II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 July 1996

concerning applications for the refund of anti-dumping duties collected on imports of certain polyester yarns (man-made staple fibres) originating in Indonesia and produced by PT Indorama Synthetics, submitted by Aliatex SL, Aquatex SRL, Burnet, Walker & Co, James North Textiles Ltd, Pax Yarns Ltd, Retorderie François Schoeters NV, Rowson & Son Ltd, Sethos GmbH, Soparil SA, Symaco NV, Texelle SpA and Unicom BVBA

(Only the Spanish, German, English, French, Italian and Dutch texts are authentic)

(96/498/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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], and in particular Article 11 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 30 March 1992 by Council Regulation (EEC) No 830/92 [2], a definitive anti-dumping duty was imposed on imports of certain polyester yarns (man-made staple fibres) originating in Taiwan, Indonesia, India, the People's Republic of China and Turkey.

(2) On 8 February 1994 by Commission Decisions 94/132/EC, 94/133/EC, 94/134/EC, 94/135/EC and 94/136/EC [3], full refunds were granted to five Community importers (Codev Textiles Ltd, Ottoman Pacific Ltd, Pax Yarns Ltd, Rowson & Son Ltd, Unicom BVBA/Unitrac) for their import of certain polyester yarns (man-made staple fibres) exported to the Community by the Indonesian producer PT Indorama Synthetics in the periods 3 October 1991 to 30 April 1992 and 1 May 1992 to 30 November 1992, after it was found that there was only negligible dumping on imports into the Community of the product concerned originating in Indonesia and produced by PT Indorama Synthetics in the periods under consideration.

(3) Between June 1993 and October 1995, Aliatex SL (Spain), Aquatex SRL (Italy), Burnet, Walker & Co (UK), James North Textiles Ltd (UK), Pax Yarns Ltd (UK), Retorderie François Schoeters NV (Belgium), Rowson & Son Ltd (UK), Sethos GmbH (Germany), Soparil SA (France), Symaco NV (Belgium), Texelle SpA (Italy) and Unicom BVBA (Belgium) lodged recurring applications for the refund of anti-dumping duties paid on their imports of certain polyester yarns (man-made staple fibres) originating in Indonesia and produced by PT Indorama Synthetics. All of these applications concerned imports made between January 1993 and May 1995. The amounts of anti-dumping duty paid by each of these importers were as follows:

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 88, 3. 4. 1992, p. 1.
[3] OJ No L 59, 3. 3. 1994, p. 19 and following.

— Aliatex SL: [...] Spanish pesetas,
— Aquatex SRL: [...] Italian lira,
— Burnet, Walker & Co.: [...] Pounds sterling,
— James North Textile Ltd: [...] Pounds sterling,
— Pax Yarns Ltd: [...] Pounds sterling,
— Retorderie François Schoeters NV: [...] Belgian francs,
— Rowson & Son Ltd: [...] Pounds sterling,
— Sethos GmbH: [...] German mark,
— Soparil SA: [...] Belgian francs,
— Symaco NV: [...] Belgian francs,
— Texelle SpA: [...] Italian lira,
— Unicom BVBA: [...] Belgian francs.

(4) On 22 May 1995 the Council, by Regulation (EC) No 1168/95 [1], amended Regulation (EEC) No 830/92 to repeal the anti-dumping duties imposed by the latter in respect of imports of certain polyester yarns (man-made staple fibres) originating in Indonesia and produced by certain specified Indonesian producers. This amendment took place after a partial review investigation for the period between 1 January 1993 and 31 December 1993 had shown that the exporters concerned had not practised any dumping or only negligible dumping. Among the Indonesian exporters having only negligible dumping was PT Indorama Synthetics.

(5) The refund applications being recurring, the Commission took the period from January 1993 to May 1995 as the reference period for its determination of whether the dumping margin of PT Indorama Synthetics had been eliminated or reduced to a level below the level of the duty in force. The Commission sought and verified all information it deemed to be necessary for this purpose. The information obtained in the partial review was taken into account in this respect, in accordance with Article 11 (8) (c) of Council Regulation (EC) No 3283/94 [2].

B. ARGUMENTS OF THE APPLICANTS

(6) The applicants based their claims on the Decisions 94/132/EC, 94/133/EC, 94/134/EC, 94/135/EC, 94/136/EC, and on Regulation (EC) No 1168/95, all of which concluded that only negligible dumping occurred on imports of certain polyester yarns (man-made staple fibres) originating in Indonesia and produced by PT Indorama Synthetics. Information in respect of normal value and export prices for the period January 1994 to July 1995 was also submitted. This information showed a continuation of only negligible dumping.

C. ADMISSIBILITY

(7) One of the applications of Pax Yarns Ltd was lodged on 1 July 1994 and pertained to imports for which the amount of anti-dumping duty had been determined on 11 October 1993. Article 11 (8) (a) of Regulation (EC) No 3283/94 limits to six months the period for lodging a refund application. As the time elapsed between the date of due determination of the duty and the lodging of the application in this case is over eight months, this particular application is not admissible.

(8) Soparil SA lodged a refund application on 8 April 1994. This application relates to seven separate imports made at different moments in time. The application is admissible for the imports for which the amount of anti-dumping duty had been determined on 29 October and 1 December 1993. However, for the other five imports, the amount of anti-dumping duty was determined more than six months before the date on which the application was lodged. The application is therefore not admissible in respect of these other five imports.

(9) All other applications are admissible since they were introduced in conformity with the relevant provisions of the Community anti-dumping legislation, in particular those concerning time limits and evidence to be provided.

D. MERITS OF THE CLAIMS

(10) The investigation carried out by the Commission for the year 1993 in the framework of the partial review leading to Regulation (EC) No 1168/95 showed that the dumping margin of PT Indorama Synthetics was negligible during that period. A similar negligible dumping margin had already been found for PT Indorama Synthetics in the previous refund decisions concerning this company. As for the period in between the end of

[1] OJ No L 118, 25. 5. 1995, p. 1.
[2] OJ No L 349, 31. 12. 1994, p. 1.

the investigation period of the review, 31 December 1993, and the repealing of the anti-dumping duty in respect of the exporters concerned by the review, 25 May 1995, the available information indicates that the dumping margin of PT Indorama Synthetics continued to be negligible.

(11) In the absence of dumping by PT Indorama Synthetics, the amounts to be refunded correspond to the full amount of anti-dumping duty paid for those imports since 1 January 1993 and for which refund applications had been submitted within the legal time limits. Consequently, the amounts of the refunds to be made are:

— Aliatex SL: [...] Spanish pesetas,
— Aquatex SRL: [...] Italian lira,
— Burnet, Walker & Co.: [...] Pounds sterling,
— James North Textile Ltd: [...] Pounds sterling,
— Pax Yarns Ltd: [...] Pounds sterling,
— Retorderie François Schoeters NV: [...] Belgian francs,
— Rowson & Son Ltd: [...] Pounds sterling,
— Sethos GmbH: [...] German marks,
— Soparil SA: [...] Belgian francs,
— Symaco NV: [...] Belgian francs,
— Texelle SpA: [...] Italian lira,
— Unicom BVBA: [...] Belgian francs,

HAS ADOPTED THIS DECISION:

Article 1

The applications for the refund of anti-dumping duties submitted by the twelve Community importers indicated in column 1 of the table below in connection with the importation in the period January 1993 to May 1995 of certain polyester yarns (man-made staple fibres) originating in Indonesia and produced by PT Indorama Synthetics are granted for the amounts set out in column 2 of the table:

Importers	Refunds	Country of importation
Aliatex SL	[...] Pta	Spain
Aquatex SRL	[...] Lit	Italy
Burnet, Walker & Co.	[...] £	United Kingdom
James North Textile Ltd	[...] £	United Kingdom
Pax Yarns Ltd	[...] £	United Kingdom
Retorderie François Schoeters NV	[...] Bfrs	Belgium
Rowson & Son Ltd	[...] £	United Kingdom
Sethos GmbH	[...] DM	Germany
Soparil SA	[...] Bfrs	Belgium
Symaco NV	[...] Bfrs	Belgium
Texelle SpA	[...] Lit	Italy
Unicom BVBA	[...] Bfrs	Belgium

Article 2

The amounts set out in Article 1 shall be refunded by the Member State indicated in column three of the table above for each importer.

Article 3

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the Italian Republic, the Kingdom of Spain, the United Kingdom of Great Britain and Northern Ireland and the following importers:

— Aliatex SL (Les Jonqueres 16 12è. D, 08003 Barcelona, Spain),
— Aquatex SRL (via Trieste 12, 37030 Montecchia di Crosara, Italy),
— Burnet, Walker & Co. (5 Annfield Place, Denninstoun, Glasgow G31 2XQ, United Kingdom),
— James North Textiles Ltd (170 Lumn Rd, Hyde, Cheshire, SK14 1QA, United Kingdom),
— Pax Yarns Ltd (Cambridge Rd, Whetstone, Leicester, LE8 3LH, United Kingdom),
— Retorderie François Schoeters NV (Antwerpse Steenweg 41, B-9100 Sint-Niklaas, Belgium),
— Rowson & Son Ltd (1 Wells Road, Ikley, West Yorkshire LS29 9JB, United Kingdom),
— Sethos GmbH (Talblick 29, D-8902 Neusäss, Germany),
— Soparil SA (allée Claude Debussy, 69136 Ecully, France),
— Symaco NV (Transportcentrum L.A.R, Blok A, 50, B-89830 Rekkem (Menen) Belgium),
— Texelle SpA (via Roccavilla 3, 13051 Biella, Italy),
— Unicom BVBA (Italiëlei 17A, B-2000 Antwerpen 1, Belgium).

Done at Brussels, 18 July 1996.

For the Commission
Leon BRITTAN
Vice-President