Commission Regulation (EU) No 653/2012 of 17 July 2012 initiating a 'new exporter' review of Council Regulation (EC) No 192/2007 imposing a definitive anti-dumping duty on imports of polyethylene terephthalate originating, inter alia, in Taiwan, repealing the duty with regard to imports from one exporter in this country and making these imports subject to registration

COMMISSION REGULATION (EU) No 653/2012

of 17 July 2012

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ("the basic Regulation")[(1)] and in particular Article 11(4) thereof,

After having consulted the Advisory Committee in accordance with Articles 11(4) and 14(5) of the basic Regulation,

Whereas:

A. **REQUEST**

(1) The European Commission ("Commission") has received a request for a 'new exporter' review pursuant to Article 11(4) of the basic Regulation.

(2) The request was lodged on 27 April 2012 by Lealea Enterprise Co., Ltd. ("the applicant"), an exporting producer in Taiwan ("the country concerned") of certain polyethylene terephthalate.

B. **PRODUCT**

(3) The product under review is polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to ISO (International Organization for Standardization) standard 1628-5, originating, inter alia, in Taiwan ("the product under review"), currently falling within CN code 3907 60 20.

C. **EXISTING MEASURES**

(4) The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 192/2007[(2)] under which imports into the Union of the product under review originating in Taiwan, including the product produced by the applicant, are subject to a definitive anti-dumping duty of 143,4% with the exception of two companies specially mentioned which are subject to individual duty rates.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 653/2012. (See end of Document for details)*

In February 2012, the Commission initiated an expiry review of the anti-dumping measures applicable to imports of certain polyethylene terephthalate originating in India, Indonesia, Malaysia, Taiwan and Thailand[(3)], i.e. *inter alia* in Taiwan. Pending the completion of the expiry review investigation, the measures continue to be in force.

D. GROUNDS

(5) The applicant claims that it did not export the product under review to the Union during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 October 1998 to 30 September 1999 ("the original investigation period").

(6) Furthermore, the applicant claims that it is not related to any of the exporting producers of the product under review which are subject to the above-mentioned anti-dumping measures.

(7) The applicant further claims that it has begun exporting the product under review to the Union after the end of the original investigation period.

E. PROCEDURE

(8) Union producers known to be concerned have been informed of the request for a review and have been given an opportunity to comment.

(9) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a 'new exporter' review, pursuant to Article 11(4) of the basic Regulation, with a view to determine the applicant's individual margin of dumping and, should dumping be found, the level of the duty to which its imports of the product under review into the Union shall be subject.

(10) If it is determined that the applicant fulfils the requirements to have an individual duty established, it may be necessary to amend the rate of duty currently applicable to imports of the product under review from companies not individually mentioned in Article 1(2) of Council Regulation (EC) No 192/2007.

(a) *Questionnaires*

(11) In order to obtain information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) *Collection of information and holding of hearings*

(12) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence.

(13) Furthermore, the Commission may hear interested parties, provided that they make a request in writing showing that there are particular reasons why they should be heard.

F. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

(14) Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product under review which are produced and sold for export to the Union by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic Regulation, in order to ensure that, should the review result in a finding of dumping in respect of the applicant, anti-dumping duties can be levied retroactively to the date of the initiation of the review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

G. TIME-LIMITS

(15) In the interest of sound administration, time-limits should be stated within which:

(16) interested parties may make themselves known to the Commission, present their views in writing and submit any information to be taken into account during the investigation,

(17) interested parties may make a written request to be heard by the Commission.

(18) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits indicated in Article 3 of this Regulation.

H. NON-COOPERATION

(19) In cases in which any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(20) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available.

(21) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. SCHEDULE OF THE INVESTIGATION

(22) The investigation will be concluded, pursuant to Article 11(5) of the basic Regulation, within nine months of the date of the publication of this Regulation in the *Official Journal of the European Union*.

J. PROCESSING OF PERSONAL DATA

(23) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the

processing of personal data by the Community institutions and bodies and on the free movement of such data[4].

K. **HEARING OFFICER**

(24) Interested parties may request the intervention of the Hearing Officer of the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time-limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested party's rights of defence are being fully exercised.

(25) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered.

(26) For further information and contact details interested parties may consult the Hearing Officer's web pages on the Directorate-General for Trade's website: http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm

HAS ADOPTED THIS REGULATION:

Article 1

A review of Council Regulation (EC) No 192/2007 is hereby initiated pursuant to Article 11(4) of Regulation (EC) No 1225/2009 in order to determine if and to what extent the imports of polyethylene terephthalate having a viscosity number of 78 ml/g or higher, according to ISO standard 1628-5, currently falling within CN code 3907 60 20, originating in Taiwan, produced and sold for export to the Union by Lealea Enterprise Co., Ltd. (TARIC additional code A996) should be subject to the anti-dumping duty imposed by Council Regulation (EC) No 192/2007.

Article 2

The anti-dumping duty imposed by Council Regulation (EC) No 192/2007 is hereby repealed with regard to the imports identified in Article 1 of the present Regulation.

Article 3

The Customs authorities are hereby directed, pursuant to Article 11(4) and Article 14(5) of Regulation (EC) No 1225/2009, to take the appropriate steps to register the imports into the Union identified in Article 1 of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1 Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in writing and submit a reply to the questionnaire indicated in recital 11 of this Regulation or