Implementing Regulation of the Council (EU) No 400/2010 of 26 April 2010 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1858/2005 on imports of steel ropes and cables originating, inter alia, in the People's Republic of China to imports of steel ropes and cables consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, and terminating the investigation in respect of imports consigned from Malaysia

IMPLEMENTING REGULATION OF THE COUNCIL (EU) No 400/2010

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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 13 thereof,

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

Whereas:

1. PROCEDURE

1.1. Existing measures and former investigations

(1) By Regulation (EC) No 1796/1999[(2)], (the 'original Regulation'), the Council imposed definitive anti-dumping duties of 60,4 % on imports of steel ropes and cables (SWR) originating, inter alia, in the People's Republic of China (the 'PRC' or 'China'). These measures will hereinafter be referred to as 'the original measures' and the investigation that led to the measures imposed by the original Regulation will be hereinafter referred to as 'the original investigation'.

(2) In 2004, after it was found that the original measures were circumvented by the transhipment of Chinese-origin SWR via Morocco in accordance with Article 13 of the basic Regulation, the measures were extended by Council Regulation (EC) No 1886/2004[(3)] to imports of the same SWR consigned from Morocco. Similarly, after it was found the circumvention of the original measures on imports from Ukraine took place via Moldova following an investigation pursuant to Article 13 of the basic Regulation, the measures were extended by Council Regulation (EC) No 760/2004[(4)] to imports of the same steel ropes and cables consigned from Moldova.

Changes to legislation: *There are currently no known outstanding effects for the Implementing Regulation of the Council (EU) No 400/2010. (See end of Document for details)*

(3) By Regulation (EC) No 1858/2005[5] the Council, following an expiry review (the 'expiry review'), imposed, in accordance with Article 11(2) of the basic Regulation, a definitive anti-dumping duty on imports of SWR originating, inter alia, in the People's Republic of China, at the level of the original measures. The duty thus imposed remains in force and will hereinafter be referred to as 'the measures in force'.

1.2. **Request**

(4) On 29 June 2009, the Commission received a request pursuant to Article 13(3) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on SWR originating in the People's Republic of China. The request was submitted by the Liaison Committee of the EU Wire Rope Industries (EWRIS) on behalf of the Union producers of steel ropes and cables (the 'applicant').

(5) The request alleged that, following the imposition of the anti-dumping measures, a significant change in the pattern of trade involving exports from the PRC and the Republic of Korea and Malaysia to the Union took place, for which there was insufficient due cause or economic justification other than the imposition of the measures in force. This change in the pattern of trade stemmed allegedly from the transhipment of SWR originating in the PRC via the Republic of Korea and Malaysia.

(6) The request further alleged that the remedial effects of the measures in force were being undermined both in terms of quantity and price. In addition, there was sufficient evidence that these increased imports from the Republic of Korea and Malaysia were made at prices well below the non-injurious price established in the original investigation.

(7) Finally, the applicant alleged that the prices of SWR consigned from the Republic of Korea and Malaysia were dumped in relation to the normal value established for the like product during the original investigation.

1.3. **Initiation**

(8) Having determined, after consulting the Advisory Committee, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission initiated an investigation by Regulation (EC) No 734/2009[6] (the 'initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, by the initiating Regulation, also directed the customs authorities to register imports of SWR consigned from the Republic of Korea and Malaysia.

1.4. **Investigation**

(9) The Commission officially advised the authorities of the PRC, the Republic of Korea and Malaysia, the producers/exporters and the traders in those countries, as well as the importers in the Union known to be concerned and the applicant Union industry of the initiation of the investigation. Questionnaires were sent to the known producers/exporters in the PRC, the Republic of Korea and Malaysia known to the Commission

from the request or through the Missions of the Republic of Korea and Malaysia to the European Union or which made themselves known within the deadlines specified in Article 3(1) of the initiating Regulation. Questionnaires were also sent to traders in the Republic of Korea and Malaysia and to the importers in the Union named in the request. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation.

(10) Fifteen producers/exporters and two traders in the Republic of Korea, two producers/exporters in Malaysia, five producers/exporters in China, two related importers, ten unrelated importers in the Union and the European Wire Rope Importers Association made themselves known. Several other companies claimed that they are not involved in the production or export of the product under investigation.

(11) The following companies submitted replies to the questionnaires and verification visits were subsequently carried out at their premises:

Producers/exporters in the Republic of Korea:

— Bosung Wire Rope Co., Ltd, Kimhae-Si,

— Chung Woo Rope Co., Ltd, Busan,

— CS Co., Ltd, Yangsan-City,

— Cosmo Wire Ltd, Ulsan,

— Dae Heung Industrial Co., Ltd, Haman – Gun,

— DSR Wire Corp., Suncheon-City and its related company DSR Corp., Busan,

— Goodwire Mfg., Co., Ltd, Yangsan-city,

— Kiswire Ltd, Seoul,

— Line Metal Co., Ltd, Changnyoung-Gun,

— Manho Rope & Wire Ltd, Busan,

— Shin Han Rope Co., Ltd, Incheon,

— Ssang Yong Cable Mfg. Co., Ltd, Busan,

— Young Heung Iron & Steel Co., Changwon City

Trader in the Republic of Korea:

— Trion Co. Ltd, Busan

Producers/exporters in Malaysia:

— Kiswire Sdn. Bhd., Johor Bahru,

— Southern Wire Industries (M) Sdn. Bhd., Shah Alam, Selangor

Producers/exporters in the PRC:

— Qingdao DSR, Qingdao,

— Kiswire Qingdao Ltd, Qingdao,

— Young Heung (Taicang) Steel Wire Rope Co., Ltd, Tai Cang City

Related importers:

— Kiswire Europe, the Netherlands,

— Verope AG, Switzerland.

1.5. **Investigation period**

(12) The investigation period covered the period from 1 July 2008 to 30 June 2009 (the 'IP'). Data was collected for the period from 1999 up to the end of the IP to investigate the alleged change in the pattern of trade.

2. **RESULTS OF THE INVESTIGATION**

2.1. **General considerations**

(13) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether there was a change in the pattern of trade between third countries and the Union, if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty, if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product, and whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. **Product concerned and the like product**

(14) The product concerned is, as defined in the original investigation, steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm (in industry terminology often referred to as SWR), originating in the People's Republic of China, 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 (the product concerned).

(15) The product under investigation 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 and Malaysia, whether declared as originating in the Republic of Korea and Malaysia or not (the product under investigation), currently falling within the same CN codes as the product concerned.

(16) The investigation showed that the SWR exported to the Union from the PRC and those consigned from the Republic of Korea and Malaysia to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. **Degree of cooperation and determination of the trade volumes**

(17) As stated above in recital 11, fourteen exporters/producers in the Republic of Korea, one Korean trader, two exporting producers in Malaysia and three exporting producers in China cooperated by submitting questionnaire replies.

Republic of Korea

(18) After the submission of its questionnaire reply, one Korean company notified the Commission that it went bankrupt and therefore it withdrew its cooperation.

(19) In the case of another Korean company the application of Article 18(1) was found to be warranted for the reasons set out in recital 47.

(20) The cooperating Korean exporting producers covered 81 % of the total Korean exports to the Union in the IP as reported in Comext. Therefore, even though cooperation was high, the cooperating producers/exporters did not completely cover the overall export volume of SWR from the Republic of Korea. The overall export volumes were thus based on Comext.

Malaysia

(21) There are two known producers in Malaysia. The total export quantities of the two cooperating companies in Malaysia exceeded the import volume of the product under investigation recorded in Comext. Therefore the exporting producers were considered to be reflecting the total exports of SWR from Malaysia to the Union.

(22) The applicant claimed that Comext data were unreliable and therefore total export volumes from Malaysia to the Union should not be determined on this basis. However, during the investigation, import data were counter checked with Malaysian official statistics and with the verified questionnaire replies. This analysis did not reveal that actual exports from Malaysia exceeded the exports reported by the cooperating Malaysian companies. The applicant's argument had therefore to be rejected.

People's Republic of China

(23) There was a low level of cooperation by producers/exporters in the PRC, with only three exporters/producers submitting a questionnaire reply. Moreover, none of those companies exported the product concerned to the Union and only in very minor quantities to Malaysia. The exports of the cooperating companies covered 41 % of the total Chinese exports to the Republic of Korea. Therefore, on the basis of the information submitted by the cooperating parties no reasonable determination could be made as to export volumes of SWR from the PRC.

(24) Given the above, findings in respect of imports of SWR into the Union and exports of SWR from the PRC to the Republic of Korea and Malaysia had to be made partially on the basis of facts available in accordance with Article 18 of the basic Regulation. Comext data was used to determine overall import volumes from the PRC to the Union. Chinese, Korean and Malaysian national statistics were used for the determination of the overall imports to the Republic of Korea and Malaysia from the PRC. Data were cross-checked among the different statistical sources and confirmed by other statistical databases such as the Global Trade Atlas, China Export Database and the data provided by the customs authorities of the Republic of Korea and Malaysia.

(25) The import volume recorded in Korean, Malaysian and Chinese statistics covered a larger product group than the product concerned or the product under investigation. Therefore, the statistics were adjusted accordingly based on the findings of the present investigation.