Commission Regulation (EU) No 6/2010 of 5 January 2010 initiating a review of Council Regulations (EC) No 1292/2007 and (EC) No 367/2006 (imposing definitive anti-dumping and countervailing duties on imports of polyethylene terephthalate (PET) film originating in India, and extending those duties 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

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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 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the basic anti-dumping Regulation), and in particular Articles 11(4) and 13(4) thereof, and to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community[(2)] (the basic anti-subsidy Regulation) and in particular Articles 20, 23(5) and (6) thereof,

After consulting the Advisory Committee,

Whereas:

A. **EXISTING MEASURES**

(1) The Council, by Regulations (EC) No 1676/2001[(3)] and (EC) No 2597/1999[(4)] imposed anti-dumping and countervailing measures respectively on PET film originating 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 produced by one company specifically mentioned.

(2) By Regulation (EC) No 101/2006[(7)] the Council amended Regulations (EC) No 1975/2004 and (EC) No 1976/2004 in order to exempt one other company from the extended measures.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 6/2010. (See end of Document for details)*

(3) Following an expiry review of the anti-dumping measures, the Council, by Regulation (EC) No 1292/2007[8] imposed an antidumping duty on imports of polyethylene terephthalate (PET) film originating in India and extended the duty to imports of the same product consigned from Brazil and from Israel, whether declared as originating in Brazil or Israel or not, with the exception of certain producers specified in Articles 2(4) of that Regulation.

(4) Following an expiry review of the countervailing measures, the Council, by Regulation (EC) No 367/2006[9] imposed a countervailing duty on imports of polyethylene terephthalate (PET) film originating in India and extended the duty to imports of the same product consigned from Brazil and from Israel, whether declared as originating in Brazil or Israel or not, with the exception of certain producers specified in Article 1(3) of that Regulation.

(5) Regulations (EC) No 1292/2007 and (EC) No 367/2006 were last amended by Council Regulation (EC) No 15/2009[10].

B. REQUEST FOR A REVIEW

(6) 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, 23(5) and (6) of the basic anti-subsidy Regulation from the anti-dumping and countervailing measures extended to imports of PET film consigned from Israel. The application was lodged by S.Z.P. Plastic Packaging Products Ltd (the applicant) a producer in Israel (the country concerned).

C. PRODUCT

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

D. GROUNDS FOR THE REVIEW

(8) The applicant alleges that it did not export the product concerned to the European Union under CN codes ex 3920 62 19 or ex 3920 62 90 during the investigation period used in the investigation that led to the extended measures, i.e. 1 January to 31 December 2003.

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

E. PROCEDURE

(10) 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.

(11) 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, 23(5) and (6) 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**

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**

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

(12) Pursuant to Article 11(4) of the basic anti-dumping Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned which are produced and sold for export to the European Union by the applicant.

(13) 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, the anti-dumping duty 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

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

(a) interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 11(a) of this Regulation or provide any other information to be taken into account during the investigation; and

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

H. NON-COOPERATION

(15) 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

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

(16) 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.

I. PROCESSING OF PERSONAL DATA

(17) 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[11].

J. HEARING OFFICER

(18) It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of the Directorate-General for Trade. He acts as an interface between the interested parties and the Commission's services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details interested parties may consult the Hearing Officer's pages on the website of the Directorate-General for Trade (http://ec.europa.eu/trade),

HAS ADOPTED THIS REGULATION:

Article 1

A review of Council Regulations (EC) No 1292/2007 and (EC) No 367/2006 is hereby initiated pursuant to Articles 11(4) and 13(4) of Council Regulation (EC) No 384/96 and Articles 20, 23(5) and (6) of Council Regulation (EC) No 597/2009 in order to establish whether the imports of polyethylene terephthalate (PET) film currently falling within CN codes ex 3920 62 19 or ex 3920 62 90 consigned from Israel by S.Z.P. Plastic Packaging Products Ltd (TARIC additional code A964) should be subject to the anti-dumping and countervailing duties imposed by Council Regulations (EC) No 1292/2007 and (EC) No 367/2006.

Article 2

The anti-dumping duty imposed by Council Regulation (EC) No 1292/2007 is hereby repealed with regard to the imports identified in Article 1 of the present Regulation.