Commission Regulation (EC) No 33/2005 of 10 January 2005 initiating a 'new exporter' review of Council Regulation (EC) No 2604/2000 imposing definitive anti-dumping duties on imports of certain polyethylene terephthalate (PET) originating, inter alia, in India, repealing the duty with regard to imports from one exporter in this country and making these imports subject to registration

COMMISSION REGULATION (EC) No 33/2005

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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 Regulation), and in particular Article 11(4) thereof,

After consulting the Advisory Committee,

Whereas:

A. REQUEST FOR A REVIEW

(1) The Commission has received an application for a 'new exporter' review pursuant to Article 11(4) of the basic Regulation. The application was lodged by South Asian Petrochem Limited (the applicant), an exporting producer in India (the country concerned).

B. PRODUCT

(2) The product under review is polyethylene terephthalate with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728, originating in India (the product concerned) and normally declared within CN code 3907 60 20. This CN code is given only for information.

C. EXISTING MEASURES

(3) The measures currently in force are definitive anti-dumping duties imposed by Council Regulation (EC) No 2604/2000[(2)], under which imports into the Community of the product concerned originating, *inter alia*, in India and produced by the applicant are subject to a definitive anti-dumping duty of EUR 181,7 a tonne with the exception of imports from several companies expressly mentioned which are subject to individual duty rates.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 33/2005. (See end of Document for details)*

D. GROUNDS FOR THE REVIEW

(4) The applicant alleges that it did not export the product concerned to the Community 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) and that it is not related to any of the exporting producers of the product concerned which are subject to the abovementioned anti-dumping measures.

(5) The applicant further alleges that it has begun exporting the product concerned to the Community after the end of the original investigation period.

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 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 concerned into the Community should be subject.

(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 DUTY IN FORCE AND REGISTRATION OF IMPORTS

(8) Pursuant to Article 11(4) of the basic 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 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 from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

G. TIME LIMITS

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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 33/2005. (See end of Document for details)*

— interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 7(a) of this Regulation or provide any other information to be taken into account during the investigation, or

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

H. NON COOPERATION

(10) 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.

(11) 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 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 Regulation, the result may be less favourable to that party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

A review of Regulation (EC) No 2604/2000 is hereby initiated pursuant to Article 11(4) of Regulation (EC) No 384/96 in order to determine if and to what extent the imports of polyethylene terephthalate with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728, falling within CN code 3907 60 20 originating in India, produced and sold for export to the Community by South Asian Petrochem Limited (TARIC additional code A585) should be subject to the anti-dumping duties imposed by Regulation (EC) No 2604/2000

Article 2

The anti-dumping duty imposed by Regulation (EC) No 2604/2000 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 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports 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 to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 7(a) of this Regulation or any other information, unless otherwise specified, within 40 days of the entry into force of this Regulation. Attention is drawn to the fact that the exercise of most procedural rights set out in Regulation (EC) No 384/96 depends on the party's making itself known within the aforementioned period.