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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1424/2006

of 25 September 2006

amending Regulation (EC) No 1676/2001 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of polyethylene terephthalate film originating in India and the Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/1996 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation),

Having regard to Council Regulation (EC) No 1676/2001 of 13 August 2001 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of polyethylene terephthalate film originating in India and the Republic of Korea [2], and in particular Article 1(3) thereof,

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

Whereas:

A. **PREVIOUS PROCEDURE**

(1) The Council, by Regulation (EC) No 1676/2001, imposed a definitive anti-dumping duty on imports into the Community of polyethylene terephthalate film (PET film) originating, *inter alia*, in India. Given the large number of exporting producers of PET film in India, during the investigation which led to the adoption of that Regulation (the original investigation) a sample of exporting producers was selected in accordance with Article 17 of the basic Regulation. Individual dumping margins ranging from 0 % to 65,3 % were calculated for companies individually investigated and a dumping margin of 57,7 % was also calculated, in accordance with Article 9(6) of the basic Regulation, for cooperating companies not part of the sample. Anti-dumping duties were subsequently imposed ranging from 0 % to 62,6 %, taking also into account the countervailing duties resulting from export subsidies imposed on the same products originating from India, which were then applicable by virtue of Council Regulation (EC) No 2597/1999 [3].

(2) The Council, by Regulation (EC) No 366/2006 [4] (the amending Regulation), amended the level of dumping margins calculated by Regulation (EC) No 1676/2001. The new dumping margins range between 3,2 % and 29,3 % and the new anti-dumping duty range between 0 % and 18 %, again in order to take account of the countervailing duties resulting from export subsidies imposed on the same products originating from India, as modified according to Council Regulation (EC) No 367/2006 [5], which has been adopted following an expiry review of Regulation (EC) No 2597/1999.

(3) Furthermore, Regulation (EC) No 367/2006 sets the countervailing duty applicable to companies other than those individually listed in its Article 1(2) at 19,1 %, the export subsidy margin for those companies being calculated at the level of 12 %.

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

[2] OJ L 227, 23.8.2001, p. 1. Regulation as last amended by Regulation (EC) No 1288/2006 (OJ L 236, 31.8.2006, p. 1). Regarding the Republic of Korea this Regulation has expired on 24 August 2006 (OJ C 199, 24.8.2006, p. 8).

[3] OJ L 316, 10.12.1999, p. 1.

[4] OJ L 68, 8.3.2006, p. 6.

[5] OJ L 68, 8.3.2006, p. 15. Regulation as amended by Regulation (EC) No 1288/2006.

(4) Article 1(3) of Regulation (EC) No 1676/2001, as amended by Regulation (EC) No 366/2006, establishes three criteria, as detailed in recital (7) below, which, when met, give the possibility to Indian exporting producers which were not subject to anti-dumping measures following the original investigation to be granted new exporting producer treatment. Applicants which are granted this treatment are attributed the same duty rate as the companies which had cooperated in the original investigation but were not included in the sample. They are therefore subject to a duty which corresponds to the weighted average margin of dumping established for the companies included in the sample during the original investigation, being understood that any zero and *de minimis* margin are disregarded, pursuant to Article 9(6) of the basic Regulation.

(5) During the original investigation, the above mentioned weighted average dumping margin was calculated as the weighted average of the dumping margins of three sampled companies, since one of the four originally sampled companies had a zero margin. The weighted average margin of dumping so calculated in the original investigation was, as mentioned in recital (1), 57,7 %. The amending Regulation reduces significantly the margin of dumping of the three above mentioned companies. The new weighted average margin of dumping, to be applied to companies fulfilling the requirements of Article 1(3) of Regulation (EC) No 1676/2001, recalculated following the findings of the amending Regulation is therefore 15,5 %.

B. **NEW EXPORTING PRODUCER REQUESTS**

(6) The Indian exporting producer SRF Limited (the applicant) has applied to be granted the same treatment as the companies cooperating in the original investigation not included in the sample (new exporting producer treatment).

(7) An examination has been carried out in order to determine whether the applicant fulfils the criteria for being granted new exporting producer treatment as set out in Article 1(3) of Regulation (EC) No 1676/2001, namely it was examined:

— that it did not export to the Community the goods described in Article 1(1) of that Regulation during the original investigation period (1 April 1999 to 31 March 2000),

— that it is not related to any exporter or producer in India subject to the measures imposed by the Regulation,

and

— that it has exported the goods concerned after the investigation period, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community.

(8) A questionnaire was sent to the applicant which was also asked to provide evidence to demonstrate that it meets the three criteria mentioned above.

(9) The applicant replied to the questionnaire and provided evidence that is considered sufficient to consider it as a new exporting producer.

(10) The anti-dumping duty rate applicable to the applicant should be based on the weighted average margin of dumping established for the parties selected in the sample in the original investigation, as modified following the amending Regulation, i.e. 15,5 %, as indicated in recital (5) above.

(11) Since, pursuant to Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from the provision of export subsidies, this duty rate is to be reduced by the applicant's export subsidy margin as ascertained in the anti-subsidy investigation which led to the adoption of Regulation (EC) No 367/2006 (see recital (59) of Regulation (EC) No 366/2006). Since the applicant does not have an individual countervailing duty, the duty rate established for all other companies should apply.

(12) The anti-dumping duty rate applicable to the applicant should therefore be calculated as indicated in the table below.

Company	Export subsidy margin	Total subsidy margin	Dumping margin	CVD duty	AD duty	Total duty rate
SRF Limited	12,0 %	19,1 %	15,5 %	19,1 %	3,5 %	22,6 %

(13) The applicant and the Community industry have been informed of the findings of the examination and have had the opportunity to submit their comments.

(14) The applicant submitted comments on the calculation of the margin of dumping. These comments have been taken into account and are reflected in the above.

(15) All other arguments and submissions made by the parties were analysed and duly taken into account where warranted.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1676/2001 shall be replaced by the following:

'2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows for products originating in:

Country	Company	Definitive duty (%)	TARIC Additional Code
India	Ester Industries Limited 75-76, Amrit Nagar Behind South Extension Part-1 New Delhi 110 003 India	17,3	A026
India	Flex Industries Limited A-1, Sector 60 Noida 201 301, (U.P.) India	0	A027
India	Garware Polyester Limited Garware House 50-A, Swami Nityanand Marg Vile Parle (East) Mumbai 400 057 India	6,8	A028
India	Jindal Poly Films Limited 56 Hanuman Road New Delhi 110 001 India	0	A030
India	MTZ Polyfilms Limited New India Centre, 5th floor 17 Co-operage Road Mumbai 400 039 India	18,0	A031
India	Polyplex Corporation Limited B-37, Sector-1 Noida 201 301 Dist. Gautam Budh Nagar Uttar Pradesh India	0	A032
India	SRF Limited Express Building 9-10 Bahadur Shah Zaraf Marg New Delhi 110 002 India	3,5	A753
India	All other companies	17,3	A999'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 25 September 2006.

For the Council
The President
M. PEKKARINEN