Commission Implementing Regulation (EU) 2019/1706 of 10 October 2019 amending Implementing Regulation (EU) 2017/325 imposing a definitive anti-dumping duty on imports of high tenacity yarns of polyesters originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1706

of 10 October 2019

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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'),

Having regard to Commission Implementing Regulation (EU) 2017/325 of 24 February 2017 imposing a definitive anti-dumping duty on imports of high tenacity yarns of polyesters originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council[(2)], as amended by Implementing Regulation (EU) 2017/2368[(3)], and in particular, Article 1(5) thereof,

Whereas:

A. MEASURES IN FORCE

(1) With Implementing Regulation (EU) No 1105/2010[(4)], the Council imposed a definitive anti-dumping duty on imports into the Union of high tenacity yarns of polyesters originating in the People's Republic of China ('the product concerned').

(2) In the original investigation, sampling was applied for investigating the exporting producers in the People's Republic of China ('PRC') in accordance with Article 17 of the basic Regulation.

(3) The Council imposed individual anti-dumping duty rates ranging from 5,1 % to 9,8 % on imports of the product concerned for the sampled exporting producers from the PRC. For the cooperating exporting producers that were not included in the sample, a duty rate of 5,3 % was imposed. Furthermore, a country-wide duty rate of 9,8 % was imposed on imports of high tenacity yarns of polyesters from all other Chinese companies.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1706. (See end of Document for details)*

(4) Following an expiry review based on Article 11(2) of the basic Regulation, the original measures were prolonged for five years by Implementing Regulation (EU) 2017/325 ('the expiry review Regulation').

(5) Implementing Regulation (EU) 2017/2368 amended Implementing Regulation (EU) 2017/325 to include Article 1(5) allowing exporting producers to request a new exporting producer treatment.

(6) Article 1(5) of Implementing Regulation (EU) 2017/325, as amended by Implementing Regulation (EU) 2017/2368 states that where any party from the PRC provides sufficient evidence to the Commission that:

(a) it did not export to the Union the product concerned during the period of the original investigation (1 July 2008 - 30 June 2009);

(b) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and

(c) it has either actually exported to the Union the product concerned after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of the original investigation;

then the Annex of Implementing Regulation (EU) 2017/325 can be amended to attribute to that party the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty rate of 5,3 %.

B. REQUESTS FOR NEW EXPORTING PRODUCER TREATMENT

(7) The company Wuxi Solead Technology Development Co., Ltd, came forward after the publication of Implementing Regulation (EU) 2017/325 and submitted a request to the Commission to be granted new exporting producer treatment and hence be subject to the duty rate applicable to the cooperating companies in the PRC not included in the sample, i.e. 5,3 %.

(8) In order to determine whether the applicant fulfilled the criteria for being granted new exporting producer treatment, set out above in recital 6, the Commission first sent a questionnaire to the applicant requesting evidence showing that it meets these criteria. After an initial analysis of the questionnaire response, the Commission sent out a letter requesting further information to which the applicant responded.

(9) The Commission verified all information it deemed necessary for determining whether the applicant meets the criteria. The Commission also informed the Union industry of this new exporting producer treatment request.

(10) The Union industry did not comment on the request.

C. ANALYSIS OF THE REQUEST

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1706. (See end of Document for details)*

(11) With regard to criterion (a), the Commission examined the applicant's business licence, Articles of Association and audited financial statements, and determined that the applicant was founded on 11 February 2015. Therefore, in light of the available information, the Commission established that the applicant did not export the product concerned during the original investigation (1 July 2008 to 30 June 2009). Hence, the applicant complies with criterion (a) as set out in recital 6.

(12) With regard to the criterion that the applicant is not related to any exporters or producers that are subject to anti-dumping measures imposed by the original Regulation (criterion (b)), the Commission examined the relations of its shareholders and its related export sales company. The Commission established from the information at its disposal that the applicant is not related to any exporter or producer that is subject to the anti-dumping measures. Therefore, the applicant complies with criterion (b) as set out in recital 6.

(13) With regard to the criterion (c), that the applicant has actually exported to the Union the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the original investigation period, the applicant provided evidence of exports of the product concerned to Croatia after the original investigation period. The Croatian customs authorities also reported the transaction in the database created under Article 14.6 of the basic Regulation. Therefore, the company complies with criterion (c) set out in recital 6.

D. CONCLUSION

(14) The Commission concluded that the applicant meets the three criteria to be considered as a new exporting producer. Therefore, its name should be added to the list of cooperating companies not included in the sample in Annex to Implementing Regulation (EU) 2017/325.

(15) Therefore, Implementing Regulation (EU) 2017/325 should be amended accordingly.

E. DISCLOSURE

(16) The Commission informed the applicant and the Union industry of these findings and gave an opportunity to comment.

(17) The parties were granted the possibility to submit comments. [No comments were received.]

(18) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

The following company shall be added to the list of exporting producers from the People's Republic of China in the Annex of Commission Implementing Regulation (EU) 2017/325: