Commission Regulation (EC) No 1370/2005 of 22 August 2005 initiating a review of Council Regulations (EC) No 1975/2004 and (EC) No 1976/2004 extending definitive anti-dumping and countervailing duties on imports of polyethylene terephthalate (PET) film originating, inter alia, in India, to imports of that product consigned from, inter alia, Israel for the purposes of determining the possibility of granting an exemption from those measures to one Israeli exporter, repealing the anti-dumping duty with regard to imports from that exporter and making imports from that exporter subject to registration

COMMISSION REGULATION (EC) No 1370/2005

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96[(1)] of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the basic anti-dumping Regulation), and in particular Articles 11(4) and 13(4) thereof, and to Council Regulation (EC) No 2026/97[(2)] of 6 October 1997 on protection against subsidised imports from countries not members of the European Community (the basic anti-subsidy Regulation) and in particular Articles 20 and 23(3) thereof,

After consulting the Advisory Committee,

Whereas:

A. EXISTING MEASURES

(1) The Council, by Regulations (EC) No 1676/2001[(3)] and No 2597/1999[(4)] imposed anti-dumping and anti-subsidy measures respectively on PET film originating, *inter alia*, in India (the original measures). By Regulations (EC) No 1975/2004[(5)] and (EC) No 1976/2004[(6)], the Council extended these measures to PET film consigned from Israel (the extended measures) with the exception of imports consigned by one company specifically mentioned.

B. REQUEST FOR A REVIEW

(2) The Commission has received a request for an exemption pursuant to Articles 11(4) and 13(4) of the basic anti-dumping Regulation and Articles 20 and 23(3) of the basic anti-subsidy Regulation from the anti-dumping and anti-subsidy measures

extended to imports of PET film consigned from Israel. The application was lodged by Hanita Coatings Rural Cooperative Association Ltd (the applicant). The applicant is a producer in Israel (the country concerned).

C. PRODUCT

(3) The product under examination is polyethylene terephthalate (PET) film consigned from Israel (the product concerned) normally declared within CN codes ex 3920 62 19 and 3920 62 90.

D. GROUNDS FOR THE REVIEW

(4) The applicant alleges that it did not export the product concerned to the Community under CN codes ex 3920 62 19 or ex 3920 62 90 during the investigation period used in the investigation that lead to the extended measures, i.e. 1 January to 31 December 2003. The applicant further alleges that subsequent to the extension of measures the company was informed that, for the first time, certain of its exported products were being classified under 3920 62 19 on importation into the Community and consequently subject to the extended measures.

(5) Furthermore, the applicant alleges that it is not related to exporting producers subject to measures imposed on the product concerned, and that it has not circumvented the measures applicable to PET film of Indian origin.

E. PROCEDURE

(6) Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment. No comments have been received.

(7) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of an investigation pursuant to Articles 11(4) and 13(4) of the basic anti-dumping Regulation and Articles 20 and 23(3) of the basic anti-subsidy Regulation for the purposes of determining the possibility of granting the applicant an exemption from the extended measures.

(a) Questionnaires

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

(b) Collection of information and holding of hearings

(9) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. 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 ANTI-DUMPING DUTY IN FORCE AND REGISTRATION OF IMPORTS

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1370/2005. (See end of Document for details)*

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

G. TIME LIMITS

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

— interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 8 of this Regulation or provide any other information to be taken into account during the investigation,

— interested parties may make a written request to be heard by the Commission.

H. NON-COOPERATION

(12) 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 anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation, on the basis of the facts available.

(13) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and findings are therefore based on facts available in accordance with Article 18 of the basic anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation, the result may be less favourable to that party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

A review of Regulations (EC) No 1975/2004 and (EC) No 1976/2004 is hereby initiated pursuant to Articles 11(4) and 13(4) of Regulation (EC) No 384/96 and Articles 20 and 23(3) of Regulation (EC) No 2026/97 in order to establish whether the imports of polyethylene terephthalate (PET) film falling within CN codes ex 3920 62 19 or ex 3920 62 90 consigned from Israel by Hanita Coatings Rural Cooperative Association Ltd, Kibbutz Hanita, 22885, Israel (TARIC additional code A691), should be subject to the anti-dumping and countervailing duties imposed by Regulations (EC) No 1975/2004 and (EC) No 1976/2004.