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

REGULATIONS

COUNCIL REGULATION (EC) No 862/2009

of 15 September 2009

terminating the partial interim review of the anti-dumping measures imposed by Regulation (EC) No 1487/2005 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 [1] (the basic Regulation), and in particular Article 11(3) thereof,

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

Whereas:

1. MEASURES IN FORCE

(1) By Regulation (EC) No 1487/2005 [2] (the original Regulation), the Council imposed a definitive anti-dumping duty on imports of certain finished polyester filament fabrics ('PFF' or 'the product concerned') originating in the People's Republic of China ('PRC' or 'the country concerned'). The investigation period used in the investigation that led to the aforesaid Regulation (the original investigation) was the period from 1 April 2003 to 31 March 2004 (the original IP).

(2) Following an anti-absorption reinvestigation, these measures were amended by Regulation (EC) No 1087/2007 [3]. The duty rates currently in force range from 14,1 % to 74,8 %.

2. PROCEDURE

2.1. Request for review

(3) On 1 April 2008, the Commission received a request pursuant to Article 11(3) of the basic Regulation to initiate a partial interim review to examine whether certain product types fall within the scope of the current anti-dumping measures.

(4) The request was lodged by Hüpeden GmbH & Co. KG (the applicant), an importer located in Germany.

(5) The applicant alleged that the product it imports is only used to produce a special adhesive tape for insulation of cables within the wiring harnesses of engines, mainly engines of cars (hereinafter 'tape' grade), and that the technical and chemical characteristics of this 'tape' grade are different from those of the product concerned as defined in the original investigation. In particular, the tensile strength and the colouring of 'tape' grade seemed to be different. The applicant alleged that 'tape' grade should therefore be considered as being outside the scope of the original investigation and thus not be subject to the abovementioned measures.

2.2. Initiation

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed to justify the initiation of a partial interim review, the Commission announced by a notice published on 26 June 2008 in the *Official Journal of the European Union* [4] the initiation of a partial interim review in accordance with Article 11(3) of the basic Regulation, limited to the examination of the product scope. In particular, the review had to determine whether or not 'tape' grade is part of the product concerned as defined in the original investigation.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 240, 16.9.2005, p. 1.
[3] OJ L 246, 21.9.2007, p. 1.
[4] OJ C 163, 26.6.2008, p. 38.

2.3. **Review investigation**

(7) The Commission officially advised the authorities of the PRC, and all other parties known to be concerned, namely exporting producers in the country concerned, producers as well as users and importers in the Community, of the initiation of the partial interim review investigation. Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limit set in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(8) The Commission sent questionnaires to all parties known to be concerned and all other parties which made themselves known within the deadlines set out in the notice of initiation.

(9) In view of the scope of the review, no investigation period was set for the purpose of this review. The information received in the questionnaire replies covered the period from 1 July 2007 to 30 June 2008 (the period considered). For the period considered, information concerning sales/purchases volume and value, production volume and capacity for 'tape' grade and all PFF types was requested. In addition, the parties concerned were asked to comment on any differences or similarities between 'tape' grade and other types of PFF with respect to their production process, technical characteristics, end-uses, interchangeability, etc.

(10) Questionnaire replies were received from the applicant, one Chinese exporting producer of 'tape' grade, one Community producer of 'tape' grade, two Community producers of other types of PFF and one user of 'tape' grade.

(11) The Commission sought and verified all information deemed necessary for the purpose of the assessment as to whether there was a need for amendment of the scope of the existing anti-dumping measures and carried out verification visits at the premises of the following companies:

— Hüpeden GmbH & Co. KG, Hamburg, Germany,

— TFE Textil, Nüziders, Austria,

— Wujiang Glacier Fabrics, Wujiang, PRC.

(12) All parties were informed of the essential facts and considerations on the basis of which the conclusions of the present review investigation were drawn (final disclosure). They were also granted a period within which they could make representations subsequent to this disclosure.

(13) The oral and written comments submitted by the parties have been duly considered and replied to in the recitals that follow.

3. **PRODUCT CONCERNED**

(14) The product concerned is, as defined in the original Regulation, 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 PRC, currently falling within CN codes ex 5407 51 00, 5407 52 00, 5407 54 00, ex 5407 61 10, 5407 61 30, 5407 61 90, ex 5407 69 10, and ex 5407 69 90.

4. **FINDINGS OF THE INVESTIGATION**

(15) It was first examined whether 'tape' grade falls within the scope of the measures imposed on certain finished polyester filament fabrics originating in the PRC as described in the original Regulation. It was subsequently examined whether the product scope could be amended on the ground that 'tape' grade and the other types of PFF do not form a single product.

4.1. **Scope of the original investigation**

(16) It is recalled that PFF are produced by weaving yarns of polyester into a fabric and applying a finishing to this fabric. The yarns can be pre-dyed or not. The finishing consists generally of printing or dyeing the woven fabrics but further finishing can be applied to produce a peach skin effect or make the fabric, for instance, water-repellent.

(17) In recital 8 of the original Regulation it is mentioned that the product concerned should be distinguished from woven PFF of yarns of different colours, for which pre-dyed yarn is woven into cloth, and the design is created by weaving the pattern. These fabrics fall within CN codes 5407 53 00 and 5407 61 50 and are excluded from the scope of the product and thus from the anti-dumping measures in force.

(18) The applicant alleged in its request for review that 'tape' grade does not fall within the scope of the product concerned as defined in the original Regulation because it is made of pre-coloured yarns and therefore corresponds to the product described in recital 17 above. The applicant also explained that it had been consistently declaring its imports of 'tape' grade originating in the PRC under the CN code 5407 53 00, even before the imposition of anti-dumping measures in 2005. As regards this claim, it should be noted that an anti-dumping Regulation such as the present one is not the appropriate legal instrument to define under which CN code particular shipments should have been classified. That is primarily a question for the national authorities, if necessary using binding tariff information

and/or with the help of a request for a preliminary ruling by the Court of Justice of the European Communities. Nevertheless, if none of the products imported by the applicant can possibly be covered by the anti-dumping duty imposed by the original Regulation, this review investigation would appear to have no practical sense. The investigation revealed in this regard that the 'tape' grade is made of pre-coloured yarns but that these yarns are not of different colour and that no apparent pattern is created by weaving these yarns. Therefore, for the purpose of this investigation, it is considered that 'tape' grade is distinguishable from the product described in recital 17 above.

(19) Subsequent to the final disclosure, the applicant claimed that 'tape' grade should be considered as made of yarns of different colours, because the carbon which is not homogeneously melted in the polyester yarn creates shades of black colour in the yarn. The applicant justifies this claim by a reference to the subheading notes to Section XI of Part two in Annex I of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff [1], in which the definition of woven fabric of yarns of different colours includes woven fabric which consists of yarns of different shades of the same colour and by reference to opinions of independent experts.

(20) In reply to this claim, it is recalled that this Regulation does not aim at defining under which CN code imports of 'tape' grade should be declared. Therefore, this claim was considered irrelevant for the purposes of this investigation since, as mentioned above, questions regarding customs classifications are primarily for the competent national authorities.

(21) In its request for review, the applicant also claimed that at the initiation and provisional stages, the original investigation focused on PFF for apparel applications only, and that only these types of fabrics were supposed to be included in the definition of the product concerned and targeted by the anti-dumping measures. The applicant also maintained that the product scope of the original investigation was expanded only in the original Regulation imposing definitive anti-dumping measures to cover all types of uses. It further claimed that 'tape' grade is used for a very specific application by the automotive industry and should therefore not be considered as being part of the product concerned.

(22) As regards this claim, it is noted that the notice of initiation of the original investigation [2] made reference to PFF 'normally used for apparel applications' and not to PFF exclusively used for apparel applications. This means that there has been no expansion of the product concerned between the initiation stage and the imposition of definitive measures, as alleged by the applicant. Moreover, apart from a clarification on the product scope regarding the inclusion of 'dyed white' PFF, there is no other difference between the product concerned as defined in Commission Regulation (EC) No 426/2005 [3] (the provisional Regulation) and the definitive Regulation of the original investigation (i.e. the original Regulation). In both Regulations, neither the operative part (Article 1(1)) nor the recitals regarding the definition of the product concerned exclude PFF imported for a specific end-use from the duty. In the provisional Regulation, particularly in the first sentence of its recital 11, the product concerned is described in terms of its physical characteristics. Again, it is merely stated that PFF are 'normally' used for apparel applications, without this being in any way a condition for them to be covered by the investigation and/or the (provisional) duty. Later, in view of the numerous possible applications that were discovered in the course of the original investigation, such as furniture or home decoration, it was explicitly recalled, in recital 6 of the original Regulation, that all PFF were covered by the product definition, regardless of their final use. Therefore, 'tape' grade and all other PFF, including PFF for automotive applications, were included in the definition of the product concerned in the original investigation.

(23) The applicant also claimed, along similar lines as the arguments described above, that it could not properly exercise its right of defence in the original investigation as the scope of the product concerned was broadened between the provisional and definitive stage while no specific information concerning this change was sent to possible interested parties. The applicant claimed that this was the reason why neither the applicant nor its Chinese supplier cooperated in the original investigation.

(24) It is recalled that, as mentioned in recital 22, the product definition was not expanded during the original investigation, as other possible uses than apparel were considered already as from the initiation stage. Moreover, the applicant is an experienced commercial importer which cooperated in other anti-dumping investigations and is therefore well aware of the procedures and information sources (such as the Official Journal) regarding these investigations. In this context, it is also

[1] OJ L 256, 7.9.1987, p. 1.

[2] OJ C 160, 17.6.2004, p. 5.

[3] OJ L 69, 16.3.2005, p. 6.

important to note that, as shown in recitals 9 and 10 of the original Regulation, subsequent to the publication of the provisional Regulation, several interested parties raised claims against the imposition of measures on PFF for non-apparel applications (e.g. furniture, home decoration, umbrellas). This shows that interested parties understood that the investigation was never restricted to PFF used for apparel applications. In view of the above, the claim had to be rejected.

(25) Subsequent to the final disclosure, the applicant further claimed that it had submitted comments in the course of the original investigation and that in parallel it had also actively discussed the case with a number of textile associations involved in that investigation. According to the applicant, at no time was there any indication from the Commission that 'tape' grade fabric might fall within the scope of the investigation or the measures.

(26) It is first noted that it is clear that the applicant was fully aware of the existence of the original investigation. Moreover, as explained above, that investigation did cover PFF from the very beginning. In addition, the applicant did not bring any evidence that the Commission ever excluded 'tape' grade from the scope of the original investigation or that any party ever suggested that the Commission should do so. Indeed, the comments submitted by the applicant during the original investigation concerned general Community interest aspects of the proceeding and issues related to the possible inclusion of bleached or unbleached fabrics in the scope of the anti-dumping measures. It may be that the applicant did not regard itself concerned by the original investigation as regards its 'tape' grade imports. If that was indeed the case, it would appear to be due to the fact that the applicant was declaring its imports of 'tape' grade under CN code 5407 53 00, a code not targeted by the original investigation. However, the scope of an investigation is not limited by the fact that one operator may have declared goods which fall within that scope under an incorrect CN code. On this basis, the claim of the applicant had to be rejected.

(27) In view of the above, it is confirmed that imports of 'tape' grade originating from the PRC fall within the scope of the measures described in the original Regulation.

4.2. **Comparison between 'tape' grade and other types of PFF**

(28) In order to examine whether 'tape' grade and the other types of PFF form a single product, 'tape' grade and other types of PFF were compared in terms of basic physical, technical and/or chemical characteristics. Other subsidiary criteria such as production process, prices, end-uses and interchangeability were also examined.

4.2.1. *Physical and technical characteristics of 'tape' grade*

(29) The investigation showed that the yarns used to prepare the threads before weaving the 'tape' grade contain a small proportion of carbon (under 3 %). To produce this yarn, chips containing carbon are melted with chips of pure polyester, and the melt is forced through small holes to produce black filaments. Those filaments are then spun into black yarns.

(30) The addition of carbon in the raw material confers to the 'tape' grade a black colouring that resists various discolouring treatments, whether chemical (washing in soap or dipping in a solvent bath) or mechanical (dry or wet rubbing). The use of this raw material also lowers the tensile strength of the 'tape' grade fabric as compared to other types of PFF made of the same number of threads.

(31) The applicant claimed that 'tape' grade could be further distinguished from other types of PFF as its lower tensile strength allows it to be torn by hand. This property of 'tape' grade is a specific requirement from the automotive industry so that workers can quickly cut the adhesive tape when preparing the insulated cables.

(32) However, a Community producer of 'tape' grade is currently producing another type of 'tape' grade, also used by the automotive industry, that cannot be torn by hand. This fabric is also made of carbon-doped yarns but the proportion of carbon in the yarn is lower than for 'tape' grade produced by the cooperating Chinese exporting producer and imported by the applicant. This production activity and the specifications of the product sold by the Community producer were observed during the verification visit by the Commission. It was also found that other types of PFF can also be torn by hand if the number of threads in the fabric is low. Therefore, this property could not be considered as a genuine characteristic of 'tape' grade as opposed to other types of PFF or a characteristic which would allow the exclusion of 'tape' grade from the definition of the product concerned. The same applies for the comparison on tensile strength.

(33) Subsequent to the final disclosure, the applicant insisted that 'tape' grade has a measurably lower tensile strength than PFF, as the tensile strength of 'tape' grade is 20 % lower than the tensile strength of PFF with identical yarn counts. It acknowledged that PFF with a low yarn count can be torn by hand, but that it is not suitable for glue coating as the glue would soak through the fabric due to its lower density.

(34) As regards this claim, it is noted that, during the investigation no interested party could identify a clear and objective threshold as regards the tensile strength so that 'tape' grade can be distinguished from other types of PFF, and not only from PFF with the same yarn count. Moreover, the investigation has found that 'tape' grade with a higher tensile strength can be produced depending on the specifications requested by the customers of this product. Finally, no absolute thresholds for the tensile strength and for the density under which the glue would soak through the fabric were provided by the applicant. Therefore these claims had to be rejected.

(35) As regards the nature of the raw material used in 'tape' grade, it is noted that the proportion of carbon in the yarn is very low: from 1 % to 3 % according to the 'tape' grade products examined during the investigation. The investigation further showed that it is not possible to measure the exact proportion of carbon once the yarn has been prepared. Therefore, it is very difficult to detect the carbon content in the fabric. This was also confirmed by the applicant in its comments submitted subsequent to the final disclosure.

(36) Concerning the colour of 'tape' grade, it is first specified that, contrary to allegations from the applicant that 'tape' grade can only be black, the finished 'tape' grade fabric can be either black or greyish depending on the proportion of carbon in the yarn. It is stressed that PFF dyed in a black or greyish colour after weaving look exactly like 'tape' grade and that these different types are not distinguishable to the naked eye.

(37) As regards the colour resistance of 'tape' grade, it is acknowledged that 'tape' grade fabric resists discolouring treatments, but it was also found during the investigation that PFF made of pre-coloured yarn can also be colour resistant. Furthermore, no measurable threshold could be identified in the course of the investigation to distinguish between fabrics considered as 'discolouring' and fabrics considered as 'non-discolouring', especially as regards PFF made of pre-dyed yarns. Indeed, it is noted that, according to the subheading notes to Section XI of Part two in Annex I to Regulation (EEC) No 2658/87, the definition of 'dyed woven fabrics' includes woven fabrics which consist of coloured yarns of a single uniform colour. According to the same document, the definition of 'coloured yarn' includes yarns which are dyed in the mass other than white. Therefore, colour resistance cannot be considered as a major difference between 'tape' grade and other types of PFF.

(38) Subsequent to the final disclosure, the applicant provided a report from a technical institute specialised in textile and chemical products, aiming at proving that the colour resistance of 'tape' grade was a genuine characteristic of 'tape' grade. This report was based on the so-called 'Baumgarte method' that consists of dipping the fabric into a bath of solvent such as chlorobenzol. 'Tape' grade fabrics will keep their black colour after such a test, while PFF dyed black in surface would discolour and the bath would retain the colour.

(39) In this regard, after reviewing the different reports provided by the applicant in the course of the investigation, it is noted that the experts distinguish two ways to dye PFF: either by dipping the yarn or the fabric itself in a colour bath (dyeing in surface) or by melting the colour within the polyester when the yarn is made (dyeing in the mass). The methodology proposed in the various reports enables to distinguish PFF dyed black in the mass from other black dyed PFF dyed in surface. However, these reports have not demonstrated that 'tape' grade is the only possible type of PFF dyed black in the mass. Therefore, the reports provided no means to distinguish 'tape' grade from PFF made of yarns dyed black in the mass. These reports even confirmed that the PFF dyed in the mass would also resist the discolouring test with solvent. As a consequence, the solvent resistance cannot be considered as a genuine characteristic of 'tape' grade as compared to other PFF, and this claim had to be rejected.

(40) In view of the above, it was concluded that, in spite of some differences, there are no physical, technical and/or chemical characteristics which would allow 'tape' grade to be clearly distinguished from other types of PFF.

4.2.2. *Production process*

(41) The investigation showed that the same production facilities can be used to produce 'tape' grade and other types of PFF since the same looms are used to weave all types of PFF and the finishing process is generally subcontracted for 'tape' grade as well as for other types of PFF. As a matter of fact, all producers of 'tape' grade visited during the investigation produce both 'tape' grade and other types of PFF.

(42) The investigation showed, however, that there are some differences between the finishing of 'tape' grade and that of other types of PFF. As 'tape' grade will ultimately be coated with glue, it is flattened on one side before being sold so that the glue coating will stick only on the non-flattened side (the so-called 'calendering' process). Furthermore, 'tape' grade does not need dyeing or printing to get its black colour contrary to other dyed types of PFF. However, there is a large variety of possible finishing among the other types of PFF as well and all such types were nevertheless considered as a single product in the original investigation.

(43) Subsequent to the final disclosure, the applicant claimed that common production facilities were no basis for a finding that PFF woven from pre-dyed yarns should be considered as a single product.

(44) As regards this claim, it is recalled, as mentioned in recital 28, that the main basis to determine whether 'tape' grade and other types of PFF should be considered as a single product or two different products are indeed the physical, technical and/or chemical characteristics of the products. However, other subsidiary criteria such as the production process and the interchangeability between the various product types can be examined. It is also noted in respect of this claim that the purpose of this investigation is not to examine whether PFF woven from pre-dyed yarns are part of the product concerned, but more specifically whether 'tape' grade is part of the product concerned. On this basis, the claim has to be rejected.

(45) The applicant further claimed that there are differences in the production process as a different raw material is used and no further dyeing or printing is needed to produce 'tape' grade, as compared to other types of PFF.

(46) As regards the claim concerning the difference in the raw material used, it is already acknowledged in recital 29 that the raw material used for 'tape' grade is slightly different from other pre-dyed yarns used to weave PFF, as it contains a small proportion on carbon. However, it is recalled that all parties, including the applicant, agreed that it is impossible to measure the carbon content in the final fabric, so this slightly different raw material cannot be detected in the final product. Therefore, this claim had to be rejected.

(47) The applicant also claimed that the absence of dyeing or printing was previously used to exclude the so-called 'grey fabrics' from the scope of the measures, and thus the same should apply to 'tape' grade.

(48) As regards the claim concerning the absence of any dyeing or printing stage in the production process of finished 'tape' grade, it is noted that the same applies to PFF made of pre-dyed yarns and that PFF made of pre-dyed yarns is part of the product concerned. Grey fabric was indeed considered a different product than PFF but 'tape' grade cannot be considered as grey fabric as several finishing operations are applied after weaving, such as calendering (explained in recital 42) and stentering (a heating operation to prevent shrinkage of the fabric) and also deseizing (a washing operation to eliminate the strengthening agent added to the yarn before weaving). Therefore this claim had to be rejected.

(49) In view of the above, it is concluded that the production process of 'tape' grade is very similar to the production process of other types of PFF.

4.2.3. *Price differences*

(50) According to verified information collected during the investigation, there is no clear price difference between 'tape' grade and a black piece-dyed PFF: the higher cost of raw material used for 'tape' grade seems to be compensated by the absence of cost for dyeing or printing. Therefore, and contrary to the allegation of the applicant in its request for a review, 'tape' grade cannot be considered as a high value added product compared to other types of PFF.

4.2.4. *End-uses and interchangeability*

(51) It is acknowledged that 'tape' grade is mainly used to produce adhesive tape for the insulation of cables in the automotive industry. 'Tape' grade is quite common for this type of use, as confirmed by the catalogues of the major producers of adhesive tape for automotive applications in the Community. Other types of PFF can also be used to produce coloured adhesive tape for the automotive industry, but for a different application, for example, marking.

(52) However, at least another possible use for 'tape' grade was observed during the investigation: 'tape' grade can be silver coated to make opaque window shutters for mobile-homes and the investigation has established that sales of 'tape' grade for this specific application are currently taking place. It is recalled that PFF can be used for many types of applications other than apparel, including blackout curtain fabric, bags, upholstery, office furniture, etc. as demonstrated by public available information. In addition, one interested party claimed that the 'tape' grade could be used for apparel applications, e.g. to make lining. Moreover, in view of the low cooperation from 'tape' grade producers in the PRC, it cannot be excluded that other possible uses of 'tape' grade may exist.

(53) It should also be noted that the technical characteristics of 'tape' grade allow it to be used for the upholstery of seats, which make it interchangeable with other types of PFF used for such application and subject to the anti-dumping measures.

(54) Subsequent to the final disclosure, the applicant claimed that the characteristics of 'tape' grade are tailored for a specific use in the automotive industry and that the packaging in industrial jumbo rolls of 3 500 metres makes it a purely technical product not suitable for use in the apparel industry, where only up to 100 metre long rolls can be handled. The applicant further claimed that silver coated fabrics do not fall within the scope of the anti-dumping measures imposed on PFF and therefore should not be compared with 'tape' grade in the framework of this product scope review.

(55) As regards this claim, it has already been acknowledged in recital 51 that the main use of 'tape' grade that was observed during the investigation was for the insulation of cables in the automotive industry. However, at least one other use was observed during the investigation, namely silver coating of 'tape' grade to make window shutters for mobile homes. Indeed, as the applicant claimed, silver coated fabrics do not fall within the scope of the anti-dumping measures imposed on PFF in the same way that adhesive tape does not fall within the scope of these measures since they are both end-use products of 'tape' grade. 'Tape' grade fabric is in both cases the input material to make window shutters (once silver coated) or adhesive tape (once glue coated) and therefore it is confirmed that there is at least one other possible use of 'tape' grade than the insulation of cables in the automotive industry. As regards the claim concerning the packaging of 'tape' grade, it is noted that it is also possible to make smaller rolls of 'tape' grade, would another final use than the automotive industry be targeted. Therefore, these claims had to be rejected.

(56) The applicant further challenged the possibility to use 'tape' grade for lining purpose, and suggested to consult an independent textile institute in this respect. It challenged in the same way the possibility to use 'tape' grade for the upholstery of seats because of its low tensile strength and the fact it would increase the sweat of the person sitting on such seat.

(57) It is noted that since only contradictory allegations could be provided by interested parties on the possibility to use 'tape' grade for lining or for upholstery purposes, the fact that 'tape' grade could be used for apparel purposes was not sufficiently demonstrated. However, it remains that at least another use of 'tape' grade was observed, namely silver-coated window shutters. It is reminded that the anti-dumping measures imposed after the original investigation cover PFF intended for all types of use and not only apparel purposes. Therefore, the claim had to be rejected.

(58) In view of the above, it is concluded that 'tape' grade and other types of PFF are at least partially interchangeable.

4.2.5. *Conclusion*

(59) In view of the above findings, it is considered that any differences between 'tape' grade and the other types of PFF are not such as to lead to the conclusion that 'tape' grade is a different product with clearly distinguishable basic physical, technical and/or chemical characteristics. It has thus to be concluded that 'tape' grade and other types of PFF constitute a single product within the meaning of the basic Regulation.

5. **OTHER COMMENTS**

(60) Certain parties claimed that the examination of injury and of Community interest were not properly carried out for 'tape' grade in the original investigation, as no Community producer of 'tape' grade was detected at that time and because the automotive industry was not given an opportunity to react to the proposal to impose measures on 'tape' grade.

(61) In response to this claim, it is noted that it was not demonstrated that there was no Community producer of 'tape' grade in the Community and that it cannot be excluded that 'tape' grade was investigated in the original investigation without being identified as such. In any case, it is stressed that measures can be imposed on a product even if not all sub-types of the product have been investigated separately.

(62) As regards the current investigation, it is recalled that the purpose of this investigation is to assess whether 'tape' grade should be considered as a different product than other types of PFF and not to conduct an assessment of injury caused to the Community industry or to carry out a Community interest assessment. However, it should be stressed that the investigation revealed that there is at least one Community producer of 'tape' grade supplying the market since 2008 and which has been involved in the production process of unfinished 'tape' grade for many years. There was also at least one other company involved in the production of unfinished 'tape' grade during the period considered in the Community. It should also be noted that in the course of the present investigation, the automotive industry (European Automobile Manufacturers Association) was contacted and declared it was not an interested party. Therefore, this claim had to be rejected.

6. **CONCLUSIONS ON THE PRODUCT SCOPE**

(63) The above findings show that, despite certain differences, 'tape' grade and other types of product under measures share the same basic physical, technical and chemical characteristics. Moreover, it could not be demonstrated that 'tape' grade had one single possible use and that 'tape' grade and other types of product under measures were not interchangeable. On this basis, it is concluded that 'tape' grade and other types of PFF should be considered as one single product and that the partial interim review of the anti-dumping measures applicable to imports of certain finished PFF originating in the PRC should be terminated without amending the anti-dumping measures in force.

(64) All interested parties were informed of the essential facts and considerations on the basis of which the above conclusions were reached. Parties were granted a period within which they could make representations subsequent to this disclosure.

(65) The oral and written comments submitted by the parties were considered, but have not changed the conclusions not to amend the product scope of the anti-dumping measures on imports of PFF in force,

HAS ADOPTED THIS REGULATION:

Article 1

The partial interim review of the anti-dumping measures applicable to imports of certain finished polyester filament fabrics originating in the PRC is hereby terminated without amending the anti-dumping measures in force.

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, 15 September 2009.

For the Council
The President
C. BILDT