Council Regulation (EC) No 428/2005 of 10 March 2005 imposing a definitive anti-dumping duty on imports of polyester staple fibres originating in the People's Republic of China and Saudi Arabia, amending Regulation (EC) No 2852/2000 imposing a definitive anti-dumping duty on imports of polyester staple fibres originating in the Republic of Korea and terminating the anti-dumping proceeding in respect of such imports originating in Taiwan

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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)] ('Basic Regulation'), and in particular Articles 9 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 1999, by Regulation (EC) No 1728/1999[(2)], the Council imposed definitive anti-dumping duties on imports of polyester staple fibres ('PSF') originating in Taiwan.

(2) In December 2000, by Regulation (EC) No 2852/2000[(3)], the Council imposed definitive anti-dumping duties on imports of polyester staple fibres originating, *inter alia*, in the Republic of Korea.

(3) The level of the definitive anti-dumping duties established for the exporting producers in the Republic of Korea and Taiwan subject to the above mentioned investigations, expressed as a percentage of the CIF frontier value, was as follows:

Taiwan

— Far Eastern 6,8 %

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Textile Ltd.	
— Nan Ya Plastics Corporation	5,9 %
— Shingkong Synthetic Fibres Co.	13,0 %
— All other companies	13,0 %
Republic of Korea	
— Daehan Synthetic Fibre Co. Ltd.	0 %
— Huvis Corporation	4,8 %
— SK Global Co. Ltd.	4,8 %
— Sung Lim Co. Ltd.	0 %
— All other companies	20,2 %

2. PRESENT INVESTIGATIONS

(4) On 19 December 2003, the Commission announced by a notice ('notice of initiation') published in the *Official Journal of the European Union*[(4)], the initiation of

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an anti-dumping proceeding with regard to imports into the Community of polyester staple fibres originating in the People's Republic of China ('PRC') and Saudi Arabia.

(5) On the same day, pursuant to Article 11(3) of the Basic Regulation, the Commission announced by a notice published in the *Official Journal of the European Union*[(5)] the initiation of an interim review of the definitive anti-dumping duties imposed by Council Regulations (EC) No 1728/1999 and (EC) No 2852/2000 on imports of PSF originating in the Republic of Korea and Taiwan.

(6) The anti-dumping investigations were initiated following a complaint and a request lodged on 10 November 2003 by the Comité International de la Rayonne et des Fibres Synthétiques ('CIRFS' or 'the complainant') on behalf of producers representing a major proportion, in this case more than 40 %, of the Community production of PSF. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of the proceedings.

3. INVESTIGATIONS CONCERNING OTHER COUNTRIES AND MEASURES IN FORCE

(7) There are definitive anti-dumping measures currently in force on imports of PSF originating in (i) Australia, Indonesia and Thailand imposed by Regulation (EC) No 1522/2000[(6)]; (ii) India imposed by Regulation (EC) No 2852/2000; as well as (iii) Belarus imposed by Regulation (EC) No 1799/2002[(7)].

4. PARTIES CONCERNED BY THE PROCEEDING

(8) The Commission officially advised the known exporting producers in the PRC, in Saudi Arabia, in Korea and in Taiwan, importers/traders and their associations, suppliers and users known to be concerned, the representatives of the exporting countries concerned and the complainant and other known Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notices of initiation.

(9) In view of the large number of Chinese, Taiwanese and Korean exporting producers, listed in the complaint and in the request, and the large number of Community importers of the product concerned, sampling was envisaged in both notices of initiation for the determination of dumping and injury, in accordance with Article 17 of the Basic Regulation.

(10) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the countries mentioned in recital (9), and Community importers were asked to make themselves known to the Commission and to provide, as specified in the notices of initiation, basic information on their activities related to the product concerned during the period 1 January 2003 to 30 November 2003 ('sampling period').

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(11) After examination of the information submitted by Chinese exporting producers and due to the low number of replies to the sampling questions, it was decided that sampling was not necessary in respect of Chinese exporting producers.

(12) In the case of Korea, nine exporting producers replied to the sampling questions. The three largest exporting producers in terms of export quantities were selected in the sample. However, one of the companies selected withdrew its cooperation subsequently, and was therefore replaced by the fourth largest company in terms of export quantity. The final sample represented more than 80 % of the reported exports of the product concerned to the Community during the sampling period and consisted of the following companies:

— Huvis Corporation

— Sung Lim Co. Ltd.

— Saehan Industries Inc.

(13) In the case of Taiwan, five companies replied to the sampling questions and reported export sales of the product concerned to the Community during the sampling period. The three largest companies in terms of export quantities were included in the sample. Subsequently, it appeared, however, that one of the selected companies did not export the product concerned for consumption in the Community during the sampling period. It had therefore to be excluded from the sample. The fourth largest company which was then invited to fill in the questionnaire appeared to be in the same situation. Any further inclusion of another company in the sample, which would have implied an extended deadline to fill in the questionnaire, would have jeopardized the timely completion of the investigation at that stage of the investigation. In any case, the two remaining companies counting for more than 95 % of the exports of the product concerned to the Community during the sampling period were considered representative. The sample consisted therefore of the following companies:

— Far Eastern Textile Ltd.

— Nan Ya Plastics Corporation

(14) As far as importers into the European Community are concerned, five companies unrelated to the exporting producers were initially selected for the sample, based on their volume of imports from the countries concerned. One of the three selected companies was subsequently considered as non cooperating and then disregarded as part of the sample. The remaining four sampled companies cover 14,6 % of total imports concerned. The final sample consisted of the following companies:

— S.I.M.P., SpA, Italy

— Highams Group Ltd., United Kingdom

— Tob Herman Industries, N.V., Belgium

— Marubeni Europe plc Hamburg Branch, Germany

(15) The Commission sent market economy treatment (‘MET’) or individual treatment (‘IT’) claim forms to the Chinese exporting producers known to be concerned. Claims for MET, or for IT in case the investigation establishes that the exporting

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producers do not meet the conditions for MET, were received from five exporting producers plus two related companies.

(16) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notices of initiation. Replies were received from five Chinese exporting producers, from two Saudi Arabian exporting producers, from three Korean exporting producers included in the sample, from two Taiwanese exporting producers included in the sample, five importers in the Community related to a Saudi exporter, one importer in the Community importing the product concerned from Korea, two unrelated importers included in the sample, six Community industry producers, two non complainant producers, two suppliers of raw materials, ten users and one producer in the analogue country, the United States of America ('USA').

(17) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) Community industry producers
- Catalana de Polimers, S.A., Spain
- Dupont Sabanci Polyester GmbH, Germany
- Industrias Químicas Textiles, S.A., Spain
- Tergal Fibres, S.A., France
- Trevira GmbH, Germany
- Wellman International Limited, Ireland

(b) Non-complainant producers
- Freudenberg Politex, S.r.l., Italy.
- Realplastic, S.r.l., Italy

(c) Exporting producers in the People's Republic of China
- AnShun Pettechs Group:
  - Hangzhou AnShun Pettechs Fibre Industry Co., Ltd.
  - Deqing AnShun Pettechs Fibre Industry Co., Ltd.
  - Kunshan AnShun Pettechs Fibre Industry Co., Ltd.
- Cixi Jiangnan Chemical Fiber Co. Ltd.
- Far Eastern Industries (Shanghai) Ltd.
- Jiangyin Changlong Chemical Fibre Co. Ltd.
- Xiake Color Spinning Co., Ltd.

(d) Exporting producers in Saudi Arabia
- National Polyester Fibers Factory
- Saudi Basic Industries Corporation (Sabic), and related producer Arabian Industrial Fibres Company (Ibn Rushd)

(e) Exporting producers in the Republic of Korea