

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1249

of 2 September 2020

extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2019/1267 on imports of tungsten electrodes originating in the People's Republic of China to imports of tungsten electrodes consigned from Laos and Thailand, whether declared as originating in Laos and Thailand or not, and terminating the investigation in respect of imports consigned from India, whether declared as originating in India or not

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'), and in particular Articles 13(3) and 14(5) thereof,

Whereas:

1. PROCEDURE

1.1. Existing measures

- (1) By Council Regulation (EC) No 260/2007 ⁽²⁾ ('the original Regulation'), the Council imposed a definitive anti-dumping duty on imports of tungsten electrodes ('TE') originating in the People's Republic of China ('China'). The individual anti-dumping duties in force range from 17 % to 41 %. All other exporting producers are subject to a definitive anti-dumping duty of 63,5 %. 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) By Council Implementing Regulation (EU) No 508/2013 ⁽³⁾ the Council, following an expiry review (the 'first expiry review'), imposed a definitive anti-dumping duty on imports of TE originating in China.
- (3) In 2019, by Commission Implementing Regulation (EU) 2019/1267 ⁽⁴⁾, the Commission following another expiry review (the 'last expiry review'), imposed a definitive anti-dumping duty on imports of TE originating in China at the level of the original measures. These measures will be referred to as 'the measures in force'.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 260/2007 of 9 March 2007 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain tungsten electrodes originating in the People's Republic of China (OJ L 72, 13.3.2007, p. 1).

⁽³⁾ Council Implementing Regulation (EU) No 508/2013 of 29 May 2013 imposing a definitive anti-dumping duty on imports of certain tungsten electrodes originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 150, 4.6.2013, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/1267 of 26 July 2019 imposing a definitive antidumping duty on imports of tungsten electrodes originating in the People's Republic of China following an expiry review under Article 11(2) of Regulation (EU) 2016/1036 (OJ L 200, 29.7.2019, p. 4).

1.2. *Ex officio* initiation

- (4) The Commission had at its disposal sufficient evidence that the anti-dumping measures on imports of TE originating in China were being circumvented by imports of TE consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not.
- (5) The data reported by the Member States in accordance with Article 14(6) of the basic Regulation showed a significant change in the pattern of trade involving exports from China, India, Laos and Thailand to the Union following the original investigation, suggesting it might be caused by the imposition of measures on TE. This change appeared without sufficient due cause or economic justification other than the imposition of the measures. Indeed, the change appeared to stem from the transshipment of the product concerned originating in China via India, Laos and Thailand to the Union since, according to the findings in the last expiry review ⁽⁵⁾, there are no facilities to produce TE in any of the alleged circumventing countries.
- (6) Furthermore, according to the data available to the Commission, the remedial effects of the measures in force were being undermined in terms of both quantities and prices.
- (7) Finally, according to the data available to the Commission, TE consigned from India, Laos and Thailand were dumped in relation to the normal value established in the last expiry review.
- (8) Having determined, after having informed the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 13(3) of the basic Regulation, and to make imports of TE consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not, subject to registration in accordance with Article 14(5) of the basic Regulation, the Commission initiated an investigation by Commission Implementing Regulation (EU) 2019/2171 ⁽⁶⁾ ('the initiating Regulation').

1.3. Investigation

- (9) The Commission informed the authorities of China, India, Laos and Thailand, the exporting producers and traders in those countries, the importers in the Union and the Union industry, of the initiation of the investigation. In addition, it asked the missions of India, Laos and Thailand to the European Union to confirm that there is no production of TE in those countries or to provide the Commission with the names and addresses of any exporting producers and/or representative associations that could be interested in participating in the investigation.
- (10) Exemption claim forms for the producers/exporters in India, Laos and Thailand, questionnaires for the producers/exporters in China, and questionnaires for unrelated importers in the Union were made available on DG Trade's website.
- (11) Interested parties were given the opportunity to present their views in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that the non-submission of all relevant information or the submission of incomplete, false or misleading information might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.
- (12) One unrelated importer in the Union requested a hearing that took place on 2 July 2020.
- (13) A producer/exporter from Laos submitted a reply to the exemption claim form ('questionnaire reply').
- (14) One unrelated importer in the Union also provided a questionnaire reply and another unrelated importer in the Union made a written submission without filling-in a questionnaire.

⁽⁵⁾ OJ L 200, 29.7.2019, p. 4, recitals 28 and 103.

⁽⁶⁾ Commission Implementing Regulation (EU) 2019/2171 of 17 December 2019 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Implementing Regulation (EU) 2019/1267 on imports of tungsten electrodes originating in the People's Republic of China by imports of tungsten electrodes consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not, and making such imports subject to registration (OJ L 329, 19.12.2019, p. 86).

1.4. Investigation period and reporting period

- (15) The investigation period ('IP') covered the period from 1 January 2006 to 30 September 2019. Data were collected to investigate, inter alia, the change in the pattern of trade following the imposition of measures. For the period of 1 October 2018 to 30 September 2019 ('the reporting period' or 'the RP'), more detailed data was collected in order to examine the possible undermining of the remedial effect of the measures in force, and the existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (16) 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 (China, India, Laos and Thailand) and the Union,
 - 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,
 - 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
 - there was evidence of dumping in relation to the normal values established in the last expiry review for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. Product concerned and product under investigation

- (17) The product concerned is tungsten welding electrodes, including tungsten bars and rods for welding electrodes, containing 94 % or more by weight of tungsten, other than those obtained simply by sintering, whether or not cut to length, originating in China ('the product concerned') currently falling under CN codes ex 8101 99 10 and ex 8515 90 80 (TARIC codes 8101 99 10 11, 8101 99 10 12, 8101 99 10 13, 8101 99 10 20, 8515 90 80 11, 8515 90 80 12, 8515 90 80 13, 8515 90 80 20). The measures in force apply to this product.
- (18) The product under investigation is the same as the product concerned defined in the previous recital, but consigned from India, Laos and Thailand, whether declared as originating in India, Laos and Thailand or not, currently falling under the same CN codes as the product concerned ('the product under investigation').
- (19) The investigation showed that TE exported by China to the Union and those consigned from India, Laos and Thailand to the Union share the same basic physical and technical characteristics and uses, and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Level of cooperation

- (20) None of the Chinese, Indian or Thai producers/exporters submitted questionnaire replies.
- (21) One company from Laos, which covered around 100 % of the total imports from Laos to the Union in the RP as reported in 14(6) database, submitted a request for exemption in accordance with Article 13(4) of the basic Regulation. This company is related to a Chinese exporting producer of TE. The cooperation of this company was found to be insufficient for the following reasons:
- (a) The company did not provide the information required in the exemption form. The company was requested to do so in two deficiency letters. In particular, the company did not provide the required audited financial statements or the financial statements filed with the relevant tax authority or company register. The company in fact did not provide any financial statements at all, making it impossible to cross check any information provided to the Commission in its exemption claim form. Additional important elements that were not provided comprised stock levels and a list of fixed assets.
 - (b) Its parent company in China did not submit an exporters' questionnaire or an exemption form as required.

- (c) It has supplied incoherent or contradicting information: First, the cost of tungsten rods purchased from its Chinese parent company in the RP was reported differently in several exhibits. Second, the quantities of tungsten rods purchased and sold in the RP were reported differently in different exhibits. Third, no detailed information regarding reported depreciation and labour costs was provided. The investigation established that the allocation of depreciation costs to the manufacturing of TE was inconsistent with the production capacity of TE and artificially increased the value of the manufactured TE. Asked to clarify the criteria on which it based the calculation of its depreciation costs, the company merely replied having reported the depreciation costs of the parent company. However, as said above, the parent company did not submit a questionnaire or fill the exemption form, and the Laos exporter did not provide any evidence to support its claim.
- (d) It did not provide sufficient detail on the operations performed on the tungsten rods purchased from its parent Chinese supplier.
- (e) It reported not to have an accounting system.
- (f) It did not provide the relevant working sheets and other supporting documents necessary for the verification of the information provided in the exemption form.
- (22) Therefore, in accordance with Article 18(4) of the basic Regulation, on 11 May 2020, the Commission granted the company a time limit to provide a number of listed elements and informed of the intention to rely on facts available should these not be submitted.
- (23) In line with the Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations, the Commission decided not to carry out verification visits at the premises of the companies that requested an exemption due to the COVID-19 outbreak. In the light of the company's reply failing to submit the listed essential documents and to address the highlighted substantial contradictions, the Commission decided not to go ahead with the remote cross-checking initially considered.
- (24) Given all the above, the information provided by the company was deemed incomplete and unreliable. The Commission therefore disregarded the information submitted by the company, and findings were based on facts available pursuant to Article 18 of the basic Regulation.
- (25) In its comments after disclosure, the company explained that it was in the process of transferring production facilities from China to Laos during the investigating period, and this process had been curtailed due to the virus lockdown. It further submitted that the virus lockdown explained the shortfalls in the standard of information supplied by the company. Moreover, it added that once the situation normalises '*(...) all stages of production will be carried out in Laos (...)*'. The Commission notes that despite the virus lockdown, the company and its parent company in China were given sufficient time and opportunities, within the legal deadlines of the investigation, to submit the missing information, as explained in recitals 21 and 22. As to the parent company in particular, no questionnaire reply was ever submitted despite the fact that the Commission specifically asked for it in the exemption claim form and both deficiency letters.
- (26) After disclosure, the Mission of the Lao People's Democratic Republic to the Union submitted its disappointment about the findings of the investigation that, according to the Mission, was conducted without sufficient information and verification. The Commission notes that despite the COVID-19 outbreak and its consequences on anti-dumping and anti-subsidy investigations, all interested parties, in particular the company in Laos, were given sufficient time and opportunities, within the framework of statutory deadlines, to submit information.
- (27) The Mission of India to the Union provided the names and addresses of seven exporting producers in the country. The Mission of the Lao People's Democratic Republic to the Union provided the same name and address as the company that submitted the exemption form reply, and further informed that its government was collaborating with the German Customs collecting export data of TE from the country. The Mission of Thailand informed that its government did not have any factory listed as a producer of TE, but that despite that, the Thai Customs department had identified 3 companies that exported TE to the EU since 2017 until October 2019 (the end of the RP).

- (28) Therefore, findings in respect of imports of TE from China, India, Laos and Thailand into the Union, and in respect of exports of TE from China to India, Laos and Thailand were based on facts available in accordance with Article 18(1) of the basic Regulation. Facts available used with regard to imports to the Union were extracted from the 14(6) database. Global Trade Atlas (GTA) was used as regards the determination of export volumes from China to India, Laos and Thailand.
- (29) The volumes recorded in GTA cover a larger product group (8 digit level, based on the Chinese customs nomenclature codes) than the product concerned. Therefore, GTA's reports on volumes exported from China into India, Laos and Thailand may include also other products. The volumes imported from India, Laos and Thailand into the Union are reported in the 14(6) database solely for the product under investigation.

2.4. Change in the pattern of trade

2.4.1. Imports into the Union from China, India, Laos and Thailand

- (30) Table 1 below shows the development of TE imports from China, India, Laos and Thailand into the Union in the investigation period:

Table 1

Imports of TE into the EU in the investigation period (kilograms) ⁽¹⁾

Imports (Kg)	2006	2007	2008	2009	2010	2011	2012
China	138 202 ⁽²⁾	46 128	51 771	36 188	39 953	56 619	48 188
Share total imports	-	44 %	48 %	56 %	53 %	60 %	49 %
India	0 ⁽³⁾	15 312	3	3 253	2 491	615	2 123
Share total imports	-	14 %	0 %	5 %	3 %	1 %	2 %
Laos	0 ⁽⁴⁾						6 000–8 000
Share total imports	-						7 %
Thailand	0 ⁽⁵⁾		29				29
Share total imports	-		0 %				0 %
Total imports	-	105 857	108 589	64 793	75 732	94 958	98 450

Imports (Kg)	2013	2014	2015	2016	2017	2018	RP
China	46 640	49 343	50 621	53 777	43 086	61 870	57 874
Share total imports	45 %	44 %	48 %	50 %	47 %	60 %	65 %
India	9 411	10 730	6 939	5 854	4 633	2 382	1 677

Imports (Kg)	2013	2014	2015	2016	2017	2018	RP
Share total imports	9 %	9 %	7 %	5 %	5 %	2 %	2 %
Laos	25 000 – 28 000	21 000 – 23 000	21 000 – 23 000	23 000 – 25 000	13 000 – 15 000	15 000 – 17 000	6 000 – 8 000
Share total imports	25 %	19 %	21 %	22 %	15 %	16 %	8 %
Thailand	1 040	793	5 771	12 271	13 311	10 504	13 018
Share total imports	1 %	1 %	5 %	11 %	15 %	10 %	15 %
Total imports	104 458	112 997	106 440	107 611	91 260	102 563	88 575

(¹) As all the imports from Laos into the Union were made by the sole Laos producer/exporter as explained in recital 21, the exact total volume of exports from Laos to the Union cannot be disclosed for confidentiality reasons.

(²) For 2006, the year before the imposition of measures there was no data available. Therefore, the Commission compared the imports from China in the years 2001-2005 available from the original investigation and extrapolated the trend to 2006 (using a linear trend line) to get this estimated import level.

(³) No imports reported from India in Comext and Surveillance 2.

(⁴) Idem for Laos.

(⁵) Idem for Thailand.

Source: 14(6) database

- (31) Imports of TE from China to the Union substantially decreased over the investigation period, showing a drop of over 67 % after the imposition of the original measures in March 2007. Despite some increases in the years close to the expiry review dates, (2011 and 2018), the trend downwards continued between 2007 and the RP, with imported quantities into the Union remaining steadily around 55 % below the 2006 level.
- (32) This decrease in imports from China was substantially absorbed by the increase of imports from India, Laos and Thailand in the subsequent years, in particular as from 2012 onwards, when they largely replaced the imports from China.
- (33) The imports of the product under investigation from India into the Union started in significant quantities in 2007, accounting for 14 % of the total imports. They decreased steeply as from 2008, and fluctuated throughout the investigation period until the RP where they accounted for 1,5 % of the Union's market share (and less than 2 % of the total share of TE imports into the Union).
- (34) The imports of the product under investigation from Laos into the Union started in 2012. A steep increase follows in 2013, with imports growing nearly four times the volumes of the previous year. These two years also coincide with a decrease in imports from China. In 2013, Laos' imports to the Union amounted to more than 50 % of imports coming from China. Even though the imported volumes from Laos dropped in absolute terms as from 2017, the RP still registers a 3 % increase in the volumes imported if compared to 2012, and still accounts for 8 % of the total share of TE imports into the Union (satisfying over 6 % of the Union consumption).
- (35) The decrease of exports during the RP should be seen in relation with investigations led by the German customs authorities on several consignments of TE imported from Laos into the Union in 2018 and 2019. German customs concluded that these consignments had a non-preferential Chinese origin, and ordered the consequent collection of anti-dumping duties. An unrelated importer, despite not agreeing with the view of the German customs, corroborated in its submission the consequences of the custom's decision in the subsequent drop of imported volumes from Laos.
- (36) Finally, Thai imports of the product under investigation into the Union increased sharply between 2012 and 2013, and the upward trend has been running consistently since 2015, with a slowdown curve in 2018. There were no significant Thai imports into the EU before 2013. Thai imports have raised constantly since 2015 and represented 12 % of the Union's market share and 15 % of the total share of EU imports of TE in the RP.

2.4.2. Exports from China to India, Laos and Thailand

- (37) Table 2 below shows the export volume of TE from China to India, Laos and Thailand during the investigation period.

Table 2

Export volumes from China (kilograms) ⁽¹⁾

(Kg)	2006	2007	2008	2009	2010	2011	2012
India	271 921	202 205	216 648	241 071	438 259	599 228	575 357
Laos		2 415	816	390	1 665	5 452	22 714
Thailand	66 884	106 907	143 409	137 872	334 519	655 966	567 601

(Kg)	2013	2014	2015	2016	2017	2018	2019
India	507 566	582 890	679 305	923 432	976 625	1 510 844	1 215 967
Laos	18 470	19 488	29 354	26 269	18 158	24 054	8 076
Thailand	762 681	718 377	550 901	735 516	664 661	714 948	795 232

⁽¹⁾ Under the 8 level codes 81019910 and 85159000, the Chinese customs nomenclature codes most closely matching the EU Taric codes for the product under investigation.

Source: GTA – © 2020 IHS Markit (source of data: China Customs)

- (38) Exports from China to India increased throughout the all period and more than doubled between 2008 and 2015. The increase further grew 24 % in the last year as compared to 2017.
- (39) Exports from China to Laos decreased between 2008 and 2010 as compared to 2007 but in 2012 the volumes soared to four times the ones of 2011. With the exception of 2013 and 2014 in which the exports from China to Laos were slightly lower than the volumes exported by Laos to the Union, all the other years show imports from China above Lao's exports to the Union. The sharp decrease from 2018 to 2019 (33,3 %) mirrors a similar one in the volume of exports from Laos to the Union in the same period (42 %). This drop in the volumes coincided with the collection of anti-dumping duties by the German customs authorities following the investigation mentioned in recital 35.
- (40) Finally, exports from China to Thailand increased first from 2006 to 2007 by 60 % and from 2009 to 2011 volumes grew more than four times. In 2012, 2015 and 2017, imports slightly decreased but increased by 40 % in 2019 as compared to 2012. During the investigation period, exports from China to Thailand increased in total by 189 %.

2.4.3. Conclusion on the change in the pattern of trade

- (41) The decrease of Chinese exports to the Union, the parallel increase of exports from Laos and Thailand, in particular as from 2012, and the increase of exports from China to Laos and Thailand constitutes a change in the pattern of trade between the abovementioned countries and the Union within the meaning of Article 13(1) of the basic Regulation.
- (42) In the case of India, imports into the Union fluctuated significantly throughout the investigation period. Despite a considerable increase between 2013 and 2016, imports reverted to a downwards trend in 2018 and the RP even in face of a growing surge of imports from China to India in the same period. The Commission could therefore not conclude on the change in the pattern of trade between India and the Union.

2.5. Nature of circumvention practices for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping duty

(43) Article 13(1) of the basic Regulation requires that the change in the pattern of trade stem from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, inter alia, the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic Regulation.

(44) Against the backdrop of no cooperation from any exporting producer, findings in respect of the existence and nature of circumventing practices in India, Laos and Thailand had to be based on facts available pursuant to Article 18 of the basic Regulation.

2.5.1. India

(45) According to the information gathered during the last expiry review, in particular provided by the Union industry and not challenged by any interested parties in the framework of that investigation, there are no facilities to produce TE outside China and the Union. However, as explained in recital 27, the Mission of India to the Union provided the names and addresses of seven exporting producers in the country. None of these companies cooperated in the investigation.

(46) In the absence of any other evidence regarding the practice, the Commission could not conclude whether the quantities exported from India to the Union constitute transshipment or genuine Indian exports.

(47) Therefore, the Commission could not conclude whether the change in the pattern of trade regarding India stem from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty.

2.5.2. Laos

(48) The investigation revealed that there is only one company in Laos involved in the sales of TE to the Union. This company is 100 % owned by a company in China that is subject to the measures in force (the parent company).

(49) The company in Laos was incorporated on 25 December 2012 and started production of TE in February 2013. This period marks the beginning of the change in the pattern of trade described in recital 32. Indeed, as already mentioned, before 2012 there are no exports from Laos into the Union. Moreover, the export volumes submitted by the company in its exemption claim form coincide with the volumes reported in the 14(6) database, confirming that this company is the only exporting producer in Laos, representing 100 % of the exports from Laos to the EU. On this basis, the Commission concludes that the operation started or substantially increased since the initiation of the anti-dumping investigation as required by Article 13(2)(a).

(50) Throughout the IP, the company in Laos purchased the totality of the tungsten rods used in its facility from its parent company in China that manufactures and sells TE itself. On that basis, the parts are from the country subject to measures, as required by Article 13(2)(a) of the basic Regulation and constitute 100 % of the total value of the parts of the assembled/completed product in the sense of Article 13(2)(b) of the basic Regulation. These purchases already constitute the product concerned, namely tungsten bars and rods for welding electrodes.

(51) The company in Laos claimed to purchase tungsten rods, which constitute product concerned, from its parent company in China, to which it then adds over 30 % of value by minor operations (grinding, annealing, colouring and packaging).

(52) For the reasons explained in recitals 21 to 24, the information provided by the company was deemed incomplete and unreliable. The Commission therefore disregarded the information submitted by the company, and findings are based on facts available pursuant to Article 18 of the basic Regulation.

(53) Taking into account the equipment that the company claims to use in its factory, and the operations it claims to perform on the purchased rods, the completion concerns mostly the presentation of the goods rather than a change in its basic characteristics.

- (54) According to the Union industry consulted in the context of the present investigation, the process reported to be undertaken by the Laotian company accounts for maximum 16 % added value on the manufacturing costs of the input for TE. On this basis, the Commission concludes that value added to the parts brought in, during the assembly or completion operation, is less than 25 % of the manufacturing cost, as required by Article 13(2)(b) of the basic Regulation for these operations to constitute circumvention.
- (55) According to the manufacturing process described by the Union industry in the previous investigations, a tungsten rod/bar as the ones the company purchases from its Chinese parent company, and which is already product concerned, has the basic characteristics of the final product it exports to the EU. Thus, the work performed on them in Laos as reported does not result in a significant change in its characteristics.
- (56) In its submission after disclosure, the company in Laos disagreed with the best facts available the Commission used to establish the added value of 16 % in Laos, and argued that an overall added value of 35 % '(...) represents a more realistic assessment of the true costs (...)’ incurred in Laos. No evidence was attached to substantiate such claim. Therefore, the Commission rejects this claim as unsubstantiated.
- (57) Based on the German customs conclusions in the investigation mentioned in recital 35, an unrelated importer in the Union submits that the processing steps taking place in Laos amount to a 45 % increase in the price of the rods bought from China. The Commission notes that increases in prices are not one of the criteria for an assembly or completion operation to constitute circumvention according to Article 13(2) of the basic Regulation. The claim was thus rejected as irrelevant.
- (58) The same unrelated importer further adds that he fails to see how the remedial effects of the duty are undermined in the sense of Art. 13(2)(c) of the basic Regulation since imports from Laos have decreased over the years. The change in the pattern of trade is explained in recitals 34 and 35 whereas the undermining of the remedial effects of the duty are explained in recitals 74 to 76. The Commission, therefore, rejected the claim.
- (59) The parent company is able to produce the finalised TE, including the processes the company claims to undertake in Laos. There seems therefore to be no due cause or economic justification for doing the completion process in Laos, other than the avoidance of the measures in force.
- (60) The unrelated importer in the Union stressed the significant impact of grinding and annealing on the quality and usability of the goods, and claims that these two steps result in high energy and labour consumption, which are the main reasons for the completion process to take place in Laos where electricity and labour costs are lower than in China. As regards the economic rationale behind the decision to move the completion process to Laos, the Commission notes that this is not a requirement for completion operations to constitute circumvention according to Article 13(2) of the basic Regulation. Therefore, the claim was rejected.
- (61) On the basis of all the above, the Commission found the company to be involved in completion operations that constitute circumvention of the measures in force within the meaning of Article 13(2) of the basic Regulation. Since the exports of this company cover the total imports from Laos to the Union in the RP, this conclusion extends to the whole country.
- (62) After disclosure, an unrelated importer in the Union submitted that the Commission failed to prove the existence of assembly/completion operations as a circumvention practice pursuant to Article 13(2) of the basic Regulation, but provided no evidence to support this claim. The Commission therefore rejected this claim as, on the basis of the facts available to it and as explained in recitals 48 to 61, all the conditions of Article 13(2) of the basic Regulation are fulfilled.
- (63) Moreover, in the context of the investigation mentioned in recital 35, German customs concluded, following a joint on-site inspection with the Laotian authorities, that from January 2018 to April 2019 TE allegedly manufactured in Laos had in fact a Chinese origin for the purposes of establishing the anti-dumping duty.

2.5.3. Thailand

- (64) According to the information gathered during the last expiry review, in particular provided by the Union industry and not challenged by any interested parties in the framework of that investigation, there are no facilities to produce TE outside China and the Union. Regarding Thailand, this was confirmed in the framework of this investigation. Indeed, the Mission of Thailand in Brussels submitted that its government has no factories of TE listed in its registries as described in recital 27.
- (65) GTA extractions show that in 2018 and 2019, 95 % of Thai exports worldwide are for the EU. The volumes and final destinations match 14(6) imports statistics, with Italy as the main destination. Chinese exports to Thailand in the same years show comparable volumes.
- (66) The steep increase of Thai exports to the Union as of 2013 and the decrease of exports from China to the Union need to be assessed in the light of the evidence gathered and mentioned in recitals 64 and 65. All these elements lead to the conclusion on the practice of transshipment for which there is no economic rationale but the purpose to evade the measures in force. Indeed, the absence of genuine production in Thailand as confirmed by the Mission of Thailand, and the almost exclusive focus of exports on the EU lead to the conclusion that all the quantities exported from Thailand to the Union do not constitute genuine production but are transhipped from China.
- (67) Furthermore, investigative actions carried out by the European Commission in close cooperation with the customs authorities of Germany, Italy and Spain between 2016 and 2019, established that Chinese TE were transhipped via Thailand into the EU territory during that period. In that context, recovery proceedings of anti-dumping duties were already initiated.

2.6. Undermining of the remedial effect of the anti-dumping duty

- (68) In the assessment as to whether the products imported from India, Laos and Thailand had, in terms of the prices and/or quantities, undermined the remedial effects of the existing measures, the export prices and volumes reported in the 14(6) database were used. The Commission compared the average non-injurious price as established in the 2019 expiry review investigation, with the weighted average export CIF prices, duly adjusted to include conventional customs duties and post clearance costs.

2.6.1. India

- (69) Since the unit sales price of Indian imports established as described in recital 68 during the RP was significantly higher than the abovementioned average non-injurious price, the Commission concluded that the Indian exports prices were not injurious.
- (70) The investigation established that the quantities exported by India to the Union accounted for less than 2 % of the total share of TE imports into the Union, and represented 1,5 % of the Union consumption as estimated in the last expiry review. However, as explained in recitals 42 and 46 to 47, the Commission could not conclude on the change in the pattern of trade or on whether these quantities constitute transshipment or genuine Indian exports.
- (71) In light of the above, the Commission could not conclude that the existing measures are being undermined by the imports from India subject to this investigation.

2.6.2. Laos

- (72) As explained in recital 21 when comparing the information submitted by the company from Laos in the request for exemption with the information reported in the 14(6) database, the Commission concluded that imports of TE of the company from Laos covered all imports from Laos to the Union in the RP.
- (73) The price comparison, as described in recital 68, showed underselling for Laos.
- (74) The investigation established that the quantities exported and found to be circumventing the existing measures are significant, satisfying over 6 % of the Union consumption.
- (75) The Commission concluded that the existing measures are undermined in terms of quantities and prices by the imports from Laos subject to this investigation.

- (76) After disclosure, an unrelated importer in the Union claimed that it fails to see how the remedial effects of the duty are undermined in the sense of Art. 13(2)(c) of the basic Regulation since imports from Laos have decreased over the years. However, the fact that imports decreased, as well as the reasons behind those fluctuations, explained in recitals 34 and 35, does not have an impact on the Commission's findings. As explained in recitals 48 to 63 and in this section, the completion operations carried out by the company constitute circumvention, and these circumventing exports from this company to the EU in the RP amounted to over 6 % of Union consumption and were made at injurious prices. The Commission, therefore, rejected the claim.

2.6.3. Thailand

- (77) The price comparison, as described in recital 68, showed underselling for Thailand.
- (78) The investigation established that the quantities exported and found to be circumventing the existing measures are significant, representing 12 % of the Union's market share.
- (79) The Commission concluded that the existing measures are undermined in terms of quantities and prices by the imports from Thailand subject to this investigation.

2.7. Evidence of dumping

- (80) In accordance with Article 13(1) of the basic Regulation, the Commission examined whether there was evidence of dumping in relation to the normal value established in the last expiry review for the like product.

2.7.1. India

- (81) To establish normal value, the Commission decided to use the data from the last investigation leading to the measures currently in force, namely the ex-works normal value established in section 3.3.4.5 of Commission Implementing Regulation (EU) 2019/1267.
- (82) To establish the export prices from India the Commission used the average export price of TE during the RP reported in the 14(6) database. In accordance with Articles 2(11) and 2(12) of the basic Regulation, the weighted average normal value as established in the last expiry review was compared with the weighted average export prices during this investigation's RP as reported in the 14(6) database (7).
- (83) The average export prices to the Union in the RP were by far higher than the normal value as established in the last expiry review.
- (84) Following the above analysis, the Commission concluded that for India there is no evidence of dumping.

2.7.2. Laos

- (85) The Commission used the same methodology with regard to the normal value established on the basis of the last investigation and the 14(6) database to establish the export prices from Laos.
- (86) The average export prices of TE exported from Laos to the EU in the RP as reported in the 14(6) database and corroborated by the company in Laos, were below the normal value as established in the last expiry review, which demonstrated existence of dumping.

2.7.3. Thailand

- (87) The Commission used the same methodology with regard to the normal value established on the basis of the last investigation and the 14(6) database to establish the export prices from Thailand.
- (88) The average export prices to the Union in the RP as reported in the 14(6) database were far below the normal value as established in the last expiry review, which demonstrated existence of substantial dumping.

(7) In the comparisons done in the framework of this investigation, the adjustment from the CIF level as given in the 14(6) database to the ex-works level was not done. Due to the high price of TE, the adjustment would be insignificant (in the last expiry review established in the range of EUR 0 to 1 per kg for imports from China) and would not have any material influence on the comparisons done to conclude on the evidence of dumping.

3. MEASURES

- (89) Based on these findings, the Commission concluded that the anti-dumping duty imposed on imports of TE originating in China are being circumvented via Laos and Thailand.
- (90) Therefore, in accordance with Article 13(1) of the basic Regulation, the anti-dumping measures in force should be extended to imports of the same product consigned from Laos and Thailand, whether declared as originating in Laos and Thailand or not.
- (91) The measure to be extended should be the one established in Article 1(2) of Commission Implementing Regulation (EU) 2019/1267 for 'all other companies', which is a definitive anti-dumping duty of 63,5 % applicable to the CIF net, free-at-Union-frontier price, before customs duty.
- (92) In accordance with Articles 13(3) and 14(5) of the basic Regulation, which provides that any extended measure should apply to imports that entered the Union under registration imposed by the initiating Regulation, duties are to be collected on those registered imports of TE consigned from Laos and Thailand.

4. TERMINATION OF THE INVESTIGATION AGAINST INDIA

- (93) In view of the findings regarding India, the current investigation concerning the possible circumvention of the measures in force by imports of TE consigned from India is to be terminated, and the registration of imports of TE consigned from India introduced by the initiation Regulation, is to be discontinued.
- (94) The conditions laid down in Article 13(1) of the basic Regulation to consider that circumvention is taking place are not fulfilled and the measures in force on imports of the product concerned originating in China should not be extended to imports of the same product consigned via India, whether declared as originating in India or not.

5. REQUEST FOR EXEMPTION

- (95) The company in Laos that requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation submitted an exemption claim form.
- (96) As described in recitals 21 to 24, the company did not provide the necessary information in its exemption request and the Commission therefore disregarded the information submitted. Based on facts available, the company was found to be involved in circumvention practices. Therefore, an exemption cannot be granted to this company pursuant to Article 13(4) of the basic Regulation.
- (97) As set out in recital 23, the Commission decided not to carry out any verification visits at the premises of the company that requested an exemption.
- (98) The Commission may, pursuant to the Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations, as soon as the areas where the investigated exporting producers are located are no longer considered unsafe for travelling, initiate *ex officio* a review pursuant to Article 11(3) of the basic Regulation.

6. DISCLOSURE

- (99) On 25 June 2020, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment. Comments were received from one unrelated importer in the Union, from the company in Laos and from the Mission of the Lao People's Democratic Republic to the Union. The oral and written comments submitted by the parties were taken into consideration where appropriate.
- (100) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Implementing Regulation (EU) 2019/1267 on imports of tungsten electrodes originating in the People's Republic of China is hereby extended to imports of tungsten welding electrodes, including tungsten bars and rods for welding electrodes, containing 94 % or more by weight of tungsten, other than those obtained simply by sintering, whether or not cut to length, consigned from Laos and Thailand, whether declared as originating in Laos and Thailand or not, currently falling under CN codes ex 8101 99 10 and ex 8515 90 80 (TARIC codes 8101 99 10 11, 8101 99 10 12 and 8515 90 80 11 and 8515 90 80 12).
2. The duty extended by paragraph 1 of this Article shall be collected on imports consigned from Laos and Thailand whether declared as originating in Laos and Thailand or not, registered in accordance with Article 2 of Implementing Regulation (EU) 2019/2171 and Articles 13(3) and 14(5) of Regulation (EU) 2016/1036.
3. The amount of anti-dumping duties to be retroactively collected shall be that resulting from applying the anti-dumping duty of 63,5 % applicable to 'all other companies'.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The investigation initiated by Implementing Regulation (EU) 2019/2171 concerning the possible circumvention of anti-dumping measures imposed by Commission Implementing Regulation (EU) 2019/1267 on imports of tungsten welding electrodes originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and making such imports subject to registration, is terminated.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2019/2171.

Article 4

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate H Office:
CHAR 04/39
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) 2019/1267, from the duty extended by Article 1.

Article 5

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, 2 September 2020.

For the Commission
The President
Ursula VON DER LEYEN
