Commission Implementing Regulation (EU) 2019/2171 of 17 December 2019 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Implementing Regulation (EU) 2019/1267 on imports of tungsten electrodes originating in the People's Republic of China by imports of tungsten electrodes consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not, and making such imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2171

of 17 December 2019

initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Implementing Regulation (EU) 2019/1267 on imports of tungsten electrodes originating in the People's Republic of China by imports of tungsten electrodes consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not, and making such imports subject to registration

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] ('the basic Regulation'), and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. EX-OFFICIO INVESTIGATION

(1) The European Commission ('the Commission') has decided, on its own initiative, pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on imports of tungsten electrodes originating in the People's Republic of China and to make such imports subject to registration.

B. PRODUCT

(2) The product concerned by the possible circumvention is tungsten welding electrodes, including tungsten bars and rods for welding electrodes, containing 94 % or more by weight of tungsten, other than those obtained simply by sintering, whether or not cut to length, falling at the time of the entry into force of Commission Implementing Regulation (EU) 2019/1267[(2)] under CN codes ex 8101 99 10 and ex 8515 90 80 (TARIC codes 8101 99 10 10 and 8515 90 80 10) and originating in the People's Republic of China ('the product concerned'). This is the product to which the measures that are currently in force apply.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/2171. (See end of Document for details)*

(3) The product under investigation is the same as that defined in the previous recital, but consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not, currently falling within the same CN codes as the product concerned (the product under investigation).

C. EXISTING MEASURES

(4) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2019/1267 ('the existing measures').

D. GROUNDS

(5) The Commission has at its disposal sufficient evidence that the existing anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being circumvented by imports of the product under investigation.

(6) The evidence at the Commission's disposal is as follows.

(7) The data reported to the Commission by the Member States on the import trade in products subject to investigation and to measures in accordance with Article 14(6) of the basic Regulation, preliminarily shows that a significant change in the pattern of trade involving exports from the People's Republic of China and India, Laos and Thailand to the Union has taken place following the imposition of measures on the product concerned. This change appears without sufficient due cause or economic justification for such a change other than the imposition of the duty.

(8) That change appears to stem from the transhipment of the product concerned originating in the People's Republic of China via India, Laos and Thailand to the Union. The Commission is in possession of sufficient evidence establishing that there are no facilities to produce tungsten electrodes in any of these countries.

(9) Furthermore, the Commission has sufficient evidence at its disposal to establish that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned. In addition, there is sufficient evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(10) Finally, the Commission has acquired sufficient evidence to conclude that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.

(11) Should circumvention practices via India, Laos and Thailand covered by Article 13 of the basic Regulation, other than transhipment, be identified in the course of the investigation, the investigation may also cover these practises.

E. PROCEDURE

(12) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

(13) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(2) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.

(14) The authorities of India, Laos, Thailand and the People's Republic of China will be notified of the initiation of the investigation.

(a) **Collection of information and holding of hearings**

(15) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2) of this Regulation. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(b) **Exemption from registration of imports or measures and questionnaires**

(16) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

(17) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in India, Laos and Thailand that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time-limit indicated in Article 3(1) of this Regulation. A questionnaire is available in the file for inspection by interested parties and on DG Trade's website: http://trade.ec.europa.eu/tdi/case_details.cfm?id=2427, which has to be submitted within the time-limit indicated in Article 3(2) of this Regulation.

F. **REGISTRATION**

(18) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports was imposed.

G. **TIME-LIMITS**

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

— interested parties may make themselves known to the Commission, present their views in writing or any other information to be taken into account during the investigation,

— producers in India, Laos and Thailand may request exemptions from registration of imports or measures,

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

(20) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

H. NON-COOPERATION

(21) If 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 on the basis of facts available in accordance with Article 18 of the basic Regulation.

(22) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

(23) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the 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.

I. SCHEDULE OF THE INVESTIGATION

(24) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

(25) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council[3].

(26) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/.

K. HEARING OFFICER

(27) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.