

**COUNCIL REGULATION (EC) No 1942/2004****of 2 November 2004****imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of okoumé plywood originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN UNION,

writing. The parties who so requested were also granted an opportunity to be heard orally.

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<sup>(1)</sup> (the basic Regulation), and in particular Article 9 thereof,

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

Whereas:

(4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. After the imposition of provisional measures, an on-spot verification visit was carried out at the premises of Ekol Kontraplak, Taskopru, Turkey, in view of the fact that Turkey was considered as a possible analogue country for establishing normal value.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

**A. PROVISIONAL MEASURES**

(1) The Commission, by Regulation (EC) No 988/2004<sup>(2)</sup> (the provisional Regulation) imposed provisional anti-dumping duties on imports of okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé, falling within CN code ex 4412 13 10, originating in the People's Republic of China (PRC).

(6) The oral and written comments submitted by the parties were considered, and, where appropriate, the findings have been modified accordingly.

**C. PRODUCT CONCERNED AND LIKE PRODUCT****1. Product concerned**

(2) It is recalled that the investigation of dumping and injury covered the period from 1 July 2002 to 30 June 2003 (investigation period or IP). The examination of trends relevant for the injury analysis covered the period from 1 January 1999 to the end of the IP (period under consideration).

(7) The product concerned is plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé, originating in the PRC, currently classifiable within CN code ex 4412 13 10. This definition covers both plywood made solely with okoumé (full okoumé) and plywood with one or two outer faces made of okoumé (faced okoumé), the inner layers being made of other species of wood.

**B. SUBSEQUENT PROCEDURE**

(3) Following the imposition of a provisional anti-dumping duty on imports of okoumé plywood originating in the PRC, some interested parties submitted comments in

(8) Several importers have argued that full okoumé and faced okoumé cannot be considered the same product, since the composition of the inner layers substantially affects the characteristics of the plywood. In addition, it was argued that these products have significant differences in price and use.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

<sup>(2)</sup> OJ L 181, 18.5.2004, p. 5.

- (9) From the beginning of the investigation, it was recognised that okoumé plywood is produced in a variety of different types and has a wide range of applications in the building, furniture, transport and other industries. Some applications require particular okoumé plywood types, while in others different types can be used interchangeably. The most essential characteristic of okoumé wood, however, is that it can be peeled into very large veneers without knots or other blemishes, allowing plywood to be produced with a good finish and a homogeneous, seamless surface. This means that the essential characteristics of okoumé plywood, which make it unique compared to other types of plywood, reside in the appearance of its face (outer) layers.
- (10) The inner layers of plywood can be made from a variety of tropical or temperate wood species. When producing plywood fully from tropical wood, okoumé plywood producers tend to use okoumé in the inner layers, due to the natural complementarities in the production process rather than the particular characteristics of okoumé as compared to other tropical woods. The type of wood, or woods, used in the inner layers clearly affects the cost of the final product, its properties and its suitability for certain applications. It is considered, however, that these aspects can be dealt adequately by distinguishing different product types in the context of the investigation, so that only the prices of identical plywood types are compared when assessing dumping and injury. The product coding system used in the investigation distinguishes, among other characteristics, full okoumé from faced okoumé. Therefore, the claim that full okoumé and faced okoumé cannot be considered the same product was rejected.
- (11) In the provisional Regulation, it was decided to exclude film-faced okoumé plywood from the scope of the investigation for the reasons set out in recital 19 of the provisional Regulation. Film-faced okoumé plywood is made from faced or full okoumé, covered by a film from other materials. The Community Industry argued that these products should not be excluded, since they are part of the same market as the remaining okoumé products. However, the presence of a film over the surface of the wood makes the above-mentioned essential characteristics of okoumé plywood, i.e. the exterior appearance, much less relevant. Film-faced okoumé plywood does therefore not share the same physical and technical characteristics as the product concerned. Moreover, film-faced okoumé plywood is mostly destined to one particular application, that of concrete casting, contrary to the product concerned. Therefore, this argument should be dismissed.
- (12) In the absence of any other comments, the conclusions on the definition of the product concerned set out in recitals 18 and 19 of the provisional Regulation are hereby confirmed.

## 2. Like product

- (13) Several parties submitted that there are a number of differences between the product concerned manufactured in the PRC and the one manufactured and sold in the Community by the Community industry, to the extent that these products cannot be considered to be alike within the meaning of Article 1(4) of the basic Regulation. Specifically, it was claimed that:
- (a) the Chinese exporting producers sell faced okoumé, whereas the Community industry sells full okoumé;
  - (b) the Chinese exporting producers sell the standard 2 440 × 1 220 mm and 2 500 × 1 250 mm panel sizes, whereas the Community industry sells the so-called 'jumbo' sizes of 3 100 × 1 530 mm and 3 100 × 1 700 mm;
  - (c) the Chinese exporting producers sell interior grade plywood, whereas the Community industry sells weather-resistant, or exterior grade plywood;
  - (d) the quality of the faces is generally lower in the case of the panels sold by the Chinese exporting producers (B/BB against BB/CC quality);
  - (e) the faces of the panels sold by the Chinese exporting producers are thinner than those of the panels sold by the Community industry (0,6 mm against 1 mm);
  - (f) the quality of the inner layers is generally lower in the case of the panels sold by the Chinese exporting producers;
  - (g) the quality of the glue is generally lower in the case of the panels sold by the Chinese exporting producers.

- (14) Regarding the first three characteristics referred to under recital 13(a) to 13(c), the investigation has shown that the Chinese exporting producers, as well as the Community industry, sold both full and faced okoumé, both interior and exterior grade plywood, and a wide range of panel sizes. Since these characteristics are normally shown in the sales documentation, they have been included in the product control numbers (PCN) for the purpose of calculating the dumping and injury margins. Therefore, as far as those characteristics are concerned, any differences are fully taken into account and only like products are being compared.
- (15) The fourth characteristic mentioned under recital 13(d) was not included in the PCN, since it is not mentioned in the majority of transaction documents made available to the Commission during the investigation. Based on the transactions for which the quality grade of the faces was indicated, it was found that the Chinese exporting producers, as well as the Community industry, sold a variety of grades, and it did not appear that the grades of the Community industry like product are typically of a higher quality than those of the Chinese exporting producers.
- (16) The last three characteristics referred to under recital 13(e) to 13(g) were also not included in the PCN, since they do not appear in most of the transaction data. However, it was recognised that a majority of the exports from the PRC have thinner faces than the Community like product. Similarly, the differences in quality of gluing and of the inner layers, albeit variable, is sufficiently generalised to play a role in some buyers' perception, and should not be ignored. An adjustment for these differences was thus applied when calculating the undercutting and injury margins, as set out in recital 80 of the provisional Regulation.
- (17) It should also be noted that these quality differences are not sufficient to create a perception from the buyers that the product concerned exported by the PRC is an entirely different product. On the contrary, the investigation showed concrete instances where the Chinese exports had replaced the Community industry products in the purchases of some customers on the Community market.
- (18) It is therefore concluded that the alleged differences between the product concerned and the product manu-

factured and sold in the Community by the Community industry, as far as they have been demonstrated, have been fully taken into account either through the PCN or via an adjustment. Since these differences in any event do not change the fact that the product concerned and the product manufactured and sold in the Community by the Community industry have the same basic characteristics and uses, the claim that the product concerned and the product manufactured and sold in the Community by the Community industry are not alike, must be dismissed.

- (19) In the absence of any other comments concerning the like product, recital (20) of the provisional Regulation is hereby confirmed.

#### D. DUMPING

##### 1. Market economy treatment (MET)

- (20) One exporting producer to which MET was not granted stated that the Commission did not take into account the comments it submitted after disclosure of the Commission's determinations. However, its arguments were examined and explicitly addressed in recitals 29 to 32 of the provisional Regulation. This claim was therefore rejected.
- (21) Another exporting producer which was considered to be non-cooperating argued that it had cooperated with the Commission. It should be noted that this same argument, which had already been raised by the same company after disclosure of the findings of the Commission regarding MET, was specifically addressed in recitals 33 to 35 of the provisional Regulation. This claim was therefore rejected.
- (22) In the absence of other comments, recitals 21 to 35 of the provisional Regulation concerning market economy treatment are hereby confirmed.

##### 2. Individual treatment

- (23) In the absence of any comments, recitals 36 to 40 of the provisional Regulation concerning individual treatment are hereby confirmed.

### 3. Normal value

#### 3.1. Determination of normal value for cooperating exporting producers granted MET

(24) One of the cooperating exporting producers claimed that the calculation of the cost of its purchases of poplar veneers, as explained in recital 49 of the provisional Regulation, was not correct, and that some tax credits allegedly received on the purchase of these veneers should have been deducted from this cost. By its nature, such a claim should have been substantiated by verifiable evidence submitted in good time. The company, however, was unable to provide sufficient evidence that the VAT reimbursement effectively took place, although it had been requested to do so during the investigation at its premises. Therefore, this claim had to be rejected.

(25) It should be noted that minor adjustments due to clerical errors were made after the publication of the provisional Regulation in the calculation of the profit rate of three cooperating exporting producers granted MET. This led to a slight change in the normal values calculated for them.

(26) In the absence of other comments, the provisional findings concerning the determination of normal value for cooperating exporting producers granted MET, as described in recitals 41 to 51 of the provisional Regulation, are hereby confirmed.

#### 3.2. Determination of normal value for all exporting producers not granted MET

(27) Morocco had provisionally been chosen as an analogue market economy third country for the purpose of establishing normal value for the PRC. However, as set out in recital (56) of the provisional Regulation, three exporting producers had opposed this choice.

(28) The Commission's investigation had shown that there was only one producer on the Moroccan domestic market, where, in addition, a high import customs duty existed. Therefore, it was decided to further investigate whether a more suitable analogue country could be chosen. Turkey, where one producer had accepted to cooperate with the Commission, was envisaged as a potential alternative analogue country.

(29) Further to the publication of the provisional Regulation, more comments on the original choice of Morocco were received from several importers and several Chinese exporting producers. They argued that the choice of Morocco as an analogue market economy third country was inappropriate because of an alleged difference in quality between the okoumé plywood made by the Chinese producers and the okoumé plywood made in Morocco.

(30) It was found that on the Turkish market no high customs duty was imposed and that several competitors were producing okoumé plywood. In addition, the investigation later confirmed that the sales of the cooperating Turkish producer were substantial and sufficiently representative to establish a normal value for Chinese exports of the product concerned. Therefore, it was decided to choose Turkey as an analogue country.

(31) In order to establish whether sales on the Turkish market of the products comparable to those sold by the Chinese exporting producers to the Community were made in the ordinary course of trade, the domestic selling price was compared to the full cost of production (i.e. the cost of manufacturing plus selling, general and administrative expenses). Since the large majority of the sales volume of the types sold on the domestic market were sold in the ordinary course of trade, normal value was based on the domestic price for the comparable product types.

(32) An adjustment for physical differences according to Article 2(10)(a) of the basic Regulation was made to the normal value, to take into account the difference in the types of glue used for the comparable product types sold in Turkey and for the product concerned.

### 4. Export price

(33) In the absence of any comments, the provisional findings concerning the determination of the export price, as described in recitals 60 and 61 of the provisional Regulation, are hereby confirmed. However, with regard to the determination of the export price for non-cooperating exporters, the following change has been made: instead of using as a basis a limited volume of sales for the cooperating exporting producer who was not granted MET, the whole volume of this company's faced okoumé sales was used, which – on the basis of information available – was generally more representative for the large majority of Chinese exports.

### 5. Comparison

- (34) One exporting producer claimed that transport costs had been unduly deducted from sales which had been made on a fob basis. However, this adjustment was made only after the entirety of the sales values had been converted to a cif basis, according to a method agreed with the company. Therefore, the claim had to be rejected.
- (35) One exporting producer objected to an adjustment made on its export price to take into account a deferred discount granted to one of its traders, as described in recital 63 of the provisional Regulation. The exporter claimed that this discount was already reflected into the prices as reported by the company. However, the company could not demonstrate during the investigation that this was the case. Therefore, this claim had to be rejected.
- (36) One exporting producer argued that its sales of the product concerned were made to different categories of customers when for export or for its domestic market and that the data submitted by the company showed consistent price differences between the various categories of customers. It requested that this should be duly taken into account in the dumping calculation, in the form of an adjustment of its export price for level of trade, pursuant to Article 2(10)(d) of the basic Regulation. Although this claim was deemed justified, the level of adjustment requested by the exporter was based on a single example, and was considered not representative. After an analysis of the price data, an appropriate level of adjustment was quantified and applied to the export price.

### 6. Dumping margins

- (37) Some claims having been accepted, as set out above, and the methodology and calculations refined, namely with respect to the choice of the analogue country, the dumping margins finally determined, expressed as a percentage of the cif Community frontier price, duty unpaid, are:

| Company  | Dumping margin |
|--|----------------|
| Nantong Zongyi Plywood Co., Ltd                  | 9,6 %          |
| Zhejiang Deren Bamboo-Wood Technologies Co., Ltd | 23,5 %         |
| Zhonglin Enterprise (Dangshan) Co., Ltd          | 6,5 %          |
| Jiaxing Jinlin Lumber Co., Ltd                   | 17,0 %         |

- (38) In the absence of any comments, the methodology for calculating the country-wide dumping margin, as described in recitals 67 to 69 of the provisional Regulation, are hereby confirmed. Due to the use of Turkey as analogue country, as explained in recitals 27 to 32, a new country-wide level of dumping was established at 66,7 % of the cif Community frontier price, duty unpaid.

### E. COMMUNITY INDUSTRY

- (39) In the absence of any comments, the provisional findings concerning the Community industry, as described in recitals 70 to 72 of the provisional Regulation, are hereby confirmed.

### F. INJURY

#### 1. Community consumption

- (40) In the absence of any comments, the provisional findings concerning the Community consumption, as described in recitals 74 to 75 of the provisional Regulation, are hereby confirmed.

#### 2. Imports from the country concerned

- (41) For the purpose of analysing price undercutting, the provisional Regulation added a 10 % adjustment to the CIF Community frontier price of the cooperating exporting producers. This adjustment is intended to account for the generally recognised, but difficult to quantify, difference in quality between the Community and Chinese okoumé plywood. This adjustment was established on the following basis. Information available to the Commission concerning offers from Chinese producers of the product concerned with face thicknesses of either 1 mm or 0,6 mm shows that the difference in face thickness could mean a price difference of between 3,5 % and 5,5 %. In the absence of further quantified information, it can reasonably be assumed that the remaining quality aspects mentioned in recital 16, namely the quality of gluing and of the inner layers, could have a comparable impact importance to that of face thickness. The cumulative impact of those quality differences could thus correspond to a price difference in the range of 10-15 %. It should be recalled, however, that the abovementioned quality differences cannot be verified on a transaction-by-transaction basis, and are not likely to apply to the entirety of the exports from the PRC during the investigation period. Rather, the investigation has shown that the Chinese exporting producers offer products of varying and evolving quality and characteristics.

(42) One importer argued that the allowance should be 25 % rather than 10 %, but did not provide any objective justification for the higher figure. Under those circumstances, there appears to be no reason to change the approach set out in the provisional Regulation.

(43) In the absence of any other comments, the conclusions drawn in recitals 76 to 81 of the provisional Regulation are hereby confirmed.

### 3. Situation of the Community industry

(44) Two exporting producers questioned the injurious impact of imports by pointing out that prices have remained rather stable, with a nominal increase of 3 %, or a slight decrease in real terms, during the period under consideration. It should be recalled, however, that the average prices shown in recital 91 of the provisional Regulation refer to a range of different product types, of which the lower-priced types suffered most from the effects of the Chinese imports. Even if the prices of these lower-priced products had decreased throughout the period, since their relative share in the product mix also decreased, the overall price per cubic meter would not have decreased necessarily. This shift in the product mix of the Community producers was already pointed out in recital 91 of the provisional Regulation. Furthermore, at the time the Chinese exports surged into the Community market, the Community industry was emerging from a downturn characterised by relatively low selling margins. In such conditions, the Community industry did not have much room to face competition by decreasing its prices, and most of the injurious effects of imports took place via a volume effect, as explained in recitals 85 to 90 of the provisional Regulation. Therefore, the above argument has to be rejected.

(45) In the absence of any other comments, the conclusions drawn in recitals 82 to 99 of the provisional Regulation are hereby confirmed.

### 4. Conclusion on injury

(46) In the absence of any other comments on the injury findings, the conclusions reached, as set out in recitals 100 to 102 of the provisional Regulation, are hereby confirmed.

### G. CAUSATION

(47) Two exporters submitted that the increase in average unit costs of the Community industry in the period under consideration was a significant factor behind the deterioration of the profitability of the Community industry, to the point of breaking the causal link between dumping and injury. As noted in recital 113 of the provisional Regulation, the development in costs of the sampled Community producers is not out of line with the development of costs and prices in the Community in general. As such, this type of cost increases, such as those of raw materials, do not represent an external factor with which this industry would not be able to cope under normal economic conditions and in the absence of the strong price pressure by the dumped imports in particular. Furthermore, at least part of the observed increase in average costs may be attributed to lower capacity utilisation and to a shift towards more expensive product types, which are in turn related to the competition from the dumped imports. The argument cannot, therefore, be accepted.

(48) With regard to the possible effect of imports originating in third countries other than the PRC, recital 109 of the provisional Regulation noted that the average prices of other major exporters, such as Gabon and Morocco, are about 50 % higher than those of the PRC and could therefore not be considered a determinant factor in the injury to the Community industry. One importer pointed out that the exports of those two countries concerned exclusively or mostly full okoumé, whereas the majority of the exports of the PRC consist of faced okoumé, which is by nature less expensive. Although this remark may be correct, the price difference between the prices of full and faced okoumé, which the investigation has shown to be around 15 %, does not account for the 50 % price difference mentioned above. Furthermore, the findings set out in the provisional Regulation, that these countries' market shares are much lower than that of the PRC, and that the volume and prices of their exports have remained relatively stable throughout the period under consideration, remain valid. Therefore, the above-mentioned remark does not invalidate the conclusion that imports from these third countries did not exert a competitive pressure on the Community industry to the extent that imports from the PRC did, and have not been a determining reason for the injurious situation of the Community industry.

(49) The same exporters argued that the decline of the export performance of the Community industry, mentioned in recital 111 of the provisional Regulation, was not negligible and, added to other factors not related to the Chinese exports, would account for the deterioration of the financial situation of the Community industry. Although exports of the Community industry indeed decreased, by nearly 2 000 tonnes over 3,5 years, as explained in recital (111) of the provisional Regulation, this decline cannot be compared to the impact of Chinese exports into the Community market, which reached more than 80 000 tonnes in 2,5 years between 2 000 and the IP. This argument is therefore dismissed.

(50) In the absence of any other comments on causation, the findings and the conclusion reached, as set out in recitals 103 to 117 of the provisional Regulation, are hereby confirmed.

#### H. COMMUNITY INTEREST

(51) Two exporters argued that the Commission failed to provide an economic analysis of impact of the measures upon users, traders and consumers in its assessment of the Community interest aspects. It should first be noted that exporters do not have standing in the context of the examination of Community interest. Nevertheless, with regard to the substance of the argument, it should be recalled that no users, traders or consumers have cooperated in the investigation or come forward during the proceeding, and that therefore no specific data is available to the Commission to quantify such an impact. Therefore, this argument cannot be accepted.

(52) It was further argued by one importer that the country-wide duty of 48,5 % was prohibitive and that the limited number of suppliers of okoumé products in Europe would lead to a lack of competition in Europe, to the detriment of user industries. As noted in recital 125 of the provisional Regulation, however, the anti-dumping measures are intended only to restore a level playing field in this market, and not to foreclose competition, which should be ensured in view of the number of different producers and exporting countries besides China. Therefore, this argument must be dismissed.

(53) In the absence of any other new information submitted on the Community interest, the findings and the conclusion reached, as set out in recitals 118 to 127 of the provisional Regulation, are hereby confirmed.

#### I. DEFINITIVE ANTI-DUMPING MEASURES

##### 1. Injury elimination level

- (54) In the absence of any comments, the methodology used for establishing the injury elimination level, as described in recitals 128 to 132 of the provisional Regulation, is hereby confirmed.
- (55) Based on this methodology, an injury elimination level has been calculated for the purposes of establishing the level of measures to be definitively imposed.

##### 2. Form and level of the duties

- (56) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at the level of the dumping margins found, since for all the exporting producers concerned the injury margins were found to be higher than the dumping margins.

- (57) On the basis of the above, the definitive duties are as follows:

| Company  | Dumping margin |
|--|----------------|
| Nantong Zongyi Plywood Co., Ltd                  | 9,6 %          |
| Zhejiang Deren Bamboo-Wood Technologies Co., Ltd | 23,5 %         |
| Zhonglin Enterprise (Dangshan) Co., Ltd          | 6,5 %          |
| Jiaxing Jinlin Lumber Co., Ltd                   | 17,0 %         |
| Country-wide dumping margin                      | 66,7 %         |

- (58) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

- (59) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission<sup>(1)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.
- (60) In order to minimise the risks of circumvention due to the substantial level of non-cooperation (80 %) and the high difference in the amounts of duty, it is considered that special provisions are needed in this case to ensure the proper application of the anti-dumping duty.
- (61) These special provisions include the presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to the Regulation. Only imports accompanied by such an invoice shall be declared under the applicable Taric additional codes of the producer in question. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters. The companies concerned have also been invited to submit regular reports to the Commission in order to ensure a proper follow up of their sales of okoumé plywood to the Community. In cases where reports are not submitted, or where the reports disclose that the measures are not adequate to eliminate the effects of injurious dumping, it may be necessary to initiate an interim review in accordance with Article 11(3) of the basic Regulation. This could, *inter alia*, examine the need for the removal of individual duty rates and the consequent imposition of a country-wide duty.

### 3. Undertakings

- (62) Subsequent to the adoption of provisional anti-dumping measures, and in accordance with Article 8(1) of the basic Regulation, one cooperating exporting producer expressed its willingness to offer an undertaking. However, the minimum export prices that the company was prepared to offer for certain products were at levels which did not eliminate the injurious effects of the dumping. Accordingly, this offer could not be accepted.

### 4. Collection of provisional duties

- (63) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the

Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, i.e. Regulation (EC) No 988/2004, be collected definitively to the extent of the amount of the duty definitively imposed by the present Regulation if this amount is equal to or lower than the amount of the provisional duty. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be collected definitively.

- (64) As set out in recital 11, film-faced okoumé plywood has been excluded from the scope of the investigation. Given that Article 1(1) of the provisional Regulation did not provide for such an exclusion, any amounts secured for this product types should be released,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials, falling within CN code ex 4412 13 10 (TARIC code 4412 13 10 10) and originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows, provided that they are imported in conformity with paragraph 3:

| Manufacturer   | Rate of duty % | TARIC additional code |
|--|----------------|-----------------------|
| Nantong Zongyi Plywood Co., Ltd<br>Xingdong Town, Tongzhou City, Jiangsu Province, People's Republic of China                  | 9,6            | A526                  |
| Zhejiang Deren Bamboo-Wood Technologies Co., Ltd<br>Linhai Economic Development Zone, Zhejiang, People's Republic of China     | 23,5           | A527                  |
| Zhonglin Enterprise (Dangshan) Co., Ltd<br>Xue Lou Miao Pu, Dangshan County, Anhui Province 235323, People's Republic of China | 6,5            | A528                  |
| Jiaying Jinlin Lumber Co., Ltd<br>North of Ganyao Town, Jiashan, Zhejiang Province, People's Republic of China                 | 17,0           | A529                  |
| All other companies  | 66,7           | A999                  |

<sup>(1)</sup> European Commission, Directorate-General for Trade, Direction B, office J-79 5/16, B-1049 Brussels.

3. The application of the individual duty rates specified for the four companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 2*

Amounts secured by way of provisional anti-dumping duties pursuant to Commission Regulation (EC) No 988/2004 on

imports of okoumé plywood falling within CN code ex 4412 13 10 (TARIC code 4412 13 10 10), originating in the People's Republic of China shall be definitively collected, in accordance with the rules set out below. The amounts secured in excess of the amount of the definitive anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties shall be definitively collected. Amounts secured for the import of film-faced okoumé plywood should be released.

*Article 3*

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.

Done at Brussels, 2 November 2004.

*For the Council*  
*The President*  
B. R. BOT

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ANNEX

The valid commercial invoice referred to in Article 1(3) of the Regulation must include a declaration signed by an official of the company, in the following format:

1. the name and function of the official of the company which has issued the commercial invoice;
  2. the following declaration:  
'I, the undersigned, certify that the (volume) of okoumé plywood sold for export to the European Community covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country); I declare that the information provided in this invoice is complete and correct.';
  3. Date and signature.
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