties on imports of polyester staple fibres originating in Belarus, the People's Republic of China, Saudi Arabia and Korea following a partial interim review pursuant to Article 11(3) of Regulation (EC) No 384/96

COUNCIL REGULATION (EC) No 893/2008

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation), and in particular Article 11(3),

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

Whereas:

A. PROCEDURE

1. Measures in force and subject to review

(1) The Council, by Regulation (EC) No 428/2005[(2)] imposed a definitive anti-dumping duty on imports of polyester staple fibres (PSF as defined in more detail in recital (15)) originating in the People's Republic of China (PRC) and Saudi Arabia and amended Regulation (EC) No 2852/2000[(3)] imposing a definitive anti-dumping duty on imports of polyester staple fibres originating in the Republic of Korea (Korea). On 8 July 2008, the Court of First instance annulled Article 2 of Regulation (EC) No 428/2005, to a limited extent, in relation to the anti-dumping duty imposed on exports into the European Community of goods produced and exported by the Korean company Huvis Corp[(4)].

2. Measures expired and subject to review

(2) The Council, by Regulation (EC) No 1799/2002[(5)] imposed a definitive anti-dumping duty of imports of PSF originating in Belarus. The measures imposed by that Regulation expired on 11 October 2007.

3. Previous investigation concerning imports of PSF originating in Malaysia and Taiwan

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 893/2008. (See end of Document for details)*

(3) Following a withdrawal of the complaint, the Commission, by Decision 2007/430/EC[6] (the termination Decision) terminated an anti-dumping proceeding concerning imports of PSF originating in Malaysia and Taiwan (the previous investigation). In accordance with Article 9(1) of the basic Regulation it was considered that the termination of anti-dumping duties on imports from Malaysia and Taiwan was not against the Community interest.

4. Present investigation

(4) Having determined that there was sufficient *prima facie* evidence that the measures in force at the time could be no longer appropriate because their maintenance could be against the Community interest, the Commission initiated, on its own initiative, on 30 August 2007, by a notice published in the *Official Journal of the European Union*[7], a partial interim review of the measures, in force on that date, applicable to imports of PSF originating in Belarus, Korea, Saudi Arabia and the PRC (the countries concerned). The review is limited to the examination of whether or not the continued imposition of measures is not against the Community interest, with the decision thereon possibly having retroactive effect as of 22 June 2007, i.e. the entry into force of the termination Decision.

(5) As mentioned above, the anti-dumping measures imposed on imports originating in Belarus lapsed on 11 October 2007. As a consequence, the review concerning Belarus has been discontinued. However, it was formally conducted until that date and the Commission considered in particular the question of retroactive repeal of measures in force between 22 June 2007 and 11 October 2007, should the conclusions warrant this.

5. Parties concerned

(6) The Commission officially advised the Community producers, the suppliers, the importers and users as well as associations of users and producers, exporters, and representatives of the countries concerned of the initiation of the proceeding. All interested parties were given the opportunity to make their views known in writing and to request a hearing.

(7) All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing. Complete questionnaire replies were received from 12 producers, 10 users, three importers, one European association of producers, one Austrian-German association of producers, one German federation of users, two associations belonging to this federation and one European association of users.

(8) Further, the Commission received submissions from other producers, users and importers which did not provide a complete answer to the questionnaire.

(9) Among the producers and users that participated in the investigation there are two vertically integrated groups that produce PSF (in part or in whole) for captive consumption.

(10) Finally, one association of Chinese exporters and two Korean exporters, assisted by their Authorities, have made their views known.

(11) Exporters from Belarus and Saudi Arabia did not make their views known. In addition, no parties made comments regarding the measures in relation to these two countries.

(12) The Commission sought and verified all information it deemed necessary to determine whether or not the continued imposition of the measures is against the Community interest. Verification visits were carried out at the premises of the following interested parties:

(a) *Community producers*
- Silon (Czech Republic),
- Trevira GmbH (Germany),
- Advansa (Germany),
- Wellman International Ltd (Ireland);

(b) *Community users*
- PGI Nonwovens B.V (The Netherlands),
- Libeltex BVBA (Belgium),
- Lück GmbH (Germany);

(c) *Community user and producer*
- ORV Manufacturing SpA (Italy);

(d) *associations of users*
- Gesamtverband Textil + Mode (Confederation of the German Textile and Fashion Industry),
- Edana (European Disposables And Non-woven Applications).

6. Investigation period

(13) The review investigation period (RIP) covered the period from 1 July 2006 to 30 June 2007. The examination of trends relevant for the assessment covered the period from 1 January 2004 to the end of the RIP (the period considered).

(14) It is recalled that in the previous investigation, the investigation period covered the period from 1 January to 31 December 2005 and the examination of trends relevant for the assessment covered the period from 1 January 2002 to 31 December 2005.

B. PRODUCT CONCERNED AND LIKE PRODUCT
Product concerned

(15) The product concerned is the same as in the investigations mentioned in recitals (1) to (3): synthetic staple fibres of polyesters, not carded, combed or otherwise

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processed for spinning. It is currently classifiable within CN code 5503 20 00. It is commonly referred to as polyester staple fibres (PSF).

(16) The product is a basic material used at various stages of the manufacturing process of textile products. The Community consumption of PSF is either used for spinning, i.e. manufacturing filaments for the production of textiles, mixed with other fibres such as cotton and wool or for non-woven applications such as filling, i.e. stuffing or padding of certain textile goods such as cushions, car seats and jackets.

C. SITUATION ON THE COMMUNITY MARKET

1. Consumption in the Community

(17) The determination of total Community consumption was based on the import and export statistics from Eurostat and the production of the Community industry (as defined in recital (26)), and other Community producers.

TABLE 1

Community consumption	**2004**	**2005**	**2006**	**RIP**
Volume (tonnes)	834 141	843 579	822 509	823 667
Index (2004 = 100)	100	101	99	99

(18) As shown in the table above, consumption of PSF has slightly decreased during the period considered. This trend is in clear contrast with the situation examined in the previous investigation where consumption in the Community, as indicated in the Regulation imposing provisional duties[8], increased by 3 % during the period considered in that investigation (2002 to 2005).

2. Imports from Belarus, the PRC, Saudi Arabia and Korea: volume, market share and import prices

(19) The volume of imports into the Community from the countries concerned decreased by 28 % between 2004 and the RIP and the market share went from 24,4 % to 18 % whereas prices increased by 16 %. The data are based on Eurostat statistics.

TABLE 2

Imports from the countries concerned	**2004**	**2005**	**2006**	**RIP**
Korea				

Volume (tonnes)	122 260	108 407	111 967	133 574
Index (2004 = 100)	100	87	92	109
Market share	15,1 %	13,2 %	14,1 %	16,9 %
Prices 000 EUR/tonne	0,987	1,115	1,079	1,114
Index (2004 = 100)	100	113	109	113
PRC				
Volume (tonnes)	45 713	38 103	2 283	8 935
Index (2004 = 100)	100	83	5	20
Market share	5,7 %	4,6 %	0,3 %	1,1 %
Prices 000 EUR/tonne	0,92	0,97	1,06	1,1
Index (2004 = 100)	100	105	115	120
Belarus				
Volume (tonnes)	1 771	153	81	43
Index (2004 = 100)	100	8	4,5	2,4
Market share	0,2 %	0 %	0 %	0 %
Prices 000 EUR/tonne	0,97	1,17	1,16	1,26
Index (2004 = 100)	100	121	120	130
Saudi Arabia				
Volume (tonnes)	27 805	6 433	450	72
Index (2004 = 100)	100	23	2	0,3
Market share	3,4 %	0,8 %	0,1 %	0 %