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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1333/2005

of 9 August 2005

amending Regulation (EC) No 428/2005 imposing definitive anti-dumping duty on imports of polyester staple fibres originating in the People's Republic of China and Saudi Arabia

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 Articles 8 and 9 thereof,

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

Whereas:

PROCEDURE

(1) The Council, by Regulation (EC) No 428/2005 [2] (the definitive Regulation), imposed definitive anti-dumping duties on imports of polyester staple fibre (PSF) originating in the People's Republic of China and Saudi Arabia, amended the definitive anti-dumping duties in force on such imports originating in South Korea and terminated the anti-dumping proceeding in respect of such imports originating in Taiwan.

(2) Saudi Basic Industries Corporation (Sabic), on its behalf and on that of all related companies, including the related producer of the product concerned, Arabian Industrial Fibres Company (Ibn Rushd), offered an acceptable undertaking before publication of the definitive findings but at a stage when it was administratively impossible to include its acceptance in the definitive Regulation.

(3) The Commission, by Decision 2005/613/EC [3], accepted the undertaking offer by Sabic. The Decision set outs the reasons for accepting this undertaking. The Council recognises that the revisions introduced to the undertaking offer eliminate the injurious effect of dumping and limit to a sufficient degree the risk of circumvention in the form of cross-compensation with other products.

(4) In view of the acceptance of the undertaking offer, it is necessary to amend Regulation (EC) No 428/2005 accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraphs shall be added to Article 1 of Regulation (EC) No 428/2005:

'4. Imports declared for release into free circulation shall be exempt from the anti-dumping duties imposed by paragraphs 1 and 2, provided that they are manufactured, shipped and invoiced by companies from which undertakings are accepted by the Commission and the names of which are listed in the relevant Commission Decision or Regulation, as from time to time amended, and have been imported in accordance with the provisions of that Commission Decision or Regulation.

5. The imports mentioned in paragraph 4 shall be exempt from the anti-dumping duty provided that:

(a) the goods declared and presented to customs correspond precisely to the product described in paragraph 1;

[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 71, 17.3.2005, p. 1.

[3] See page 20 of this Official Journal.

(b) a commercial invoice containing at least the elements listed in the Annex is presented to Member States' customs authorities upon presentation of the declaration for release into free circulation; and

(c) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.'

Article 2

The text as set out in the Annex shall be added to Regulation (EC) No 428/2005.

Article 3

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, 9 August 2005.

For the Council
The President
J. STRAW

ANNEX

'ANNEX

The following elements shall be indicated in the commercial invoice accompanying the company's sales of polyester staple fibres to the Community which are subject to an Undertaking:

1. The heading "COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING".

2. The name of the company mentioned in Article 1 of Commission Decision 2005/613/EC accepting the undertaking issuing the commercial invoice.

3. The commercial invoice number.

4. The date of issue of the commercial invoice.

5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.

6. The exact description of the goods, including:

   — product code number (PCN) used for the purposes of the investigation and the undertaking (e.g. PCN 1, PCN 2, etc.),

   — plain language description of the goods corresponding to the PCN concerned,

   — company product code (CPC) (if applicable),

   — CN code,

   — quantity (to be given in kilograms).

7. The description of the terms of the sale, including:

   — price per kilogram,

   — the payment terms applicable,

   — the delivery terms applicable,

   — total discounts and rebates.

8. Name of the company acting as an importer in the Community to which the commercial invoice accompanying goods subject to an undertaking is issued directly by the company.

9. The name of the official of the company that has issued the invoice, and the following signed declaration:

   "I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company], and accepted by the European Commission through Decision 2005/613/EC. I declare that the information provided in this invoice is complete and correct." '