

# COMMISSION

## COMMISSION DECISION

of 12 September 2005

**amending Decision 2000/745/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of polyethylene terephthalate (PET) originating, *inter alia*, in India**

(2005/697/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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<sup>(1)</sup> (the basic AD Regulation), and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community<sup>(2)</sup> (the basic AS Regulation), and in particular Articles 13 and 15 thereof,

After consulting the Advisory Committee,

Whereas:

(2) By Regulation (EC) No 2603/2000<sup>(4)</sup>, the Council imposed definitive countervailing duties on imports into the Community of certain polyethylene terephthalate (PET) originating, *inter alia*, in India. Imports of PET exported by companies from which an undertaking had been accepted were exempt from that duty pursuant to Article 2(1) of that Regulation.

(3) On 29 November 2000, the Commission adopted Decision 2000/745/EC<sup>(5)</sup>, accepting undertakings offered in connection with the two abovementioned proceedings by the exporters mentioned in Article 1 of that Decision.

(4) On 12 January 2005, the Commission, by Regulation (EC) No 33/2005<sup>(6)</sup> announced the initiation of a 'new exporter review' pursuant to Article 11(4) of the basic AD Regulation.

(5) At the same time and on the same grounds, the Commission initiated an accelerated review of Regulation (EC) No 2603/2000<sup>(7)</sup> pursuant to Article 20 of the basic AS Regulation.

### A. PROCEDURE

(1) By Regulation (EC) No 2604/2000<sup>(3)</sup>, the Council imposed definitive anti-dumping duties on imports into the Community of certain polyethylene terephthalate (PET) originating, *inter alia*, in India. Imports of PET exported by companies from which an undertaking had been accepted were exempt from that duty pursuant to Article 2(1) of that Regulation.

(6) The definitive findings and conclusions of the investigations are set out in Council Regulation (EC) No 1646/2005<sup>(8)</sup>, amending Regulation (EC) No 2604/2000 and in Council Regulation (EC) No 1645/2005<sup>(9)</sup> amending Regulation (EC) No 2603/2000.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

<sup>(2)</sup> OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004.

<sup>(3)</sup> OJ L 301, 30.11.2000, p. 21. Regulation as last amended by Regulation (EC) No 83/2005 (OJ L 19, 21.1.2005, p. 1).

<sup>(4)</sup> OJ L 301, 30.11.2000, p. 1. Regulation as last amended by Regulation (EC) No 822/2004 (OJ L 127, 29.4.2004, p. 3).

<sup>(5)</sup> OJ L 301, 30.11.2000, p. 88. Decision as amended by Decision 2002/232/EC (OJ L 78, 21.3.2002, p. 12).

<sup>(6)</sup> OJ L 8, 12.1.2005, p. 9.

<sup>(7)</sup> OJ C 8, 12.1.2005, p. 2.

<sup>(8)</sup> See page 10 of this Official Journal.

<sup>(9)</sup> See page 1 of this Official Journal.

**B. UNDERTAKING**

- (7) Subsequent to the disclosure by which South Asian Petrochem Limited (the company) was informed of the facts and considerations on the basis of which it was intended to impose the amended definitive anti-dumping duty and countervailing duty on its imports into the Community, the company offered a price undertaking in accordance with Article 8(1) of the basic AD Regulation and Article 13(1) of the basic AS Regulation. In that undertaking, the exporting producer has offered to sell the product concerned at or above price levels which eliminate the injurious effects of dumping and subsidisation.
- (8) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of this company is such that the Commission considers the risk of circumventing the agreed undertaking is limited.
- (9) In view of this, the undertaking offered by South Asian Petrochem Limited is acceptable.
- (10) In order to enable the Commission to monitor effectively the company's compliance with the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) No 2604/2000. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is

presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping and countervailing duty will instead be payable.

- (11) In the event of a breach or withdrawal of the undertaking, or if there is reason to believe that the undertaking is being breached, a provisional or definitive duty may be imposed pursuant to Article 8(9) and (10) of the basic AD Regulation and, where applicable, pursuant to Article 13(9) and (10) of the basic AS Regulation,

HAS DECIDED AS FOLLOWS:

*Article 1*

The table in Article 1 of Decision 2000/745/EC is hereby amended by adding the following:

Country	Manufacturer	Taric additional code
'India	South Asian Petrochem Limited	A 585'

*Article 2*

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

Done at Brussels, 12 September 2005.

*For the Commission*  
Peter MANDELSON  
*Member of the Commission*