Council Regulation (EC) No 1515/2006 of 10 October 2006 repealing the anti-dumping duty on imports of synthetic staple fibres of polyesters originating in Australia, India, Indonesia and Thailand and terminating the proceedings in respect of such imports, following expiry reviews pursuant to Article 11(2) of Council Regulation (EC) No 384/96, and terminating the partial interim review pursuant to Article 11(3) of such imports originating in Thailand

COUNCIL REGULATION (EC) No 1515/2006

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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 Articles 11(2) and 11(3) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) In July 2000, the Council, by Regulation (EC) No 1522/2000[(2)], imposed a definitive anti-dumping duty on imports of synthetic staple fibres of polyesters (polyester staple fibres or PSF) originating in Australia, Indonesia and Thailand. The investigation that led to these measures will be referred to as 'the original investigation 1'.

(2) In December 2000, the Council, by Regulation (EC) No 2852/2000[(3)], imposed a definitive anti-dumping duty on imports of PSF originating in India and the Republic of Korea. The investigation that led to these measures will be referred to as 'the original investigation 2'.

(3) The measures imposed by Regulation (EC) No 2852/2000 consisted of an *ad valorem* duty, except for imports from one Indian exporting producer from which an undertaking was accepted by Commission Decision 2000/818/EC[(4)]. Following an interim review covering both dumping and injury, the measures on imports originating

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in the Republic of Korea have been amended and renewed for five years by Council Regulation (EC) No 428/2005[(5)].

2. Requests for reviews

(4) Following the publication of two notices of impending expiry, one concerning the anti-dumping measures in force on imports of PSF originating in Australia, Indonesia and Thailand[(6)] and another regarding the anti-dumping measures in force on imports of PSF originating in India[(7)], the Commission, on 13 April 2005 and 23 September 2005, received requests to review these measures pursuant to Article 11(2) of the basic Regulation.

(5) These requests were lodged by the Comité International de la Rayonne et des Fibres Synthétiques (CIRFS) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of PSF. The requests were based on the grounds that the expiry of the measures would be likely to result in a recurrence of dumping and injury to the Community industry.

(6) Furthermore, a request for a partial interim review of Regulation (EC) No 1522/2000 was received from Tuntex (Thailand) Public Company Limited (Tuntex), a producer of PSF in Thailand subject to the anti-dumping measures in force.

(7) In the request pursuant to Article 11(3) of the basic Regulation, Tuntex provided *prima facie* evidence to support its claims that, as far as it is concerned, the circumstances on the basis of which measures were established have changed and that these changes are of a lasting nature. Tuntex provided evidence showing that a comparison of normal value based on its own cost/domestic prices and its export prices to a third country market would lead to a reduction of dumping significantly below the level of the current measure (27,7 %). Therefore, Tuntex claimed that the continued imposition of measures at the existing levels, which were based on the level of dumping previously established, was no longer necessary to offset dumping.

(8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of two reviews pursuant to Article 11(2) of the basic Regulation and one review, limited in scope to the examination of dumping, pursuant to Article 11(3) of the basic Regulation, the Commission initiated these three reviews by notices published in the *Official Journal of the European Union*[(8)].

3. Investigations

(9) The Commission officially advised the producers in Australia, India, Indonesia and Thailand, importers, users and their associations in the Community known to be concerned, the representatives of the exporting countries concerned, CIRFS and known Community producers of the initiation of the expiry reviews. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notices of initiation.

(10) The Commission officially advised Tuntex, as well as the representatives of the exporting country, of the initiation of the partial interim review. Interested parties

were also given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(11) In view of the large number of Indian, Indonesian and Thai producers as well as Community producers listed in the requests for the expiry reviews, and the large number of Community importers of PSF known to be concerned, it was considered appropriate, in conformity with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within 15 days of the initiation of the reviews and to provide the Commission with the information requested in the notices of initiation.

(12) After examination of the information submitted and given the low number of cooperating producers in India, Indonesia and Thailand which indicated their willingness to cooperate, it was decided that sampling was not necessary as regards producers in these countries.

(13) No importer provided the Commission with the information requested in the notices of initiation and, therefore, sampling for importers was not necessary. In fact, no importer cooperated in the reviews.

(14) Ten Community producers completed the sampling form and formally agreed to cooperate further in the investigation. Five out of these ten companies, which were found to be representative of the Community industry in terms of volume of production and sales of PSF in the Community, were selected for the sample. This sample constituted the largest representative volume of production and sales of PSF in the Community which could reasonably be investigated within the time available.

(15) Questionnaires were, therefore, sent to the five sampled Community producers, to the producers in Australia and to those which cooperated with the sampling exercise for their country and to known users. The five non-sampled Community producers were requested to provide information on certain injury indicators and to comment on the impact of the repeal or maintenance of the anti-dumping measures.

(16) Replies to the questionnaires were received from four out of five sampled Community producers (so the sample represented 38 % of production and sales in the Community), one producer in Australia, three producers in India, four producers in Indonesia, four producers in Thailand (two of them related) and eight users. Two associations of users made submissions. Furthermore, four out of five non-sampled Community producers provided the information requested (so the cooperating producers represented 60 % of production in the Community).

(17) The Commission sought and verified all the information it deemed necessary for its analysis and carried out verification visits at the premises of the following companies:

(a) sampled Community producers

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Advansa GmbH, Hamm, Germany
Elana, Branch Office of Boryszew SA, Torun, Poland
La Seda de Barcelona SA, El Prat de Llobregat, Spain
Wellman International Limited, Mullagh, Ireland;

(b) producer in Australia

Leading Synthetics Pty Ltd, Campbellfield;

(c) producers in India

Futura Polyesters Limited, Chennai
Indo Rama Synthetics (India) Ltd, Nagpur
Reliance Industries Limited, Mumbai;

(d) producers in Indonesia

PT Global Fiberindo, Tangerang
PT Indo-Rama Synthetics Tbk, Jakarta
PT Panasia Indosyntec Tbk, Bandung
PT Susilia Indah Synthetic Fibers Industries, Tangerang;

(e) producers in Thailand

New World Polyester Co., Ltd, Samutprakarn
Teijin Polyester (Thailand) Limited, Bangkok
Teijin (Thailand) Limited, Bangkok
Tuntex (Thailand) Public Company Limited, Bangkok.

(18) As regards the expiry reviews, the investigation on the continuation and/or recurrence of dumping and injury covered the period from 1 July 2004 to 30 June 2005 (review investigation period or RIP). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2002 up to the end of the RIP (period considered). The investigation period used in the partial interim review for the investigation of dumping is the same as the RIP used in the expiry reviews.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(19) The definition of the product concerned corresponds to the one that was used in the original investigations mentioned in recitals 1 and 2.

(20) The product concerned is synthetic staple fibres of polyesters, not carded, combed or otherwise processed for spinning originating in Australia, India, Indonesia and Thailand, currently classifiable within CN code 5503 20 00. It is commonly referred to as polyester staple fibres or PSF.

(21) PSF is a basic material used at various stages of the manufacturing process of textile products. PSF is either used for spinning, i.e. manufacturing filaments for the

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production of textiles, after mixing or not 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.

(22) The product is sold in different product types which can be identified through different specifications such as denier or decitex, tenacity, lustre and silicon treatment. From a production point of view, a distinction can be made between virgin PSF, produced from virgin raw materials, and regenerated PSF, produced from recycled polyester. Finally, the quality may be first grade or sub-standard.

(23) The investigation has shown that all types of the product concerned as defined in recital 20, despite differences in a variety of factors as defined in the preceding recital, have the same basic physical and chemical characteristics and the same uses. Therefore, and for the purpose of the current reviews, all types of the product concerned are considered as one product.

2. Like product

(24) The current reviews have shown that the product concerned and the PSF produced and sold on the domestic markets of the countries concerned as well as the PSF manufactured and sold in the Community by the Community producers have the same basic physical and chemical characteristics and the same uses. Therefore, these products are considered to be a like product within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

1. Preliminary remarks

(25) Concerning the expiry reviews, in accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and whether the expiry of the measures would be likely to lead to a continuation or a recurrence of dumping.

(26) During the RIP, exports to the Community of PSF originating in Australia, India, Indonesia and Thailand (the countries concerned) were negligible. According to Eurostat, imports from the countries concerned amounted to only 1 056 tonnes during the RIP (0,1 % of Community consumption), whilst they were more than 69 000 tonnes during the investigation periods of the original investigations.

(27) All cooperating producers had no or negligible export sales of PSF to the Community in the RIP and, thus, no representative dumping calculations could be made in order to determine the likelihood of continuation of dumping.

(28) Consequently, for the likelihood of recurrence of dumping analysis account was taken, amongst others, of prices for exports to other third countries.

(29) Given the findings of the expiry reviews set out below, it was not considered necessary to pursue the interim review requested by Tuntex.