II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 February 2002

amending Decision 2000/745/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of certain polyethylene terephthalate originating, *inter alia*, in India

(notified under document number C(2002) 620)

(2002/232/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], as last amended by Regulation (EC) No 2238/2000 [2] (the 'basic AD Regulation'), and in particular Articles 8 and 9 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [3] (the 'basic AS Regulation'), and in particular Articles 13 and 15 thereof,

After consulting the Advisory Committee,

Whereas:

A. **PROCEDURE**

(1) By Regulation (EC) No 2603/2000 [4], the Council imposed a definitive countervailing duty in the form of a specific amount per tonne of EUR 41,3/tonne on imports of certain polyethylene terephthalate originating, *inter alia*, in India, with the exception of imports from several Indian companies specifically mentioned, which are subject to a lesser rate of duty. Imports of certain polyethylene terephthalate exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 2(1) of that Regulation.

(2) By Regulation (EC) No 2604/2000 [5], the Council imposed a definitive anti-dumping duty in the form of a specific amount per tonne of EUR 181,7/tonne on imports of certain polyethylene terephthalate originating, *inter alia*, in India, with the exception of imports from several Indian companies specifically mentioned, which are subject to different rate of duty. Imports of certain polyethylene terephthalate exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 2(1) of that Regulation.

(3) On 29 November 2000, the Commission adopted Decision 2000/745/EC [6], accepting undertakings offered in connection with the two abovementioned proceedings by the exporters mentioned in Article 1 of that Decision and terminated the investigations in their respect.

(4) On 26 June 2001, the Commission, by Regulation (EC) No 1240/2001 [7], announced the initiation of a 'new exporter' review of Council Regulation (EC) No 2604/2000 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating, *inter alia*, in India, repealing the duty with regard to imports from one exporting producer and making these imports subject to registration.

(5) The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 496/2002 [8] amending Regulation (EC) No 2604/2000.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 257, 11.10.2000, p. 2.
[3] OJ L 288, 21.10.1997, p. 1.
[4] OJ L 301, 30.11.2000, p. 1.
[5] OJ L 301, 30.11.2000, p. 21.
[6] OJ L 301, 30.11.2000, p. 88.
[7] OJ L 171, 26.6.2001, p. 3.
[8] See page 4 of this Official Journal.

B. **UNDERTAKING**

(6) Subsequent to the disclosure by which Futura Polymers Ltd (hereinafter referred to as the company concerned) was informed of the facts and considerations on the basis of which it was intended to impose the amended definitive anti-dumping duty on its imports into the Community, the company concerned offered an undertaking in accordance with Article 8(1) of the basic AD Regulation. According to this undertaking, the exporting producer in question has offered not to sell to his unrelated customers below certain minimum prices.

(7) The Commission considers that the undertaking offered by the company concerned can be accepted since it eliminates the injurious effects of dumping. Moreover, the regular and detailed reports which the company concerned undertook to provide to the Commission will allow effective monitoring. Furthermore, the cooperation of the company concerned during the investigation, its structure and sales organisation, as well as the specificities of the product concerned are such that the Commission considers that the risk of circumvention of the undertaking will be limited.

(8) In order to further enable the Commission to effectively monitor the compliance of the company with the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty shall be conditional on presentation of a commercial invoice. Such commercial invoice has to be issued by the company from whom the undertaking is accepted and must contain the information listed in the Annex to Regulation (EC) No 2604/2000. Where no such invoice is presented, or when it does not correspond to the product concerned presented to customs, the appropriate rate of anti-dumping duty should instead be payable.

(9) In the event of a suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic AD Regulation,

HAS ADOPTED THIS DECISION:

Article 1

The table in Article 1 of Decision 2000/745/EC is hereby amended by adding the following:

Company	Country	Taric additional code
Futura Polymers Limited	India	A184

Article 2

This Decision shall enter into force the day after its publication in the *Official Journal of the European Communities*.

This Decision shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 February 2002.

For the Commission

Pascal LAMY

Member of the Commission