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COUNCIL REGULATION (EC) No 1487/2005

of 12 September 2005

imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain finished polyester filament fabrics originating in the People's Republic of China

(OJ L 240, 16.9.2005, p. 1)

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imposing a definitive anti-dumping duty and collecting definitely 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 ([1]) (the basic Regulation), and in particular Article 9 thereof,

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

Whereas:

A. PROCEDURE

1. Provisional measures

(1) On 15 March 2005, the Commission imposed, by Regulation (EC) No 426/2005 ([2]) (the provisional Regulation), a provisional anti-dumping duty on imports of certain finished polyester filament fabrics originating in the People's Republic of China (PRC).

(2) It is recalled that the investigation period of dumping and injury (IP) covered the period from 1 April 2003 to 31 March 2004. The examination of trends relevant for the injury analysis covered the period from 1 January 2000 to the end of the IP (period considered).

2. Subsequent procedure

(3) Following the imposition of a provisional anti-dumping duty on imports of certain finished polyester filament fabrics from the PRC, all parties received a disclosure of the facts and considerations on which the provisional Regulation was based. All parties were granted a period within which they could make representations in relation to these disclosures.

(4) Some interested parties submitted comments in writing. Those parties who so requested were also granted an opportunity to be heard orally. The Commission sought and verified all information it deemed necessary. The oral and written comments submitted by the parties were examined, and, where considered appropriate, the provisional findings were modified accordingly.

(5) The Commission further disclosed all the essential facts and considerations on the basis of which it intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection of amounts secured by way of the provisional duty. The interested parties were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were considered and, where appropriate, the proposal for a definitive anti-dumping duty has been modified accordingly.

([1]) 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).
([2]) OJ L 69, 16.3.2005, p. 6.

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B. **PRODUCT CONCERNED AND LIKE PRODUCT**

(6) It is recalled that, in recital (11) of the provisional Regulation, the product concerned was defined as finished polyester filament apparel fabrics, which are woven fabric of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filaments, dyed or printed. It is hereby clarified that even if the product concerned is normally used for apparel applications, i.e., *inter alia*, for making lining for clothing and for making anoraks, sports wear, ski wear, underwear and fashion items, it can also be used, although to a lesser extent, for other applications. Therefore, all finished polyester filament fabrics as described above are covered by the product definition, regardless of their final use. Whether the product concerned is used for one or another application, its basic physical technical and chemical characteristics remain identical and therefore the difference in use does not affect the definition of the product concerned.

(7) It is also confirmed that fabrics dyed white also fall within the scope of the product definition. Those fabrics are however to be distinguished from unbleached woven fabric of synthetic filament yarn (also called grey fabrics) that is a product formed after weaving but before dyeing, and which forms the raw material for the product concerned. The latter is therefore not covered by the scope of the product definition. As dyed white woven fabrics as defined above fall within CN codes ex 5407 51 00, ex 5407 61 10, and ex 5407 69 10, these CN codes had to be added to the operational part of this Regulation.

(8) Finally, it is also confirmed that the product concerned should be distinguished from woven polyester filament fabrics of yarns of different colours, for which pre-dyed yarn is woven into cloth, and the design is created by weaving the pattern. The latter product has different basic physical and chemical characteristics, since the raw material used (pre-dyed yarn) is different, and the design is obtained through weaving and not printing or dyeing. In addition, such type of finished fabric is normally used for soft furnishing applications, whereas the product concerned is almost exclusively used for making clothing.

(9) Several interested parties claimed that finished polyester filament fabrics (FPFF), which are used for furniture or home decoration, should not be included in the anti-dumping measures. One interested party, importing polyester fabrics for umbrellas, argued also that the use of the textile they import is different and not suitable for the clothing industry, due to a difference in weight.

(10) Indeed, it was confirmed in the investigation that a certain part of product concerned, although to a lesser extent, is used for furniture and home decoration purposes. However, these fabrics have, despite differences in a variety of factors such as colour, size of the yarns and finish, the same basic technical, physical and chemical characteristics as the fabrics for apparel use. It is, therefore, concluded that they should not be excluded from the product definition.

(11) One interested party argued that depending on the use of the product, e.g. as lining for low-end garments or as fabric material for high-end garments the price and the quality is significantly different and that these products should not be seen as one product concerned.

(12) It should be recalled in this respect that differences in type and in price have been accounted for by the product control numbers (PCN) codes established for the investigation, which ensure that different product types are compared like with like.

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(13) In recital (15) of the provisional Regulation, it was stated that the Commission had found that FPFF produced by the Community industry and sold on the Community market as well as FPFF produced in the countries concerned and exported to the Community were like products, since no differences in the basic physical and chemical characteristics and uses of the existing different types had been found.

(14) In the absence of any further comments regarding the product definition and the like product, the contents and provisional conclusions of recitals (11) to (16) of the provisional Regulation are hereby confirmed.

C. **PARTIES CONCERNED BY THE PROCEEDING**

(15) One interested party requested that the details of the cooperating Community producers should be published in order to make it possible for interested parties to assess whether the standing requirements are satisfied. As stated in recital (8)(a) of the provisional Regulation, the Community producers requested in terms of Article 19 of the basic Regulation that their details should not be published, as to do so would have a significantly adverse effect upon them. As some of them buy polyester yarns (their main raw materials) from Chinese suppliers, there is a risk of retaliation. Their request was found to be sufficiently substantiated and was, therefore, granted.

D. **DUMPING**

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

(16) It is recalled that in the present investigation, 49 exporting producers in the PRC made themselves known and requested MET pursuant to Article 2(7)(c) of the basic Regulation. Each single MET application was analysed against the five criteria laid down in that Article.

(17) On this basis, as set out in recital (23) of the provisional Regulation, 25 companies could successfully demonstrate that they met the five relevant MET criteria. MET could not be granted to the remaining companies: 10 of them did not sufficiently cooperate in the investigation by not submitting the necessary information requested, and the 14 others were found not to meet the criteria of Article 2(7)(c) of the basic Regulation, for the reasons summarised in the table below:

Company	Criteria				
	Article 2(7)(c) first indent	Article 2(7)(c) second indent	Article 2(7)(c) third indent	Article 2(7)(c) fourth indent	Article 2(7)(c) fifth indent
1	Not met	Not met	Met	Met	Met
2	Met	Not met	Not met	Met	Met
3	Met	Not met	Not met	Met	Met
4	Not met	Not met	Not met	Met	Met
5	Not met	Not met	Not met	Met	Met
6	Met	Met	Not met	Met	Met
7	Met	Met	Not met	Met	Met
8	Met	Met	Not met	Met	Met

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Company	Criteria				
	Article 2(7)(c) first indent	Article 2(7)(c) second indent	Article 2(7)(c) third indent	Article 2(7)(c) fourth indent	Article 2(7)(c) fifth indent
9	Not met	Not met	Met	Met	Met
10	Not met	Met	Met	Met	Met
11	Met	Not met	Met	Met	Met
12	Met	Met	Not met	Met	Met
13	Met	Met	Not met	Met	Met
14	Not met	Not met	Met	Met	Met

Source: verified questionnaire replies of cooperating Chinese exporters.

(18) The companies concerned and the complainant were given the opportunity to comment on the above findings. The results of the analysis of the comments received by the various interested parties are addressed below.

(19) As a general remark, it should be recalled that in accordance with Article 2(7)(c) of the basic Regulation the burden of proof is on the exporting producers claiming MET, since this Article provides that it is up to the companies to supply sufficient evidence that they operate under market economy conditions. If doubts remain, for example because the company/ies concerned did not, or was/were not able to provide the necessary information, or that this information was insufficient, MET cannot be granted.

(20) It is further noted that each one of all five criteria listed under Article 2(7)(c) of the basic Regulation needs to be fully met in order for MET to be granted to a company. In other words, MET cannot be granted if one criterion is only partly fulfilled. Likewise, it is the EC Institutions' consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET, which means that each related company producing and/or selling the product concerned should demonstrate it fulfils the MET criteria.

(21) In this context, Companies 4, 5, 9 and 14 claimed that the assessment on whether a company should be granted MET has to be made on an overall basis and, since the Commission found that only certain aspects for the relevant criteria were not fulfilled, MET should be granted to them. Those claims were rejected on the grounds mentioned in recital (20).

(22) Companies 4 and 5 also claimed that the findings of the Commission were insufficient to conclude that they did not fulfil the first criterion. In this respect, it should be noted that in the case of both companies, the verification visit revealed that either misleading information was submitted by the companies in their MET claim form or important information was simply omitted. For one company, a significant supplier of raw material was reported to be a private company, but later found to be State-owned during the on-spot investigation. The argument made by the company that it cannot be expected to know the details concerning ownership of its suppliers could not be accepted since the company explicitly reported in the MET claim form that this supplier was private-owned, which was also expressly confirmed by the company during the verification visit. As to the second company, it was found during the verification visit that, although specifically requested in the MET claim form, the company omitted to report its purchases of the main raw material, thus no information was given as to the details of

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the relevant suppliers. Under those conditions, the verification was strongly impeded and it could not be verified whether the corresponding costs were made in response to market signals and without State interference. The claims made by the companies were therefore rejected.

(23) Companies 3, 9 and 14 claimed that the mere fact that the auditors issued a qualified opinion on their annual accounts is not sufficient to consider that the second criterion of Article 2(7)(c) of the basic Regulation is not fulfilled. Company 2 challenged the Commission's conclusions that this company does not have one clear set of independently audited accounting records used for all purposes. Finally, Companies 4 and 5 claimed that since they have a clear set of accounts independently audited, the second criterion should be considered fulfilled.

(24) From a general point of view, it is recalled that the second criterion of Article 2(7)(c) of the basic Regulation requires the companies concerned to demonstrate that they have a basic set of accounts independently audited in line with international accounting standards, in order to assess the reliability of those accounts in view of ensuring a proper assessment of dumping. Indeed, the dumping calculation is mainly based on data included in the accounting records of the companies, such as revenue, costs, profit and inventory, which must therefore be reliable. The anti-dumping verification visit precisely consists in verifying those items. Moreover, it is also recalled that the opinion expressed by the auditor (approval without or with qualifications, or refusal to approve) depends on the materiality of the discrepancies found in the accounts. The fact that an auditor does not refuse to approve the accounts does not mean in itself that the accounts are correct, which could only be guaranteed by an approval without reservations by the auditor.

(25) More specifically, concerning Companies 3, 9 and 14, it should be noted that the reservations made by the auditors were rather significant. In the case of one company, the auditors were unable to verify the validity of the year-end balance of stocks and selling costs of the year. In the case of another company, the auditors stated in their report that they were unable to check the inventory as of year-end due to '*restricted conditions*'. It is noted that the inventory value represented more than 10 % of the balance sheet total of that company. In addition, the accounts provided by the company did not match with those referred to by the auditors' report, which casts doubts as to whether the correct audited accounts were submitted. As to the last company, significant reservations were in the 2002 annual accounts. Despite no obvious change in accounting policy, nor any adjustment of issues raised in earlier years, the 2003 accounts did not have the same reservations, which raised doubts as to whether the accounts were independently audited in line with international standards. Moreover, those accounts were not even adopted by the shareholders. The claims made by those companies were therefore rejected.

(26) As far as the claim made by Company 2 is concerned, it is noted that the significant adjustments requested by the auditors, having the effect of halving the profits, were only recorded in the annual accounts, but not in the accounts of the company. The reason for this was that the company wanted to show higher profits in its accounts for other purposes. The accounts could therefore not be reconciled with the audited annual accounts, which would have had a direct and significant impact on any dumping calculation. This led to the conclusion that the company did not have a clear set of accounts used for all purposes. In the absence of any further information provided by the company, those findings are hereby confirmed and the claim rejected.

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(27) In the case of Companies 4 and 5, significant discrepancies were found in the accounts during the verification visit. The companies claimed that those discrepancies were due to clerical mistakes and that the Commission had not made a thorough analysis and misunderstood the situation. It is firstly recalled that it is on the companies to clarify or remove doubts which may arise during the verification. In addition, it is noted that certain requested documents were not provided by the companies during the time dedicated to the verification of the MET claim form and could therefore not be verified and taken into consideration. The discrepancies identified seriously put into question the reliability of the accounts, and it is therefore confirmed that those accounts could not be considered to be audited in line with international standards. In the absence of any further information provided by the companies, those conclusions are hereby confirmed and the claims were rejected.

(28) The same last two companies and Company 6 claimed that the conclusions that they did not fulfil the third criterion were unfounded.

(29) Company 4 claimed that the Commission had no plausible grounds to conclude that the price paid by the shareholders in the framework of the privatisation process was reduced. The investigation, however, firstly revealed that the company was valued for only 25 % of its net book value at the time of privatisation, which casts doubts as to the reliability of the valuation report. More importantly, it also appeared that the new shareholders only paid a portion of that price for the ownership of the company. The remaining portion was found to have been paid by a third company whose details, namely on ownership, were refused to be disclosed by Company 4. It could therefore not remove the doubts that this third company was State-owned. The claim that the information could not be disclosed due to business confidentiality cannot be accepted since in anti-dumping investigations all confidential documents obtained during the verification visit are treated as such by the authorities, in accordance with Article 19(1) of the basic Regulation, and would thus in any event not be further disclosed in any way. The claim was therefore rejected.

(30) Company 5 challenged the Commission's negative MET determination with respect to the third criterion on the grounds that it allegedly purchased its main equipment from a related private company, and that the assets were thus transferred at market prices. It should be noted that in this specific case the Commission's conclusions were based on the fact that the company originally stated in the MET claim form that all its assets were bought from the open market, which was found incorrect during the verification visit. Indeed, it was found that all assets were actually transferred from the company's shareholder. The company could not clarify how the assets concerned were originally purchased by its shareholder, and at what price. The company therefore failed to demonstrate that the assets were transferred at market prices, and could thus not demonstrate that its production costs and financial situation were not subject to significant distortions carried over from the former non-market economy system. By providing misleading information as to the origin of its fixed assets, the verification work was also strongly impeded. In the absence of any further information, those conclusions are hereby confirmed and the claim was rejected.

(31) Company 6 claimed that the fact that all assets are depreciated at the same flat rate should not lead to the conclusion that the financial situation of the company is distorted. Moreover, the company claimed that the purchase price of the land right use, which was found to be abnormally low by the Commission

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services, is a pure market transaction, without State interference. Those claims were rejected on the grounds that the use of the same depreciation rate for all assets, by this former collectively owned company, does not reflect the economic reality and implies a significant distortion of the production costs and the financial situation of the firm. As to the acquisition of the State-owned land use right, it involved by nature the State, and the company could not demonstrate that the purchase price, which appeared abnormally low in comparison with the normal annual rent previously paid by the company, reflected market value.

(32) It should be noted that some exporting producers also claimed that the Commission's conclusions not to grant them MET were based on wrong findings. However, they did not provide any additional element in this respect, so that their claims had to be rejected. Only one company could provide valid clarifications, while the claims made by the others had to be rejected.

(33) More generally, it was claimed by Company 9 that the absence of verification visit was unfavourable to them and discriminatory as compared to those companies that have been subject to a verification visit. Two other companies claimed that carrying out a simultaneous verification visit of the MET claim form and of the questionnaire reply on dumping worked to their disadvantage, and so did the breach of the three months deadline for the Commission to take a decision of MET pursuant to Article 2(7)(c) of the basic Regulation.

(34) In this respect, it is recalled that according to Article 16 of the basic Regulation, verification visits are not compulsory and shall be carried out where it is considered appropriate. In the present case, the MET claim by Company 9 was rejected already at the stage of a first analysis since – despite the sending of the deficiency letter – the company failed to show that all the criteria were met. As to the other claims, it should be noted that simultaneous verification visits and the non-respect of the three months deadline are explained by the fact that this proceeding involved a large number of exporting producers and that the provisions on sampling could only be used with respect to dumping calculations. The investigation therefore entailed a significant and time consuming analysis of each single MET claim form. In any event, it is considered that the simultaneity of the verification visits and the non-respect of the deadlines do not entail any apparent legal consequences, nor adverse effects and, as already concluded in previous investigations, a valid MET determination could be made under those circumstances. The claims were therefore also rejected.

(35) Finally, the claim by the complainant that a verification visit of the MET claim forms should be carried out at the premises of all companies concerned was rejected for the reasons explained above in recital (34).

2. **Individual treatment (IT)**

(36) It is recalled that individual treatment was granted to 18 companies, 13 of which having claimed but failed to obtain MET, since they were found to meet all the requirements for IT set forth in Article 9(5) of the basic Regulation.

(37) Three companies which were not granted IT claimed that they were either not granted sufficient time to submit an MET/IT claim form with respect to their subsidiaries or that the limited activity of their subsidiary did not justify the need for a valid MET/IT claim form to be submitted.

(38) In the case of those three companies, it should be noted that no MET/IT claim form was originally submitted within the deadline

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set for all companies. Following a first analysis, those companies were requested, by a deficiency letter, to also submit a claim form within a certain deadline with respect to their related companies also active in the sales/production of the product concerned. No such claim forms were however received, and no additional deadline could be granted in order not to discriminate with those companies that had submitted the relevant information within the granted deadlines. In this respect, it is noted that given the complexity of the case involving a high number of companies, for which MET/IT claims had to be individually examined and provisions on sampling had to be used for the establishment of dumping, granting extensions would also have prevented the completion of the investigation within the deadline. In addition, the fact that the activity of a company is limited does not exempt that company from proving it meets the relevant criteria. The claims were therefore rejected.

3. **Sampling**

(39) One exporting producer claimed that the selection of the sample was unfair since it was merely based on export volumes considerations, and that it should have been included in the sample considering the high added value of the products it exported to the Community.

(40) This claim was, however, rejected since the selection of the companies included in the sample was done in conformity with Article 17(1) of the basic Regulation, i.e. on the basis of the largest representative volume of exports that could reasonably be investigated within the time available.

(41) Another exporting producer contested the conclusions that, since it had explicitly refused to be included in the sample, it could not be considered a cooperating party. The company firstly claimed that pursuant to Article 17(2) of the basic Regulation the selection of the sample must be made with the consent of the parties, thus leaving them the possibility not to be part of the sample. Secondly, it claimed that according to Article 2(7) of the basic Regulation, a verification visit is not a necessary condition for demonstrating that a company fulfils the five relevant criteria, so that it could still be granted MET. It argued that this is evidenced by the fact that MET has been granted to 22 companies, but only 7 companies were visited on the spot. Finally, the company claimed that it should have received a notification of the consequences of the non-cooperation, as set out in Article 18(1) of the basic Regulation.

(42) Concerning the first claim, it is noted that according to Article 17 (2) of the basic Regulation, the consent of the parties is not a necessary condition, since that Article provides that the final selection rests with the Commission and that only preference shall be given to choosing a sample in consultation with, and with the consent of the parties concerned. Furthermore, the selection of the sample in this case was made in consultation with the Chinese authorities and, during this process, the company concerned again expressed that it did not wish to be included in the sample, namely on the grounds that it would have difficulties to receive a verification visit. Finally, it is also noted that the company did not ask for an individual examination, pursuant to Article 17(3) of the basic Regulation.

(43) The second claim was considered unfounded since, pursuant to Article 18 of the basic Regulation, the refusal to provide access to the necessary information, thus also with respect to MET determination, should be considered as non-cooperation. It was made clear to the company that the inclusion in the sample implied replying to a questionnaire and accepting an on-the-spot verification of their response, which was refused by the

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company. In any event, it is noted that, even if MET had been granted to the company, by refusing to be included in the sample, not submitting a questionnaire reply pursuant to Article 17(3) of the basic Regulation, and refusing a verification visit, the provisions of Article 18 of the basic Regulation would have had to be used. Finally, the last claim made by the company should also be rejected because the consequences of the non-cooperation were made clear by paragraph 8 of the notice of initiation.

4. **Normal value**

4.1. *Determination of normal value for exporting producers granted MET*

(44) In the absence of any comments, the general methodology used for the determination of the normal value, as described in the recitals (31) to (40) of the provisional Regulation is confirmed.

(45) The exporting producers granted MET claimed the occurrence of certain clerical errors in the calculation of the normal value or contested the methodology used for assessing the adjustments that were deemed necessary. Those issues have been re-examined and the necessary amendments have been made where necessary.

4.2. *Determination of normal value for all exporting producers not granted MET*

(a) Analogue country

(46) Certain interested parties claimed a breach of Article 2(7) of the basic Regulation because, prior to the imposition of provisional measures, they were not informed of the choice of an analogue country other than that proposed in the notice of initiation. They further claimed that by not being aware of the absence of cooperation by any producer in Mexico, the analogue country proposed at initiation stage, they were not able to provide assistance to the Commission for the choice of an alternative country.

(47) In that respect, it should be noted first of all that Article 2(7)(a) of the basic Regulation provides that the parties should be informed shortly after the initiation of the market economy third country envisaged. In the present case, Mexico was still envisaged as an analogue country shortly after the initiation and the parties were invited to comment on this choice. At the early stage of the investigation there was indeed no indication that no cooperation from any Mexican producer would be obtained. It is only at a later stage that it became clear that another country had to be selected in the absence of cooperation.

(48) In addition, Article 2(7)(a) of the basic Regulation does not provide that the parties should assist the Commission in its choice of an appropriate analogue country.

(49) Finally, the interested parties were informed of the provisional findings including the provisionally selected analogue country, i. e. Turkey, and were given the opportunity to comment. No comment was received that Turkey could not be considered an appropriate analogue country in this case. It is therefore considered that there was no breach of Article 2(7)(a) of the basic Regulation, and the findings laid down in recitals (44) to (48) of the provisional Regulation are hereby confirmed.

(b) Determination of normal value

(50) In the absence of any comments, the general methodology used for the determination of the normal value, as described in the recitals (49) and (50) of the provisional Regulation is confirmed.

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5. **Export price**

(51) Two exporting producers claimed that the requirements for the construction of the export price, as laid down in Article 2(9) of the basic Regulation, had not been fulfilled and that any adjustment of the export price when sales were made to the Community via related companies established in a third country should rather be addressed by applying the provisions of Article 2 (10) of the basic Regulation.

(52) In this respect, it is confirmed that the provisions of Article 2(10) of the basic Regulation, and more specifically of subparagraph (i) of that paragraph, have indeed been applied, as mentioned under recital (53) of the provisional Regulation.

(53) The exporting producers granted MET claimed the occurrence of certain clerical errors in the calculation of the export price or contested the methodology used for assessing certain adjustments that were deemed necessary. Those issues have been re-examined and the necessary amendments have been made where applicable.

6. **Comparison**

(54) One sampled exporting producer which was granted MET claimed that the adjustments made pursuant to Article 2(10)(i) of the basic Regulation with respect to its sales to the Community via its subsidiary established in a third country was not warranted since the subsidiary in question merely performed the functions of an export sales department. It further claimed that if nevertheless an adjustment is made, it should in any event be limited to a normal commission rate paid to unrelated agents. Two other exporting producers also claimed that the adjustment should be limited to direct selling expenses.

(55) In this respect, the investigation revealed that the functions discharged by the sales subsidiary concerned were going beyond those typically assumed by an exporter's export sales department, and should rather be compared to those left to an agent working on a commission basis, in accordance with Article 2(10)(i) of the basic Regulation.

(56) It is therefore considered that the related party incurred costs which effectively reduce the amounts received by the exporters, and which should thus be deducted from the price paid by the first independent buyer in the Community.

(57) It is noted that the two other exporting producers who are in the same situation as the exporting producer above shared the Commission's view that an adjustment should be made pursuant to Article 2(10)(i) of the basic Regulation for the purpose of a fair comparison (see recital (51) above).

(58) Finally, it is considered that the amount of the adjustment was duly calculated in conformity with the provisions of Article 2(10) (i) of the basic Regulation, i.e. on the basis of the mark-up received by the related company. The mark-up in this case was calculated as being the actual selling, general and administrative costs of the related companies and a reasonable amount of profit, and should not be limited to only direct selling expenses. The claims made by the exporting producers concerned were therefore rejected.

(59) Various interested parties claimed that the adjustment related to the non-refunded VAT was unwarranted and based on an erroneous understanding of the system. Some other exporting producers, including one which agreed with the principle of the adjustment, contested the methodology used to compute the adjustment and requested that the adjustment be based on the actual amount of non-refundable VAT.

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(60) The first claim was rejected because it was not substantiated and no further elements were provided that would confirm the fact that the adjustment is based on an erroneous understanding.

(61) As regards the claim that the actual amounts should be used, those were in many instances either not submitted by the exporting producers concerned or not adequately supported by evidence and could therefore not be taken into consideration. The claims were therefore rejected.

(62) Following comments made by several parties, it is hereby clarified that, where necessary, the prices for the like product types sold on the domestic market in Turkey, which were used for the determination of the normal value, were adjusted so as to ensure a fair comparison with those product types exported to the Community by the Chinese producers concerned, in accordance with Article 2(10)(a) of the basic Regulation. Those adjustments were made on the basis of a reasonable estimate of the market value of the differences. In the case of two companies, the adjustment made at provisional stage had to be revised so as to better reflect their individual situation and the relevant margins were revised accordingly.

7. **Dumping margin**

7.1. *For the cooperating exporting producers granted MET/IT*

(a) MET

(63) Two of the three companies which were granted MET claimed that their established relationship during the IP no longer reflects reality, on the grounds that, shortly after the IP, the shareholders link between all three companies has been removed since all shares concerned have been sold to independent persons. The companies therefore claimed that this new situation should be taken into consideration and that, since they can no longer be considered as related, each company should be attributed an individual dumping margin reflecting its own situation.

(64) The investigation revealed, however, that the relationship between the companies concerned during the IP actually consisted of more than just a shareholding link. It was indeed established that in addition to that link, the three companies also shared members of their respective board of directors. The presence of shared directors between the companies therefore reinforced the relationship that existed through the shareholding link.

(65) For those reasons, it was found that the companies had to be considered as being related during the IP. Even if the situation has allegedly changed shortly after the IP, it would in any event be too early to conclude that these changes are of a lasting nature. In view of the nature of the established relationship during the IP, the risk of circumvention through the company with the lowest duty imposed cannot be excluded. Moreover, it is also noted that since this relationship may have affected the findings for the IP, any changes in the relationship after the IP cannot be considered as relevant.

(66) It is therefore concluded that the claims made by the companies should be rejected.

(67) Furthermore, various interested parties contested the correct use of the provisions on sampling. Since the three sampled companies granted MET were found to be related, it is claimed that they form one single entity and that therefore their dumping margin cannot constitute a valid average in view of the wording of Article 9(6) of the basic Regulation. This is based on the fact

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that this Article refers to the weighted average margin of dumping established for the parties in the sample, thus the dumping margin should necessarily be based on the findings for more than one company. Reference was made to the WTO Appellate Body report, in the framework of the EC-India bed linen case ([1]), where it was concluded that the weighted average should necessarily refer to more than one company.

(68) In this respect, it should be noted that the conclusions of the Appellate Body, which were made in a different context, namely that of Article 2.2.2 (ii) of the Anti-Dumping Agreement, and a different case, are not directly applicable in this specific case. Secondly, the argument should be rejected because in the present case, the weighted average of the sample is based on each company's own normal value and export prices, and those companies do not constitute one single entity. It is only after establishing the three individual margins that a weighted average of those margins was calculated for the related companies in order to avoid that, in view of their relationship, the companies channel all their exports via the company for which the lowest dumping margin was established. It is further noted that Article 9(6) of the basic Regulation does not specifically exclude the use of margins of dumping established for related parties in the sample. The claims were therefore rejected.

(b) IT

(69) In the absence of comments, the methodology used to establish the dumping margins with respect to the companies that were granted IT, as laid down in recital (57) of the provisional Regulation is hereby confirmed.

(70) On the basis of the above, the definitive dumping margins expressed as a percentage of the CIF Community frontier price, duty unpaid, are:

Company	Definitive dumping margin
Far Eastern Industries (Shanghai) Ltd	14,1 %
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %
Hangzhou CaiHong Textile Co., Ltd	37,1 %
Hangzhou De Licacy Textile Co., Ltd	14,1 %
Hangzhou Fuen Textile Co., Ltd	37,1 %
Hangzhou Hongfeng Textile Co., Ltd	14,1 %
Hangzhou Jieenda Textile Co., Ltd	14,1 %
Hangzhou Jinsheng Textile Co., Ltd	37,1 %
Hangzhou Mingyuan Textile Co., Ltd	14,1 %
Hangzhou Shenda Textile Co., Ltd	14,1 %
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	37,1 %
Hangzhou Yililong Textile Co., Ltd	14,1 %
Hangzhou Yongsheng Textile Co., Ltd	14,1 %
Hangzhou Zhengda Textile Co., Ltd	37,1 %

([1]) WT/DS141/AB/R

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Company	Definitive dumping margin
Hangzhou ZhenYa Textile Co., Ltd	14,1 %
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %
Nantong Teijin Co., Ltd	14,1 %
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	37,1 %
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	37,1 %
Shaoxing County Huaxiang Textile Co., Ltd	26,7 %
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %
Shaoxing County Pengyue Textile Co., Ltd	14,1 %
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	36,3 %
Shaoxing County Xingxin Textile Co Ltd	14,1 %
Shaoxing Golden tree silk Printing Dyeing and Sand-washing Co., Ltd	37,1 %
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	37,1 %
Shaoxing Ronghao Textiles Co., Ltd	36,3 %
Shaoxing Tianlong Import and Export Co., Ltd	46,4 %
Shaoxing Xinghui Textile Co., Ltd	37,1 %
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %
Shaoxing Yongda Textiles Co., Ltd	37,1 %
Shaoxing Zhengda Group Co., Ltd	14,1 %
Wujiang Canhua Imp. & Exp. Co., Ltd	56,2 %
Wujiang Longsheng Textile Co., Ltd	14,1 %
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	37,1 %
Zhejiang Huagang Dyeing and Weaving Co., Ltd	37,1 %
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	37,1 %
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %
Zhejiang XiangSheng Group Co., Ltd	14,1 %
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %

7.2. *For all other exporting producers*

(71) In the absence of any comments, the findings of the recitals (59) to (61) of the provisional Regulation are hereby confirmed.

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E. **INJURY**

1. **Community production**

(72) In the absence of any comments submitted, the provisional findings concerning the total Community production as set out in recitals (62) to (63) of the provisional Regulation are hereby confirmed.

2. **Definition of the Community industry**

(73) One interested party claimed that there was not enough support from a major proportion of the Community production. They argued that one company had gone bankrupt during the investigation and should, therefore, not be taken into account for the definition of the Community industry. Furthermore, they claimed that one producer imported the product concerned during the period considered and should be excluded from Community industry according to Article 4(1)(a) of the basic Regulation.

(74) It has to be noted that one Community producer is under judicial administration, but was producing during the investigation period and is currently still operating its production. Therefore, this company was included in the definition of the Community industry. The investigation confirmed that no company included in the Community industry imported the product concerned in the IP. They did, however import the grey product, i.e. the raw material for the FPFF. These arguments should, therefore, be dismissed.

(75) In the absence of any further comments, the definition of Community industry as set out in recital (64) of the provisional Regulation is hereby confirmed.

3. **Community consumption**

(76) In the absence of any comments, the calculation of Community consumption as set out in recitals (65) to (66) of the provisional Regulation is hereby confirmed.

4. **Imports into the Community from the country concerned**

4.1. *Volume and market share of the imports concerned*

(77) In the absence of any comments, the calculation of volume and market share of the imports concerned as set out in recitals (67) and (68) of the provisional Regulation is hereby confirmed.

4.2. *Prices of imports and undercutting*

(78) In the absence of any comments, the calculation of prices and undercutting of the imports concerned as set out in recitals (69) to (71) of the provisional Regulation is hereby confirmed.

5. **Situation of the Community Industry**

(79) It is recalled that in recital (98) of the provisional Regulation, the Commission provisionally concluded that the Community industry had suffered material injury within the meaning of Article 3 of the basic Regulation.

(80) No interested party questioned the figures or their interpretation relating to the situation of the Community industry as presented in recitals (72) to (98) of the provisional Regulation. Therefore, the findings as set out in these recitals of the provisional Regulation are hereby confirmed and it is concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

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F. **CAUSATION**

(81) In addition to the other factors examined in the provisional Regulation, the export performance of the Community industry was also examined. In this respect, it was found that exports sales of the Community industry remained stable for the whole period at around 25 million running metres. It is to be noted that these exports refer to the product used for lining, sold at a notably lower price. In parallel, the product mix exported by the whole EU-25 industry was sold, during the IP at a price 270 % higher than imports from China. In any event, only the sales made on the Community market were taken into consideration for the establishment of profitability data, so that these data are not influenced by export performance. For the reasons set out above, it can be concluded that the Community exports did not cause injury to the Community industry. Furthermore, concerning imports from all other third countries taken together, prices were constantly, on average, higher than prices from PRC. On the basis of the above, and in the absence of any comments in respect to causation, the conclusion drawn in (99) to (111) of the provisional Regulation is hereby confirmed.

G. **COMMUNITY INTEREST**

1. **Interest of the Community industry and of other Community producers**

(82) In the absence of any comments with respect to the interest of the Community industry and to other Community producers, the findings as set out in recitals (112) to (118) of the provisional Regulation are hereby confirmed.

2. **Interest of unrelated importers**

(83) Several submissions from unrelated importers and importers/users were received. Hearings were also granted to those parties who so requested. The arguments of the importers coincided with those of the users and are discussed under recitals (87) to (90) below. It is to be noted that the overall quantities imported from China by the importers who made themselves known are negligible and account only for around 2 % of the total imports from China during the IP. The remainder 98 % did not react to the measures.

(84) In the absence of any other comments with respect to the interest of the unrelated importers, the findings as set out in recitals (119) to (121) of the provisional Regulation are hereby confirmed.

3. **Interest of suppliers**

(85) In the absence of any comments in respect of the interest of the Community suppliers, the findings as set out in recitals (122) to (125) of the provisional Regulation are hereby confirmed.

4. **Interest of users**

(86) It is recalled that nine users submitted a questionnaire response whereas only one of those users imported the product concerned (recital (127) of the provisional Regulation). However, after the imposition of provisional measures, four users which had so far not come forward in the investigation submitted comments. Two of them produce home decoration fabrics. All of them imported the product concerned from the PRC. Considering that the sector is very fragmented, their representativeness is estimated at less than 2 %.

(87) The users which produce clothes claimed that their businesses are at serious risk now because imports of ready made clothes from the PRC enter the Community market at very low prices whereas

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they have to produce at much higher costs. In addition, they would have to pay high anti-dumping duties on the imports of the product concerned, which is the raw material for their production. They argue that they can sell their finished products at slightly higher prices to their customers as they are much more flexible and they can deliver smaller quantities at short notice. However, considering the current market conditions with low priced apparel entering the market and the anti-dumping duties on the raw material, they claim that they would not be able to keep production in the Community and, therefore, would have to close down their production sites.

(88) It is to be noted that these clothing producers are small and medium sized enterprises. They are under huge pressure because of the imports of finished products which strongly increased, *inter alia*, as a result of the abolition of textile quota on 1 January 2005. In addition, their raw material costs increase due to the duties. While it is true that the already precarious situation in the clothing sector could be additionally deteriorated by the anti-dumping duties on FPFF, it is clear that the main pressure for these companies derives from the imports of clothes from the PRC.

(89) Some users claimed that also the dyeing and printing industry would be affected when textiles would not be imported any more into the Community due to the duties. They also argued that high-tech textile machine suppliers in the Community would be affected because textile production in the PRC would decrease due to the duties.

(90) However, as set out in recital (128) of the provisional Regulation, it is likely that imports from the PRC will continue to enter the market at fair non-dumped prices and other non-dumped sources will remain available considering that over 30 % of the Community consumption is represented by third countries imports (excluding PRC). Moreover, bearing in mind the fact that many exporting producers have been granted anti-dumping duty rates of 14,1 % and that the FPFF is only a part of production costs of the users, the cost increase would be unlikely to be substantial. It should be noted also that the allegedly precarious situation in which certain companies might be, appears to be mainly caused by the imports of finished clothes from the PRC, and the non-imposition of anti-dumping measures would not address this particular issue. In this respect, it is also to be recalled that users which account for a very small quantity of imports have come forward whereas the large majority has not made any comments in the investigation.

(91) In the absence of any other comments with respect to the interest of the users, the conclusions as set out in recitals (126) to (128) of the provisional Regulation are hereby confirmed.

5. **Conclusion on Community interest**

(92) In view of the conclusions drawn in the provisional Regulation as set out in recitals (129) to (131) of the provisional Regulation and taking into account the submissions made by the various parties, it is concluded that there are no compelling reasons not to impose definitive anti-dumping measures against dumped imports of FPFF originating in the PRC.

H. **DEFINITIVE ANTI-DUMPING MEASURES**

(93) Based on the methodology explained in recitals (132) to (135) of the provisional Regulation, an injury elimination level was calculated for the purposes of establishing the level of measures to be imposed.

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(94) When calculating the injury margin in the provisional Regulation, the target profit for the Community industry was set at 8 %, a level which could be reasonably achieved by an industry of this type under normal conditions of competition, i.e. in the absence of dumped imports and which was achieved in 1998 and 1999 before Chinese exports started to cause a problem (recital (134) of the provisional Regulation).

(95) One interested party argued that the target profit of 8 % on the basis of the years 1998 and 1999 would not be appropriate. This party argued that, as the profit margins were already much lower in 2000, which is the first year of the period considered, when the effects of the dumped imports were not so clearly felt, these profit margins should be taken as target profit. However, it is recalled that in 2000 the market share of imports from the PRC was already high with 18,2 % (recital (67) of the provisional Regulation) and the situation of the Community industry had already started to be precarious. For this reason, it was considered appropriate to refer to a more stable period in the past in order to establish the target profit which the Community industry could be expected to make in the absence of the dumped imports.

(96) In the absence of any new comments on this subject, the methodology set out in recitals (132) to (135) of the provisional Regulation is hereby confirmed.

1. **Definitive measures**

(97) 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 margin and at the level of the injury margin calculated in all cases, where they were lower than the dumping margins found.

(98) On the basis of the above, the definitive duties should be as follows:

Company	Definitive anti-dumping duty
Far Eastern Industries (Shanghai) Ltd	14,1 %
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %
Hangzhou CaiHong Textile Co., Ltd	37,1 %
Hangzhou De Licacy Textile Co., Ltd.	14,1 %
Hangzhou Fuen Textile Co., Ltd	37,1 %
Hangzhou Hongfeng Textile Co., Ltd	14,1 %
Hangzhou Jieenda Textile Co., Ltd	14,1 %
Hangzhou Jinsheng Textile Co., Ltd	37,1 %
Hangzhou Mingyuan Textile Co., Ltd	14,1 %
Hangzhou Shenda Textile Co., Ltd	14,1 %
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	37,1 %
Hangzhou Yililong Textile Co., Ltd	14,1 %
Hangzhou Yongsheng Textile Co., Ltd	14,1 %
Hangzhou Zhengda Textile Co., Ltd	37,1 %

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Company	Definitive anti-dumping duty
Hangzhou ZhenYa Textile Co., Ltd	14,1 %
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %
Nantong Teijin Co., Ltd	14,1 %
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	37,1 %
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	37,1 %
Shaoxing County Huaxiang Textile Co., Ltd	26,7 %
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %
Shaoxing County Pengyue Textile Co., Ltd	14,1 %
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	33,9 %
Shaoxing County Xingxin Textile Co., Ltd	14,1 %
Shaoxing Golden tree silk Printing Dyeing and Sand-washing Co., Ltd	37,1 %
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	37,1 %
Shaoxing Ronghao Textiles Co., Ltd	33,9 %
Shaoxing Tianlong Import and Export Co., Ltd	46,4 %
Shaoxing Xinghui Textile Co., Ltd	37,1 %
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %
Shaoxing Yongda Textiles Co., Ltd	37,1 %
Shaoxing Zhengda Group Co., Ltd	14,1 %
Wujiang Canhua Imp. & Exp. Co., Ltd	56,2 %
Wujiang Longsheng Textile Co., Ltd	14,1 %
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	37,1 %
Zhejiang Huagang Dyeing and Weaving Co., Ltd	37,1 %
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	37,1 %
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %
Zhejiang XiangSheng Group Co., Ltd	14,1 %
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %

(99) The individual 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

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rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies specifically mentioned. Imported products produced by any other company not specifically mentioned by its name and address in the operative part of this Regulation, 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'.

(100) Any claim requesting the application of these individual 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 [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

2. **Collection of provisional duties**

(101) In view of the magnitude of the dumping margins found and in the light of the level of the material 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, should be collected at the rate of the duty definitely imposed. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected, while the amounts secured in excess of the definitive rate of anti-dumping duties should be released,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of 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, falling within CN codes ex 5407 51 00 (TARIC code 5407 51 00 10), 5407 52 00, 5407 54 00, ex 5407 61 10 (TARIC code 5407 61 10 10), 5407 61 30, 5407 61 90, ex 5407 69 10 (TARIC code 5407 69 10 10) and ex 5407 69 90 (TARIC code 5407 69 90 10)

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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

[1] European Commission
Directorate-General for Trade
Direction B
Office J-79 5/16
B-1049 Brussels.

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Company	Definitive anti-dumping duty	TARIC Additional code
Hangzhou De Licacy Textile Co., Ltd	14,1 %	A617
Nantong Teijin Co. Ltd	14,1 %	A617
Shaoxing County Jiade 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
Hangzhou Jieenda Textile Co., Ltd	14,1 %	A617
Hangzhou Mingyuan Textile Co., Ltd	14,1 %	A617
Hangzhou Yililong Textile Co., Ltd	14,1 %	A617
Zheijiang 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

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Company	Definitive anti-dumping duty	TARIC Additional code
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

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

Article 2

Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

— it did not export to the Community the product described in Article 1(1) during the investigation period (1 April 2003 to 31 March 2004),

— it is not related to any of the exporters or producers in the Peoples's Republic of China which are subject to the anti-dumping measures imposed by this Regulation,

— it has actually exported to the Community the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(2) by adding the new exporting producer either (i) to the companies subject to the weighted average duty rate of 37,1 % applicable to companies to whom individual treatment was granted in accordance with Article 9(5) of Regulation (EC) No 384/96, or (ii) to the companies subject to the weighted average duty rate of 14,1 % applicable to companies to whom market economy treatment was granted in accordance with Article 2(7)(c) of Regulation (EC) No 384/96.

Article 3

Amounts secured by way of provisional anti-dumping duty pursuant to Commission Regulation (EC) No 426/2005 on imports of woven fabrics of synthetic filament yarn containing 85 % or more by weight of

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textured and/or non-textured polyester filament, dyed or printed, falling within CN codes 5407 52 00, 5407 54 00, 5407 61 30, 5407 61 90 and ex 5407 69 90 (TARIC code 5407 69 90 10) and originating in the People's Republic of China shall be definitely collected at the rate definitively imposed by the present Regulation, 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.

Article 4

This Regulation shall enter into force on the day following that of 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.