II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 295/2013

of 21 March 2013

amending Regulation (EC) No 192/2007 imposing a definitive anti-dumping duty on imports of polyethylene terephthalate originating, inter alia, in Taiwan following a 'new exporter' review pursuant to Article 11(4) of Regulation (EC) No 1225/2009

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 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Article 11(4) thereof,

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

Whereas:

A. MEASURES IN FORCE

(1) Regulation (EC) No 2604/2000 [2] imposed a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand pursuant to Article 5 of the basic Regulation.

(2) Following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 192/2007 [3], decided that the abovementioned measures should be maintained.

(3) By notice, published in the *Official Journal of the European Union* on 24 February 2012 [4], the European Commission ('the Commission') initiated another expiry review of the relevant measures pursuant to Article 11(2) of the basic Regulation. That investigation is ongoing in parallel and will be concluded in a separate legal act.

B. CURRENT PROCEDURE

1. Request for a review

(4) The Commission has received a request to initiate a 'new exporter' review pursuant to Article 11(4) of the basic Regulation. The request was lodged by Lealea Enterprise Co., Ltd ('the applicant'), an exporting producer in Taiwan ('the country concerned').

(5) The applicant claimed that it did not export the product concerned to the Union during the period of investigation, i.e. the period from 1 October 1998 to 30 September 1999 ('the original investigation period').

(6) Furthermore, the applicant claimed that it was not related to any of the exporting producers of the product concerned which are subject to the abovementioned anti-dumping measures.

(7) The applicant further claimed that it had begun exporting the product concerned to the Union after the end of the original investigation period.

2. Initiation of a new exporter review

(8) The Commission examined the prima facie evidence submitted by the applicant and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Union industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EU) No 653/2012 [5], a review of Regulation (EC) No 192/2007 with regard to the applicant.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 301, 30.11.2000, p. 21.
[3] OL L 59, 27.2.2007, p. 59.
[4] OJ C 55, 24.2.2012, p. 4.
[5] OJ L 188, 18.7.2012, p. 8.

(9) Pursuant to Regulation (EU) No 653/2012, the anti-dumping duty of certain polyethylene terephthalate imposed by Regulation (EC) No 192/2007 was repealed with regard to imports of the product concerned produced and sold for export to the Union by the applicant. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

3. **Product concerned**

(10) The product concerned is polyethylene terephthalate ('PET') having a viscosity number of 78 ml/g or higher, according to International Organisation for Standardisation standard 1628-5, originating in Taiwan, currently falling within CN code 3907 60 20 ('the product concerned').

4. **Parties concerned**

(11) The Commission officially advised the Union industry, the applicant and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to be heard.

(12) The Commission sent an anti-dumping questionnaire to the applicant and its related companies and received a reply within the deadline set for that purpose.

(13) The Commission sought to verify all the information it deemed necessary for the determination of the new exporter status and dumping and verification visits were carried out at the premises of the applicant in Taiwan.

5. **Review investigation period**

(14) The review investigation period of dumping covered the period from 1 January 2011 to 30 June 2012 ('the review investigation period' or 'the RIP').

C. **RESULTS OF THE INVESTIGATION**

1. **'New exporter' qualification**

(15) The investigation confirmed that the company had not exported the product concerned during the original investigation period and that it had started to export it to the Union after that period.

(16) While quantities exported were limited, they were nevertheless found sufficient to establish a reliable dumping margin. They followed a pattern, in terms of shipment size and turnover per client, which was comparable to the behaviour of the applicant on third-country markets.

(17) As concerns the other conditions for the recognition of a new exporter status, the company was able to demonstrate that it did not have any links, direct or indirect, with any of the Taiwanese exporting producers subject to the anti-dumping measures in force with regard to the product concerned.

(18) Accordingly, it is confirmed that the company should be considered a 'new exporter' in accordance with Article 11(4) of the basic Regulation and thus an individual margin should be determined for it.

2. **Dumping**

Normal value

(19) The applicant produces the product concerned and sells it domestically and on export markets. The applicant sells directly to all markets.

(20) In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume was at least 5 % of the total export sales volume to the Union. The Commission established that the applicant exported a single product type to the Union and that the same product type was sold domestically by the applicant in overall representative volumes.

(21) The Commission also examined whether the sales of the product concerned sold domestically in representative quantities could be regarded as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. That was done by establishing the proportion of profitable domestic sales to independent customers. As there were sufficient sales in the ordinary course of trade, normal value was based on the actual domestic price.

Export price

(22) The product concerned was exported directly to independent customers in the Union. Therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, i.e. on the basis of export prices actually paid or payable.

Comparison

(23) The normal value and the export prices were compared on an ex-works basis.

(24) For the purpose of ensuring a fair comparison between normal value and export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments for insurance, handling, loading and ancillary expenses and credit costs were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

Dumping margin

(25) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all exports transactions to the Union. As there were a limited number of exports to the Union, the individual export prices to the Union were also compared to the weighted average normal value of the months in which each export occurred.

(26) In both cases, those comparisons showed the existence of a *de minimis* dumping for the applicant that exported to the Union in the RIP.

D. **AMENDMENT OF MEASURES BEING REVIEWED**

(27) The dumping margin with regard to the applicant, established for the RIP, was at *de minimis* level. It is therefore proposed that a duty of 0 EUR/tonne which is based on the *de minimis* dumping margin be imposed and that Regulation (EC) No 192/2007 be amended accordingly.

E. **REGISTRATION**

(28) In the light of these findings, the registration of imports imposed by Regulation (EU) No 653/2012 should cease without any retroactive levying of the anti-dumping duties.

F. **DISCLOSURE AND DURATION OF THE MEASURES**

(29) The parties concerned were informed of the essential facts and considerations on the basis of which it was intended to impose an anti-dumping duty of 0 EUR/tonne on imports of the product concerned from the applicant and to amend Regulation (EC) No 192/2007 accordingly. Their comments were considered and taken into account, where appropriate.

(30) This review does not affect the date on which the measures imposed by Regulation (EC) No 192/2007 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. In Article 1(2) of Regulation (EC) No 192/2007, the following shall be inserted into the table under producers in Taiwan:

Country	Company	Anti-dumping duty (EUR/ tonne)	TARIC additional code
'Taiwan	Lealea Enterprise Co., Ltd	0	A996'

2. The customs authorities are hereby directed to cease the registration of imports of the product concerned originating in Taiwan produced by Lealea Enterprise Co., Ltd.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 March 2013.

For the Council
The President
P. HOGAN