



EUROPEAN COMMISSION

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2012/0113 (NLE)

Proposal for a

### **COUNCIL REGULATION**

**amending the Implementing Regulation of the Council (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**

## **EXPLANATORY MEMORANDUM**

### **1) CONTEXT OF THE PROPOSAL**

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation') in the proceeding concerning imports of certain steel ropes and cables originating in the People's Republic of China as extended to imports of steel ropes and cables consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

- Regulation (EC) No 1858/2005 imposing anti-dumping measures on certain steel ropes and cables originating, inter alia, in the People's Republic of China.

- Regulation (EU) No 400/2010, extending the above definitive anti-dumping duty to imports of the same product consigned from the Republic of Korea.

- Regulation (EU) No 102/2012, maintaining these measures following an expiry review pursuant to Article 11(2) of the basic Regulation.

- **Consistency with other policies and objectives of the Union**

Not applicable.

### **2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

- **Consultation of interested parties**

The applicants and the Union industry have been informed of the findings of the examination and have had the opportunity to submit their comments.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not make provision for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

### 3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

By Regulation (EC) No 1858/2005, the Council imposed a definitive anti-dumping duty on imports of certain steel ropes and cables ('the product concerned') originating, inter alia, in the People's Republic of China.

By Regulation (EU) No 400/2010, the Council extended the above definitive anti-dumping duty to imports of the same product consigned from the Republic of Korea. By the same Regulation, imports from certain specifically listed Korean companies were exempted from this extension of the duty.

By Regulation (EU) No 102/2012 and following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council maintained these measures.

Article 11(4) of the basic Regulation gives the possibility to exporting producers which meet certain criteria to be exempted from the residual duty and obtain an individual margin of dumping ('new exporting producer treatment'). Article 13(4) of the basic Regulation gives the possibility to companies of a country to which measures are extended following an investigation pursuant to Article 13(3) to be exempted from that extension of measures.

The company Seil Wire & Cable ('Seil'), a Korean exporting producer of the product concerned, requested a review in accordance with Article 11(4) and Article 13(4) of the basic Regulation. The investigation demonstrated that Seil was a new exporting producer according to Article 11(4) of the basic Regulation and that it could meet the criteria for being granted an exemption to the extension of the measures as per Article 13(4) of the basic Regulation.

It is therefore proposed that the Council adopts the attached proposal for a Regulation, which adds Seil to the list of Korean producers exempted from the measures. The Regulation should be published in the *Official Journal of the European Union*.

- **Legal basis**

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

- The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.
- Indication of how financial and administrative burden falling upon the Union,

national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason:

- the above-mentioned basic Regulation does not foresee alternative options.

**4) BUDGETARY IMPLICATION**

The proposal has no implication for the Union budget.

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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<sup>1</sup> (the 'basic Regulation'), and in particular Articles 9(4) and 13(4) thereof,

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

Whereas:

### **A. EXISTING MEASURES**

- (1) By Regulation (EC) No 1858/2005<sup>2</sup>, the Council imposed anti-dumping measures on steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm ('certain steel ropes and cables' or 'the product concerned'), 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 and originating, inter alia, in the People's Republic of China (the original measures). The measures with regard to these imports consisted of a duty rate applicable to the CIF net, free-at-Union frontier price, before duty, of 60,4%.
- (2) On 12 August 2009 and following a request lodged by the Liaison Committee of the EU Wire Rope Industries, the Commission initiated an investigation pursuant to Article 13 of the basic Regulation. That investigation was concluded by Regulation (EU) No 400/2010, through which the Council extended the definitive anti-dumping duty against certain steel ropes and cables originating in the People's Republic in China to imports of the same product consigned from the Republic of Korea (the extended measures). By the same Regulation, imports of the product concerned consigned by certain specifically mentioned Korean companies were excluded from

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<sup>1</sup> OJ L 343, 22.12.2009, p. 51.

<sup>2</sup> OJ L 299, 16.11.2005, p. 1.

these measures as the companies concerned were not found to be circumventing the measures. Moreover, even though some of the Korean companies concerned were related to PRC companies that are subject to the original measures, there was no evidence that such relationship was established or used to circumvent the measures in place on imports originating in the People's Republic of China<sup>3</sup>.

- (3) By Regulation (EU) No 102/2012<sup>4</sup> and following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council maintained these measures.

## **B. INITIATION OF A REVIEW**

- (4) By Commission Regulation (EU) No 969/2011 of 29 September 2011<sup>5</sup>, the Commission opened a review of Regulation (EU) No 400/2010 for the purpose of determining the possibility of granting an exemption from those measures to one Korean exporter, Seil Wire & Cable ('the applicant'), repealed the anti-dumping duty with regard to imports from the applicant and made imports from it subject to registration.
- (5) The review was opened as the Commission considered that there was sufficient *prima facie* evidence for the applicant's allegations that it was a new exporting producer according to Article 11(4) of the basic Regulation and that it could meet the criteria for being granted an exemption to the extension of the measures as per Article 13(4) of the basic Regulation.
- (6) An examination has therefore been carried out to determine whether the applicant fulfils the criteria for being granted an exemption to the extended measures as set out in recital (5) to (7) of Commission Regulation (EU) No 969/2011, by verifying that:
- (i) it did not export the product concerned to the European Union during the investigation period used in the investigation that led to the extended measures, i.e. 1 July 2008 to 30 June 2009;
  - (ii) it has not circumvented the measures applicable to certain steel ropes and cables of Chinese origin; and
  - (iii) it began exporting the product concerned to the European Union after the end of the investigation period used in the investigation that led to the extended measures.
- (7) The Commission sought and verified all information it deemed necessary for the purpose of the determination of the fulfilment of the above criteria. This process included an on-spot verification at the premises of the applicant.

## **C. FINDINGS**

- (8) The applicant provided sufficient evidence to prove that it meets all the three criteria mentioned at recital (6) above. Indeed, it could prove that i) it did not export to the

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<sup>3</sup> See recital (80) of Regulation (EU) No 400/2010.

<sup>4</sup> OJ L 36, 9.2.2012, p. 1.

<sup>5</sup> OJ L 254, 30.9.2011, p. 7.

Union the product concerned during the period 1 July 2008 to 30 June 2009, ii) it has not circumvented the measures applicable to certain steel ropes and cables of Chinese origin, and iii) it began exporting the product concerned to the European Union after 30 June 2009. Therefore, an exemption should be granted to the company concerned.

#### **D. MODIFICATION OF THE LIST OF COMPANIES BENEFITING FROM AN EXEMPTION TO THE EXTENDED MEASURES**

- (9) In consideration of the findings of the investigation as indicated in recital (8) above, it is concluded that the company Seil Wire & Cable should be added to the list of companies which are exempted from the definitive anti-dumping duty imposed by Regulation (EU) No 102/2012 on imports of certain steel ropes and cables originating in the People's Republic of China as extended to imports of certain steel ropes and cables consigned from the Republic of Korea. Therefore, Seil Wire & Cable should be added to the list of individually mentioned companies under Article 1(4) of Implementing Regulation of the Council (EU) No 102/2012. As stipulated in Article 1(2) of Regulation (EU) No 400/2010, the application of the exemption shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to that Regulation. If no such invoice is presented, the anti-dumping duty should continue to apply.
- (10) The applicant and the Union Industry have been informed of the findings of the investigation and have had the opportunity to submit their comments. Their comments were taken into account where appropriate,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The table mentioned in Article 1(4) of Implementing Regulation of the Council (EU) No 102/2012 shall be replaced by the following table:

Country	Company	TARIC additional code
The Republic of Korea	Bosung Wire Rope Co., Ltd, 568, Yongdeok-ri, Hallim-myeon, Gimae-si, Gyeongsangnam-do, 621-872	A969
	Chung Woo Rope Co., Ltd, 1682-4, Songjung-Dong, Gangseo-Gu, Busan	A969
	CS Co., Ltd, 287-6 Soju-Dong Yangsan-City, Kyoungham	A 969
	Cosmo Wire Ltd, 4-10, Koyeon-Ri, Woong Chon-Myon Ulju-Kun, Ulsan	A969
	Dae Heung Industrial Co., Ltd, 185 Pyunglim – Ri, Daesan-Myun, Haman – Gun, Gyeongnam	A969
	DSR Wire Corp., 291, Seonpyong-Ri, Seo-Myon, Suncheon-City, Jeonnam	A969

	Kiswire Ltd, 20 <sup>th</sup> Fl. Jangkyo Bldg, 1, Jangkyo-Dong, Chung-Ku, Seoul	A969
	Manho Rope & Wire Ltd, Dongho Bldg, 85-2 4 Street Joongang-Dong, Jong-gu, Busan	A969
	Seil Wire and Cable, 47-4, Soju-Dong, Yangsan-Si, Kyungsangnamdo	A994
	Shin Han Rope Co., Ltd, 715-8, Gojan-Dong, Namdong-gu, Incheon	A969
	Ssang YONG Cable Mfg. Co., Ltd, 1559-4 Song-Jeong Dong, Gang-Seo Gu, Busan	A969
	Young Heung Iron & Steel Co., Ltd, 71-1 Sin-Chon Dong, Changwon City, Gyungnam	A969

### *Article 2*

Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 3 of Regulation (EU) No 969/2011. No anti-dumping duty shall be collected on the imports thus registered.

### *Article 3*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*  
*The President*