Council Implementing Regulation (EU) No 627/2012 of 10 July 2012 terminating the partial interim review and the expiry review concerning the anti-dumping measures applicable on imports of certain plastic sacks and bags originating in the People's Republic of China and Thailand imposed by Regulation (EC) No 1425/2006

COUNCIL IMPLEMENTING REGULATION (EU) No 627/2012

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation') and in particular Article 11(2), (3), (5) and (6) and Article 9 thereof,

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

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) By Regulation (EC) No 1425/2006[(2)], the Council imposed a definitive anti-dumping duty on imports of certain plastic sacks and bags, originating in the People's Republic of China (PRC) and Thailand.

(2) That Regulation was subsequently amended by Council Regulations (EC) No 1356/2007[(3)], (EC) No 249/2008[(4)] and (EC) No 189/2009[(5)] and by Council Implementing Regulations (EU) No 474/2011[(6)] and (EU) No 475/2011[(7)].

2. **Requests for reviews and initiation**

(3) On 18 May 2010, the Commission received a request for a partial interim review of Regulation (EC) No 1425/2006 from Greenwood Houseware (Zhuhai) Ltd, an exporting producer of certain plastic sacks and bags in the PRC ('the applicant').

(4) Subsequently, following the publication of a notice of impending expiry of the definitive anti-dumping measures in force, the Commission received, pursuant to Article 11(2) of the basic Regulation, a request for an expiry review, lodged on 30 June 2011.

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 627/2012. (See end of Document for details)*

(5) The request was lodged by 44 Union producers together, representing around 30 % of the total estimated Union production of certain plastic sacks and bags.

(6) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and injury if measures were allowed to lapse.

(7) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of the partial interim review and an expiry review, the Commission announced the initiation of the partial interim review pursuant to Article 11(3) of the basic Regulation and an expiry review pursuant to Article 11(2) of that Regulation by a notice published on 21 September 2010 and 27 September 2011 respectively in the *Official Journal of the European Union*.

3. Investigations

3.1. *Investigation periods*

(8) The expiry review investigation of continuation or recurrence of dumping and injury covered the period from 1 July 2010 to 30 June 2011 (‘the review investigation period’ or ‘RIP’). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2008 up to the end of the RIP (‘period considered’).

(9) The review investigation period for the partial interim review limited in scope to the examination of dumping with regard to Greenwood Houseware (Zhuhai) Ltd covered the period from 1 April 2009 to 30 June 2010.

3.2. *Product concerned and like product*

(10) The product concerned in both investigations is plastic sacks and bags, containing at least 20 % by weight of polyethylene and of sheeting of a thickness not exceeding 100 micrometres (μm), originating in the PRC and Thailand (‘the product concerned’), currently falling within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90.

(11) As far as the product produced and sold in the Union market is concerned, no conclusive findings could be made with regard to Article 1(4) of the basic Regulation, due to the insufficient cooperation of the Union industry in the expiry review (see Section B).

(12) As far as the product produced and sold on the domestic market by the applicant of the interim review is concerned, as well as the product produced and sold in a potential analogue country in the framework of the interim review, it is noted that the investigation did not reach any conclusions given the termination of both current investigations and the repeal of the existing measures (see Section B).

3.3. *Parties concerned by the investigation*

(13) The Commission officially advised Greenwood Houseware (Zhuhai) Ltd and the representatives of the PRC of the initiation of the partial interim review limited in scope to the examination of dumping. Both parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(14) The Commission officially advised the Union producers who lodged the request for the expiry review, other known Union producers and associations of Union producers, exporting producers, importers and users known to be concerned as well as their associations. Producers in the possible analogue countries, i.e. India, Indonesia, Malaysia, Turkey and USA and the representatives of the PRC and Thailand were also informed of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(15) All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

3.4. *Sampling of Union producers*

(16) In view of the large number of Union producers involved in the expiry investigation, the application of sampling was envisaged in the relevant notice of initiation in accordance with Article 17 of the basic Regulation.

3.4.1. *Description of the Union industry*

(17) The sector of plastic sacks and bags production in the Union is highly fragmented with a very large number of producers of different sizes, including a large sector of small producers spread over several Member States.

(18) The information provided at the initiation stage in the request indicated that large or medium-sized companies represented around 25 % of the cooperating producers and around 70 % of the cooperating Union production. Accordingly, small companies represented around 75 % of the cooperating producers and around 30 % of their production.

(19) In addition, the information showed that the Union production is spread among several Member States, but largely concentrated in Germany, France, Spain and Italy.

3.4.2. *Sampling methodology*

(20) Article 3(2) of the basic Regulation requires that a determination of injury shall be based on positive evidence and shall involve an objective determination of, inter alia, the impact of dumped imports on the Union industry. Any findings of injury and the information collected for that purpose would thus have to be representative of the entire Union industry.

(21) It follows that the high level of fragmentation of the plastic sack and bags sector had to be taken into consideration in the sampling exercise. In order to be able to draw conclusions that would be representative of the entire Union industry, it was considered necessary to ensure that also the situation of the small companies was properly reflected.

(22) Consequently, for the purpose of selecting a representative sample of Union producers, the cooperating Union producers were divided into two segments based on the volume of their yearly production: large or medium-sized companies with production above 15 000 tonnes on the one hand and small companies with production below 15 000 tonnes on the other hand. It was envisaged to sample the largest companies within each segment.

(23) Furthermore, the producers' geographical spread amongst Member States as described in recital 19 was also taken into consideration.

3.4.3. *Procedure for selecting the provisional sample*

(24) The procedure to obtain the information necessary for the selection of the sample of Union producers emanated from the information obtained at initiation stage. In addition, the relevant notice of initiation invited all other producers to make themselves known should they wish to be included in the sample. Following the publication of the notice of initiation, no company contacted the Commission requesting to be included in the sample.

(25) As a result of the criteria explained in recitals 20 to 23, five Union producers operating in four Member States were selected to be in the sample. They were the largest producers of each of the two segments, taking into account size and geographical location. Three sampled companies belong to the segment of large or medium-sized companies, two to the segment of small companies.

(26) The selected companies also reflected the geographical spread amongst Member States in terms of production, with Germany and France representing the companies operating in the large or medium-sized segment and Spain and Italy those companies operating in the small segment.

(27) The sample thus selected represented 22,5 % of total production of plastic sacks and bags by the cooperating producers and 12,3 % of the total estimated Union production, based on the total Union production figures reported in the request.

(28) At the initiation stage, all known Union producers were informed about the composition of the provisional sample and were given the possibility to comment. No comments were received.

B. SITUATION OF THE UNION INDUSTRY

(29) It is recalled that the determination of injury must be an evidence-based assessment of the effect of the dumped imports on the Union industry.