

## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COUNCIL REGULATION (EC) No 1087/2007

of 18 September 2007

**amending Regulation (EC) No 1487/2005 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain finished polyester filament fabrics originating in the People's Republic of China**

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<sup>(1)</sup> (the basic Regulation), and in particular Articles 9 and 12 thereof,

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

Whereas:

**A. PROCEDURE**

**1. Original measures**

(1) In September 2005, following an anti-dumping investigation (the original investigation) the Council, by Regulation (EC) No 1487/2005<sup>(2)</sup>, imposed definitive anti-dumping duties (the original measures) on imports of certain finished polyester filament fabrics (PPFAF) originating in the People's Republic of China (China). The duty rates applicable to Chinese PPFAF varied from 14,1 % to 56,2 %.

**2. Request for an anti-absorption reinvestigation**

(2) On 13 November 2006, a request for a reinvestigation of the original measures was lodged pursuant to Article 12 of the basic Regulation. The request was submitted by AIUFFASS (the applicant), on behalf of producers representing a major proportion, in this case more than 30 % of the total Community production of PPFAF.

(3) The applicant submitted sufficient information showing that following the imposition of the original anti-dumping duties on PPFAF originating in China export prices have decreased and that there has been insufficient movement in resale prices or subsequent selling prices in the Community. This allegedly resulted in an increase of dumping which has impeded the intended remedial effects of the measures in force. The applicant also provided evidence that imports of the product concerned from China have continued to enter in significant quantities the Community market.

**3. The anti-absorption reinvestigation**

(4) On 28 December 2006, the Commission announced by a notice published in the *Official Journal of the European Union* (NOI)<sup>(3)</sup> the initiation of a reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of PPFAF originating in China.

(5) The Commission officially advised the producers/exporters known to be concerned, the representatives of the exporting country, importers and users of the initiation of the reinvestigation. 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 notice of initiation. The Commission sent questionnaires to all parties known to be concerned.

(6) In view of the high number of exporting producers and importers concerned during the original investigation, sampling was envisaged in the NOI in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers and importers were asked to make themselves known to the Commission and to provide basic information.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

<sup>(2)</sup> OJ L 240, 16.9.2005, p. 1.

<sup>(3)</sup> OJ C 320, 28.12.2006, p. 8.

(7) The Commission sought and verified all the information deemed necessary to determine whether export prices have decreased and if there has been insufficient movement in resale prices or subsequent selling prices in the Community. Verification visits were carried out at the premises of the cooperating exporters/producers in China and their related companies where necessary:

- Nantong Teijin Co Ltd and its related importer NI-Teijin Shoji Europe GmbH,
- Fuzhou Fuhua Textile & Printing Dyeing Co Ltd,
- Fuzhou Ta-Tung Textile Works Co Ltd,
- Hangzhou Delicacy Textile Co Ltd,
- Shaoxing County Jiade Weaving and Dyeing Co Ltd,
- Wujiang Xiangsheng Textile dyeing & Finishing Co Ltd and its related company,
- Wujiang Longsheng Textile Co Ltd.

(8) The investigation period of this reinvestigation (new IP) ran from 1 October 2005 to 30 September 2006. The new IP was used to determine the current level of export prices and the level of the prices delivered to the first independent customer in the Community. In establishing whether the prices in the Community had moved sufficiently, the price levels charged during the new IP were compared to those charged during the original investigation period (original IP) which had covered the period from 1 April 2003 to 30 March 2004.

(9) It should be noted that the Commission had to allow sufficient time to the Parties to make themselves known and to select a sample of exporting producers in China in accordance with Article 17 of the basic Regulation. In view of various exceptional circumstances, the cooperating parties also requested extensions to submit their replies. These extensions were granted when duly justified. For these reasons, the reinvestigation slightly exceeded the normal period of six months provided for in Article 12(4) of the basic Regulation.

#### B. PRODUCT UNDER CONSIDERATION

(10) The product for which the reinvestigation was initiated is the same as in the original investigation, namely finished polyester filament apparel fabrics (FPFAF), normally classified within CN codes ex 5407 51 00, 5407 52 00, 5407 54 00, ex 5407 61 10, 5407 61 30, 5407 61 90 and ex 5407 69 10 and ex 5407 69 90. The product concerned is woven fabrics of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filament, dyed (including dyed

white) or printed originating in the People's Republic of China. The product concerned is used mainly in the textile industry.

#### C. THE REINVESTIGATION

(11) In general, a reinvestigation pursuant to Article 12 of the basic Regulation aims at establishing whether or not there was a sufficient movement in prices in the Community of FPFAF originating in China further to the imposition of original anti-dumping measures. As a second step, where it is concluded that absorption took place, a new dumping margin should be calculated. Article 12 of the basic Regulation provides for an opportunity to importers/users and exporters to submit evidence that could justify a lack of movement in prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duty.

##### 1. Sampling

(12) As mentioned in recital (6) above the Commission requested all exporting producers and importers to make themselves known and to provide basic information on their activities during the new IP. These parties were also requested to indicate their willingness to be included in a sample.

##### (a) Exporters/producers

(13) Twenty-six exporters/producers agreed to provide the requested information and to be included in a sample. Given the large number of exporters/producers, it was decided that sampling was necessary with regards to establishing possible absorption by exporters/producers in China. While preference was given to companies included in the sample of the original investigation, a selection was made, which covered the largest representative volume of exports and can be reasonably investigated within the time available. In accordance with Article 17(2) of the basic Regulation, the Chinese authorities were consulted on the sample and raised no objections.

(14) Nine companies were initially selected to be included in the sample. One company which was granted individual treatment (IT) and eight others which were granted market economy status (MES) during the original investigation. Just before the verification visits took place in China, two companies (the one with IT and one with MES) decided to withdraw from the sample. These two companies were considered as non-cooperating in the current reinvestigation. As a result, 24 cooperating companies and a sample of seven exporters/producers with MES remained. At that stage the Commission observed that no exporters/producers with IT cooperated in the investigation.

(15) The remaining seven companies included in the sample had all MES and represent around 78 % of the exports to the EU made by all the cooperating companies and 23,9 % of the total Chinese exports of FPFAP to the Community market. At that stage of the reinvestigation, it was concluded that these companies constituted the largest volume which could reasonably be investigated within the time available. These seven companies were therefore deemed to be representative for the purpose of sampling in the reinvestigation.

(b) Importers

(16) No unrelated importers submitted the requested information within the time limit defined in the NOI.

## 2. Non-cooperation

(17) The 24 cooperating exporters/producers which agreed to be included in the sample represented around 30 % of the total export of Chinese FPFAP to the Community. As mentioned in recital (14) above, two additional producers withdrew cooperation. As a result, non-cooperation finally amounted to around 70 % of total export of FPFAP to the Community market.

(18) On that basis, it was considered that non-cooperation in this case was high.

## 3. Movement of prices in the Community

### 3.1. General

(19) It is recalled that no unrelated importers/users of the product concerned offered cooperation for the reinvestigation. As mentioned in recital (18) above, non-cooperation from exporters/producers in China is high.

(20) Except for one exporter/producer included in the sample, the pattern of trade for FPFAP originating in China is characterised by the absence of related intermediaries importing the product concerned into the Community for resale. The independent buyers of FPFAP are generally user companies which are directly importing the product concerned for their own internal consumption.

(21) It was found that the sales conditions for the export sales made by the exporters/producers in the sample during the new IP were generally made on a CIF (cost, insurance and freight) basis. Therefore, for the purpose of assessing any price movement the price level for the product concerned was first determined at CIF level. For the new IP, the CIF price at the Community border was established on the basis of information submitted by the cooperating Chinese exporters/producers included in the sample.

### 3.2. Movement in resale price in the Community for the sample companies

(22) In order to assess any movement of prices at exporter/producer level in the Community the average price of FPFAP, on a type by type basis, established for the new IP was compared with the average price of FPFAP established during the original IP at the same level of trade and for the same delivery conditions.

(23) On that basis, the comparison showed that the average price in the Community of FPFAP originating in China for all the companies included in the sample did not decrease during the new IP.

(24) The movement of resale price for one related importer established in the Community was assessed on a type by type basis. Resale prices to unrelated customers in the Community were compared for the same delivery conditions between both investigation periods. Based on the information gathered, it was demonstrated that prices had increased by amounts exceeding the anti-dumping duty.

### 3.3. Claims made by interested parties

(25) Several interested parties claimed that an adjustment should be made to their export price. They invoked that the variation in USD/EUR exchange rate led to an artificial decrease of their export price during the new IP. However, given that no price decrease was found during the new IP even before the application of this claimed adjustment which would lead to decreasing prices in the old IP, it was not considered necessary to examine the claim.

### 3.4. Movement in resale price in the Community for the non-cooperators

(26) Given the high level on non-cooperation, around 70 % in this case, an absorption duty should be imposed on all non-cooperating exporters/producers in the PRC. The absorption duty should be established on the basis of Article 18 of the basic Regulation, namely on the basis of the best information available.

(27) In the present case it is considered that the data available under the Eurostat import statistic constitutes the most direct and the most reliable that can be used to establish the level at which non-cooperating Chinese exporters were exporting their FPFAP in the Community market. If we exclude from Eurostat the data verified at the level of cooperating companies for which no absorption was found to exist, the absorption margin for non-cooperating companies based on Eurostat is established at 18,6 %.

3.5. *Conclusion on the movement of sales price in the Community*

- (28) Based on the above facts and considerations, it was concluded that none of the exporters/producers included in the sample absorbed the anti-dumping duty in force. No absorption duty should therefore be established for all exporters/producers in China which agreed to cooperate and to be included in the sample.
- (29) An absorption duty set at 18,6 % should however be applied on all non-cooperating exporters/producers in China.

**4. New level of the measure**

(a) For the companies included in the sample

- (30) Given that the companies included in the sample could demonstrate that there was no decrease in their export price of the product concerned to the Community market, the level of the measures remains unchanged:

Company	Definitive duty
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %
Hangzhou De Licacy Textile Co., Ltd	14,1 %
Nantong Teijin Co., Ltd	14,1 %
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %
Wujiang Longsheng Textile Co., Ltd	14,1 %
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %

(b) For the cooperating exporting producers not included in the sample

- (31) The same conclusion should apply to the 17 companies which offered cooperation and agreed to be included in the sample:

Company	Definitive AD duty rate
Shaoxing Zhengda Group Co., Ltd	14,1 %
Far Eastern Industries (Shanghai) Ltd	14,1 %
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %

Company	Definitive AD duty rate
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %
Zhejiang XiangSheng Group Co., Ltd	14,1 %
Hangzhou ZhenYa Textile Co., Ltd	14,1 %
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %
Hangzhou Yongsheng Textile Co., Ltd	14,1 %
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %
Hangzhou Hongfeng Textile Group Co., Ltd	14,1 %
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %
Hangzhou Jieenda Textile Co., Ltd	14,1 %
Hangzhou Mingyuan Textile Co., Ltd	14,1 %
Hangzhou Yililong Textile Co., Ltd	14,1 %
Zhejiang Singmetat Print and Dyeing Co., Ltd	56,2 %

(c) For all other exporting producers

- (32) For the non-cooperating parties, as mentioned above in recital (26), it was considered appropriate to amend the level of the anti-dumping duty in accordance with the last sentence of the Article 12(3) of the basic Regulation. The revised rate of anti-dumping duty applicable, before duty, to the net free-at-Community-frontier price will be as follows:

Company	Definitive duty
Hangzhou CaiHong Textile Co., Ltd	55,7 %
Hangzhou Fuen Textile Co., Ltd	55,7 %
Hangzhou Jinsheng Textile Co., Ltd	55,7 %
Hangzhou Shenda Textile Co., Ltd	28,2 %
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	55,7 %
Hangzhou Zhengda Textile Co., Ltd	55,7 %
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	55,7 %
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	55,7 %
Shaoxing County Huaxiang Textile Co., Ltd	45,3 %

Company	Definitive duty
Shaoxing County Pengyue Textile Co., Ltd	28,2 %
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	52,5 %
Xingxin Holding Group Co., Ltd	28,2 %
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	55,7 %
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	55,7 %
Shaoxing Ronghao Textiles Co., Ltd	52,5 %
Shaoxing Tianlong Import and Export Co., Ltd	65 %
Shaoxing Xinghui Textile Co., Ltd	55,7 %
Shaoxing Yongda Textiles Co., Ltd	55,7 %
Wujiang Canhua Imp. & Exp. Co., Ltd	74,8 %
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	55,7 %
Zhejiang Huagang Dyeing and Weaving Co., Ltd	55,7 %
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	55,7 %
All other companies	74,8 %

### 5. Special provision for exporters in China that may not absorb

- (33) In view of the findings of the investigation, the low cooperation in China which may be linked to the fact that exporting producers of PFAF are Small and Medium Enterprises, the Community may re-examine the situation of exporters that could not cooperate in this reinvestigation in case they come forward with evidence showing that they were not absorbing the anti-dumping measures in force during the current investigation period. This possibility is open to all producers/exporters of the product under consideration in China,

HAS ADOPTED THIS REGULATION:

#### Article 1

Article 1(2) of Regulation (EC) No 1487/2005 shall be replaced by the following:

- '2. The rate of the definitive anti-dumping duty applicable to the net free-at-Community-frontier price, before duty, of the products described in paragraph 1 and manufactured by the companies below shall be as follows:

Company	Definitive anti-dumping duty	TARIC Additional code
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %	A617
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %	A617
Hangzhou De Licacy Textile Co., Ltd	14,1 %	A617
Nantong Teijin Co. Ltd	14,1 %	A617
Shaoxing County Jade Weaving and Dyeing Co., Ltd	14,1 %	A617
Wujiang Longsheng Textile Co., Ltd	14,1 %	A617
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %	A617
Shaoxing Zhengda Group Co., Ltd	14,1 %	A617
Far Eastern Industries (Shanghai) Ltd	14,1 %	A617
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %	A617
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %	A617
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %	A617
Zhejiang XiangSheng Group Co., Ltd	14,1 %	A617
Hangzhou ZhenYa Textile Co., Ltd	14,1 %	A617
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %	A617
Hangzhou Yongsheng Textile Co., Ltd	14,1 %	A617
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %	A617
Hangzhou Hongfeng Textile Group Co., Ltd	14,1 %	A617
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %	A617
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %	A617

Company	Definitive anti-dumping duty	TARIC Additional code
Hangzhou Jienda Textile Co., Ltd	14,1 %	A617
Hangzhou Mingyuan Textile Co., Ltd	14,1 %	A617
Hangzhou Yililong Textile Co., Ltd	14,1 %	A617
Zhejiang Singmetat Print and Dyeing Co. Ltd	56,2 %	A836
Hangzhou CaiHong Textile Co., Ltd	55,7 %	A623
Hangzhou Fuen Textile Co., Ltd	55,7 %	A623
Hangzhou Jinsheng Textile Co., Ltd	55,7 %	A623
Hangzhou Shenda Textile Co., Ltd	28,2 %	A837
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	55,7 %	A623
Hangzhou Zhengda Textile Co., Ltd	55,7 %	A623
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	55,7 %	A623
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	55,7 %	A623
Shaoxing County Huaxiang Textile Co., Ltd	45,3 %	A619
Shaoxing County Pengyue Textile Co., Ltd	28,2 %	A837
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	52,5 %	A621
Xingxin Holding Group Co., Ltd	28,2 %	A837
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	55,7 %	A623
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	55,7 %	A623
Shaoxing Ronghao Textiles Co., Ltd	52,5 %	A620
Shaoxing Tianlong Import and Export Co., Ltd	65 %	A622
Shaoxing Xinghui Textile Co., Ltd	55,7 %	A623
Shaoxing Yongda Textiles Co., Ltd	55,7 %	A623
Wujiang Canhua Imp. & Exp. Co., Ltd	74,8 %	A618
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	55,7 %	A623
Zhejiang Huagang Dyeing and Weaving Co., Ltd	55,7 %	A623
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	55,7 %	A623
All other companies	74,8 %	A999'

#### 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.

Done at Brussels, 18 September 2007.

For the Council  
The President  
R. PEREIRA