Commission Implementing Regulation (EU) 2015/395 of 10 March 2015 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 511/2010 on imports of certain molybdenum wires originating in the People's Republic of China by imports of certain slightly modified molybdenum wires, and making such imports subject to registration

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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 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. **REQUEST**

(1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on certain molybdenum wires originating in the People's Republic of China by imports of certain slightly modified molybdenum wires, either changed to the weight or to the diameter, of which the cross-sectional dimension exceeds 4,0 mm but does not exceed 11,0 mm, originating in the People's Republic of China, and to make such imports subject to registration.

(2) The request was lodged on 26 January 2015 by Plansee SE, a Union producer of certain molybdenum wires.

B. **PRODUCT**

(3) The product concerned by the possible circumvention is molybdenum wire, containing by weight at least 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China, currently falling within CN code ex 8102 96 00 (TARIC codes 8102 96 00 11 and 8102 96 00 19) ('the product concerned'). This is the product to which the measures currently in force apply.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/395. (See end of Document for details)*

(4) The product under investigation for possible circumvention has the same characteristics as the product concerned defined in the previous recital, but is however presented at import with a maximum cross-sectional dimension that exceeds 4,0 mm but does not exceed 11,0 mm and currently falls within the same CN code as the product concerned but under a different TARIC code (i.e. 8102 96 00 99 until the entry into force of this Regulation). This product also originates in the People's Republic of China. The investigation of possible circumvention also includes molybdenum wire containing by weight 97 % or more but less than 99,95 % of molybdenum with a maximum cross-sectional dimension that exceeds 4,0 mm but does not exceed 11,0 mm, originating in the People's Republic of China.

C. EXISTING MEASURES

(5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Implementing Regulation (EU) No 511/2010[(2)] on imports of certain molybdenum wires originating in the People's Republic of China ('the existing measures'). Following an anti-circumvention investigation, in 2012 these measures were extended to imports of certain molybdenum wires consigned from Malaysia, whether declared as originating in Malaysia or not[(3)]. Following another anti-circumvention investigation, in 2013 these measures were extended to imports of molybdenum wire, containing by weight 97 % or more but less than 99,95 % of molybdenum, of which the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, originating in the People's Republic of China[(4)].

D. GROUNDS

(6) The request contains sufficient prima facie 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 means of imports of the product under investigation and that they could be further circumvented by other slight modifications of weight or diameter.

(7) More specifically, the request shows that a significant change in the pattern of trade involving exports from the People's Republic of China to the Union has taken place following the imposition of the definitive anti-dumping duty on the product concerned imposed by Implementing Regulation (EU) No 511/2010, without sufficient due cause or economic justification for such a change other than the imposition of the duty.

(8) The request contains sufficient prima facie evidence that this change stems from the importation of the slightly modified product concerned, namely with a maximum cross-sectional dimension that exceeds 4,0 mm but does not exceed 11,0 mm, which is then converted in the Union into the product concerned, namely the maximum cross-sectional dimension exceeds 1,35 mm but does not exceed 4,0 mm, by redrawing the wire to a cross-sectional dimension of 4,0 mm or below. The prima facie evidence demonstrates that there is no due cause or economic justification other than the imposition of the duty for such practice, process or work.

(9) The request also contains sufficient prima facie evidence that the product under investigation has the same essential characteristics and uses as the product concerned.

(10) Furthermore, the request contains sufficient prima facie evidence 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 prima facie 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.

(11) Finally, the request contains sufficient prima facie evidence that the prices of the product under investigation are dumped in relation to the normal value previously established.

(12) Should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

(13) 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.

(a) Questionnaires

(14) In order to obtain information it deems necessary for its investigation, the Commission will send questionnaires to the known exporters/producers and to the known associations of exporters/producers in the People's Republic of China, to the known importers and to the known associations of importers in the Union and to the authorities of the People's Republic of China. Information, as appropriate, may also be sought from the Union industry.

(15) In any event, all interested parties should contact the Commission, but not later than the time limit set in Article 3 of this Regulation, and request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

(16) The authorities of the People's Republic of China will be notified of the initiation of the investigation.

(b) Collection of information and holding of hearings

(17) All interested parties are invited to make their views known in writing and to provide supporting evidence. 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.

(c) **Exemption from registration of imports or measures**

(18) 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.

(19) While the extent to which the possible circumvention is taking place inside and/or outside the Union needs to be investigated, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to importers and/or exporters/producers of the product under investigation that can show that they are not related[(5)] to any producer subject to the measures[(6)] and that are found not to be engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Importers and exporters/producers wishing to obtain an exemption should submit a request duly supported by evidence within the time limit indicated in Article 3(3) of this Regulation.

F. **REGISTRATION**

(20) 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**

(21) 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 and submit questionnaire replies or any other information to be taken into account during the investigation,

— importers in the Union and exporters/producers may request exemption from registration of imports or measures,

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

(22) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits laid down in Article 3 of this Regulation.

H. **NON-COOPERATION**

(23) In cases in which 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 in accordance with Article 18 of the basic Regulation, on the basis of the facts available.