Commission Implementing Regulation (EU) 2016/1167 of 18 July 2016 amending Council Implementing Regulation (EU) No 102/2012 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in the People's Republic of China, as extended to imports of steel ropes and cables consigned from, inter alia, the Republic of Korea, whether declared as originating in the Republic of Korea or not

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1167

of 18 July 2016

amending Council Implementing Regulation (EU) No 102/2012 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in the People's Republic of China, as extended to imports of steel ropes and cables consigned from, inter alia, the Republic of Korea, whether declared as originating in the Republic of Korea or not

THE EUROPEAN COMMISSION,

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 Articles 11(4) and 13(4) thereof,

Whereas:

A. **MEASURES IN FORCE**

(1) By Council Regulation (EC) No 1796/1999[(2)], the Council imposed a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in the People's Republic of China. Following two expiry reviews under Article 11(2) of the basic Regulation, the anti-dumping measures were maintained by Council Regulation (EC) No 1858/2005[(3)] and Council Implementing Regulation (EU) No 102/2012[(4)].

(2) By Council Implementing Regulation (EU) No 400/2010[(5)], the Council extended the anti-dumping duty on imports of steel ropes and cables originating, inter alia, in the People's Republic of China to imports of the same product consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, following an anti-circumvention investigation under Article 13 of the basic Regulation. By the same Regulation, certain Korean exporting producers were exempted from these extended measures.

(3) The measures currently in force are an anti-dumping duty imposed by Implementing Regulation (EU) No 102/2012 on imports of steel ropes and cables originating, inter alia, in the People's Republic of China as extended, inter alia, to imports of steel ropes and cables consigned from the Republic of Korea whether declared as originating in the Republic of Korea or not, as last amended by Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1167. (See end of Document for details)*

Implementing Regulation (EU) 2016/90[6] ('the measures in force'). Imports into the Union of the product under review consigned from the Republic of Korea are subject to a duty of 60,4 %, with the exception of the product manufactured by companies which were exempted.

B. PROCEDURE

1. Initiation

(4) The European Commission ('the Commission') received a request for an exemption from the anti-dumping measures applicable to imports of steel ropes and cables originating in the People's Republic of China, as extended to imports consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, under Articles 11(4) and 13(4) and of the basic Regulation.

(5) The request was lodged on 7 September 2015 by Daechang Steel Co. Ltd ('the applicant'), an exporting producer of steel ropes and cables in the Republic of Korea ('the country concerned') and it was limited to the applicant.

(6) The applicant provided prima facie evidence that it did not export the product under review to the Union during the investigation period used in the investigation that led to the extended measures (1 July 2008 to 30 June 2009), that it is not related to any of the exporting producers of the product under review which are subject to the anti-dumping duties in force, that it has not circumvented the measures applicable to steel ropes and cables of Chinese origin and that it has entered into an irrevocable contractual obligation to export a significant quantity to the Union.

(7) Having examined the evidence submitted by the applicant and following consultation of the Member States, and after the Union industry was given the opportunity to comment, the Commission initiated the investigation on 26 November 2015 by Implementing Regulation (EU) 2015/2179[7]. Furthermore, pursuant to Article 3 of that Regulation, the Commission directed customs authorities to take the appropriate steps to register imports of the product under review consigned from the Republic of Korea and produced and sold for export to the Union by the applicant, in accordance with Article 14(5) of the basic Regulation.

2. Product under review

(8) The product subject to the review is steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not ('the product under review'), currently falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98 (TARIC codes 7312 10 81 13, 7312 10 83 13, 7312 10 85 13, 7312 10 89 13 and 7312 10 98 13).

3. Reporting period

(9) The reporting period covered the period from 1 October 2014 to 30 September 2015. Data was collected from 2008 until the end of the reporting period ('the investigation period').

4. **Investigation**

(10) The Commission officially advised the applicant and the representatives of the Republic of Korea of the initiation of the review. Interested parties were invited to make their views known and were informed of the possibility to request a hearing. No requests were received.

(11) The Commission sent a questionnaire to the applicant and received a reply within the given deadline. The Commission sought and verified on the spot all the information deemed necessary for the purposes of the review. A verification visit was carried out at the premises of the applicant.

(12) The Commission examined whether the conditions for granting an exemption under Article 11(4) and 13(4) were fulfilled, namely whether:

— The applicant did not export the product under review during the investigation period used in the investigation that led to the extended measures, namely the period from 1 July 2008 to 30 June 2009.

— The applicant began exporting the product under review after the end of the investigation period of the anti-circumvention investigation.

— The applicant is not related to any of the exporting producers of the product under review which are subject to the anti-dumping duties in force, and that it has not circumvented the measures applicable to steel ropes and cables of Chinese origin.

C. **FINDINGS**

(13) The investigation confirmed that the applicant had not exported the product under review to the Union during the investigation period of the anti-circumvention investigation that led to the extended measures, that is 1 July 2008 to 30 June 2009. The applicant's first exports of the product under review occurred subsequent to the extension of measures to the Republic of Korea, more precisely in the second half of 2015.

(14) Next, the investigation confirmed that the applicant was not related to any Chinese exporters or producers subject to the anti-dumping measures imposed by Implementing Regulation (EU) No 102/2012.

(15) Furthermore, the investigation confirmed that the applicant is a genuine producer of the product under review not engaged in circumvention practices. The applicant purchases domestically produced steel wire rod and sub-materials (such as zinc and lead) but also imports steel wire rod from the People's Republic of China, which is subsequently pickled, drawn, galvanised, drawn a second time, stranded and closed at its manufacturing facilities in the Republic of Korea. The finished product is sold domestically and also exported to the United States, Asia and the Union.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1167. (See end of Document for details)*

(16) The production activities can be considered as an assembly or completion operation. Article 13(2) of the basic Regulation lays down the conditions under which an assembly operation will be considered to be circumventing the measures. Under point (b) of that Article, one condition is that the parts in question constitute more than 60 % of the total value of the parts of the assembled product. During the investigation it was established that the proportion of Chinese raw materials used by the applicant was significantly below the threshold of 60 % required under Article 13(2)(b) of the basic Regulation. The percentage of Chinese parts (namely raw materials) used was 38 %. Where that threshold is exceeded, Article 13(2)(b) requires that it is established whether the 25 % threshold of value added was reached (the 'value-added test'). The 60 % threshold of the total value of the parts was not exceeded. Hence, on the basis of the actual costs incurred during the reporting period, it was not necessary to establish whether the 25 % threshold of value added was reached within the meaning of Article 13(2)(b) of the basic Regulation.

(17) The applicant started with the production of the product under review mid-2015. Due to the exceptional manufacturing costs incurred during the start-up production phase, another calculation was performed on the basis of standard costs of manufacturing (excluding start-up costs and anticipating a high production capacity utilisation rate). It was established that the proportion of Chinese-origin raw materials then constituted more than the 60 % of the total value of the parts of the final product (69 %). For that reason the value-added test under Article 13(2) of the basic Regulation was carried out. That test demonstrated that the value added to the parts brought in from the People's Republic of China was significantly above the 25 % of the manufacturing costs threshold as stipulated in Article 13(2)(b) of the basic Regulation. Therefore, the applicant's production activities are not considered to constitute circumvention in the sense of Article 13(2) of the basic Regulation.

(18) Last, the investigation confirmed that the applicant was not purchasing the finished product under review from the People's Republic of China in order to resell or tranship to the Union and that the company could justify all its exports during the reporting period.

(19) In light of the findings described in recitals 13 to 18, the Commission concludes that the applicant fulfils the conditions for an exemption under Articles 11(4) and 13(4) of the basic Regulation.

(20) The findings above were disclosed to the applicant and the Union industry, which were given the opportunity to provide comments. The applicant submitted that it agreed to the Commission's findings. No further comments were submitted.

D. MODIFICATION OF THE LIST OF COMPANIES BENEFITTING FROM AN EXEMPTION TO THE MEASURES IN FORCE

(21) In accordance with the above findings, the applicant should be added to the list of companies that are exempted from the anti-dumping duty imposed by Implementing Regulation (EU) No 102/2012.