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Proposal for a

COUNCIL IMPLEMENTING REGULATION

amending Regulation (EU) No 461/2013 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India following an expiry review pursuant to Article 18 of Regulation (EC) No 597/2009

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community¹ ('the basic Regulation'), in the proceeding concerning imports of certain polyethylene terephthalate (PET) originating, *inter alia*, in India.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and concerns the withdrawal of three price undertakings previously accepted by the Commission (Decision 2000/745/EC², as amended by Decision 2005/697/EC³ and Commission Decision 2013/223/EU⁴), in the framework of the anti-subsidy proceeding referred to above.

- **Existing provisions in the area of the proposal**

By Regulation (EU) No 461/2013⁵ the Council imposed a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India. The Commission, by Decision 2000/745/EC, as amended by Decision 2005/697/EC and Commission Decision 2013/223/EU, accepted three price undertakings from Indian companies.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Interested parties concerned by the proceeding have had the opportunity to comment, in line with Article 13 (9) of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not provide for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

¹ OJ L 188, 18.07.2009, p. 93.

² OJ L 301, 30.11.2000, p. 88.

³ OJ L 266, 11.10.2005, p.62.

⁴ OJ L 135, 22.5.2013, p. 19.

⁵ OJ L 137, 23.5.2013, p.1.

- **Summary of the proposed action**

The Commission decided to withdraw three price undertakings due to the change in circumstances during their implementation. For one exporter the withdrawal is also due to repetitive breach of the undertaking reporting obligations. Hence, the underlying Council Regulation imposing the definitive countervailing duty should be amended accordingly.

Therefore, it is proposed that the Council adopts the attached proposal for Regulation which should be published in the *Official Journal of the European Union*.

- **Legal basis**

Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Union, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

The above-mentioned basic Regulation does not provide for alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

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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 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community⁶ ('the basic Regulation'), and in particular Article 13 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) The countervailing measures on imports of polyethylene terephthalate ('PET') originating in India have been in force since 2000⁷. These measures have been last maintained by Council Implementing Regulation (EU) No 461/2013⁸, following an expiry review.
- (2) Anti-dumping measures on imports of PET originating in India have been in force since 2000⁹. These measures have been last maintained by Council Regulation (EC) No 192/2007¹⁰, following an expiry review. On 24 February 2012, the Commission initiated a subsequent expiry review. By Implementing Decision 2013/226/EU¹¹, the Council rejected the Commission's proposal for a Council implementing regulation maintaining the anti-dumping duty on imports of PET originating in, *inter alia*, India and, thus, the anti-dumping measures expired.
- (3) In 2000, by Decision 2000/745/EC¹², the Commission accepted price undertakings ('the undertakings'), offered in connection with both the anti-dumping and anti-subsidy proceedings from *inter alia* the Indian companies: Pearl Engineering Polymers Limited ('Pearl') and Reliance Industries Limited ('Reliance'). In 2005, by Decision 2005/697/EC¹³ amending Decision 2000/745/EC, the Commission accepted an undertaking from the Indian company South Asean Petrochem Limited which as a

⁶ OJ L 188, 18.07.2009, p. 93.

⁷ OJ L 301, 30.11.2000, p.1.

⁸ OJ L 137, 23.5.2013, p.1.

⁹ OJ L 301, 30.11.2000, p.21.

¹⁰ OJ L 59, 27.2.2007, p.1.

¹¹ OJ L 136, 23.5.2013, p.12.

¹² OJ L 301, 30.11.2000, p. 88.

¹³ OJ L 266, 11.10.2005, p. 62.

result of a merger changed its name to Dhunseri Petrochem & Tea Limited ('Dhunseri')¹⁴.

B. WITHDRAWAL OF UNDERTAKINGS AND AMENDMENT OF REGULATION No (EU) 461/2013

- (4) By Decision **XX**¹⁵, the Commission withdrew the acceptance of the undertakings offered by three Indian companies Dhunseri, Reliance and Pearl. Therefore, Article 1(4) and Article 2 of Regulation (EU) 461/2013 together with the Annex to the Regulation should be repealed accordingly. Accordingly, the definitive countervailing duties imposed by Article 1(2) of Regulation (EU) No 461/2013 should apply to imports of PET produced by the companies Dhunseri, Reliance and Pearl (TARIC additional code A585 for Dhunseri, TARIC additional code A181 for Reliance and TARIC additional code A182 for Pearl).

HAS ADOPTED THIS REGULATION:

Article 1

1. Article 1(4) and Article 2 of Regulation (EU) No 461/2013 and the Annex to the Regulation are repealed.
2. Article 1(5) of Regulation (EU) No 461/2013 shall be renumbered to Article 1(4).
3. Article 3 of Regulation (EU) No 461/2013 shall be renumbered to Article 2.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*

¹⁴ OJ C 335, 11.12.2010, p.7.

¹⁵ See page **XX** of this Official Journal.