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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1657/2001

of 10 August 2001

amending Regulation (EC) No 603/1999 imposing a definitive anti-dumping duty on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic and Hungary, and collecting definitively the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 12(3) thereof,

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

Whereas:

A. PROCEDURE

1. Original measures

(1) In March 1999, the Council imposed a definitive anti-dumping duty on imports of polypropylene binder or baler twine ('twines') originating, *inter alia*, in Poland by Regulation (EC) No 603/1999 [2]. The rate of the definitive duty applicable to the net, free-at-Community frontier price, is 20,3 %, with individual rates for five companies ranging between 6,1 % and 17,2 %.

2. Request for an anti-absorption reinvestigation

(2) On 26 June 2000, a request for a reinvestigation of the measure referred to in recital 1 was lodged pursuant to Article 12 of Regulation (EC) No 384/96 ('the basic Regulation'). The request was submitted by the Liaison Committee of EU Twine, Cordage & Netting Industries (Eurocord) ('the applicant'), on behalf of the Community industry.

(3) The applicant submitted sufficient information showing that the anti-dumping duties imposed on twines originating in Poland have not led to any movement, or insufficient movement, in resale prices or subsequent selling prices in the Community. In fact, the evidence contained in the request showed that export prices and resale prices of twines in the Community fell significantly following the imposition of the anti-dumping measures, suggesting an increase in dumping which impeded the intended remedial effects of the measures in force.

3. The anti-absorption reinvestigation

(4) On 9 August 2000, the Commission announced by a notice published in the *Official Journal of the European Communities* [3], the initiation of a reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of polypropylene binder or baler twine originating in Poland.

(5) The Commission officially advised the producers/exporters known to be concerned, the representatives of the exporting country and importers of the initiation of the reinvestigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. The applicant requested, and was granted, a hearing. The Commission sent questionnaires to all parties known to be concerned. Three replies to the questionnaire were received from Polish exporting producers, i.e. from Pat Defalin s.a. ('Defalin'), in Swiebodzice, Terplast sp z.o.o. ('Terplast'), in Sieradz, and BZLP Bezalin ('Bezalin'), in Bielsko-Biala, and one reply from a German importer, i.e. WBV Oelde in Oelde. On-the-spot verifications were carried out at the premises of Defalin and Terplast in Poland, and WBV Oelde in Germany.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 75, 20.3.1999, p. 1. Regulation as amended by Regulation (EC) No 968/2000 (OJ L 112, 11.5.2000, p. 1).
[3] OJ C 227, 9.8.2000, p. 15.

(6) The investigation period of this reinvestigation ('new IP') ran from 1 July 1999 to 30 June 2000. The new IP was used to determine the current level of export prices, resale and subsequent selling prices. The new IP was also used to determine the changes in the normal value. In establishing whether resale and subsequent selling prices had moved sufficiently, the price levels charged in the new IP were compared to those charged during the original investigation period ('original IP') which had covered the period from 1 January to 31 December 1997.

(7) Owing to the volume of data gathered and examined, and the fact that normal values were reexamined, the investigation exceeded the normal period of six months provided for in Article 12(4) of the basic Regulation.

B. **PRODUCT UNDER CONSIDERATION**

(8) The product concerned by the request and for which the reinvestigation was initiated is the same as in the original investigation, i.e. polypropylene binder or baler twine ('twines') currently classifiable within CN code ex 5607 41 00.

Twines are used in the agricultural sector, notably for binding bundles to be picked up by automatic balers or similar machines. The product is manufactured in different thicknesses (runnages) and with different specifications in respect of, for example, knot and tensile strength, number of twists/turns per metre, colour, ultraviolet stabilisation and fibrillation.

C. **THE REINVESTIGATION**

(9) The purpose of this reinvestigation is, first, to establish whether or not there was a sufficient movement in resale prices or subsequent selling prices of Polish twines in the Community. As a second step, where it is concluded that absorption took place, the dumping margin is recalculated.

In accordance with Article 12 of the basic Regulation, importers and exporters are provided with an opportunity to submit evidence that could justify a lack of movement in prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duties. Such a reason could for instance be a reduction in the selling, general and administrative (SG&A) expenses (efficiency gains) and profit of the importer (see recital 12).

1. **Movement of resale prices in the Community**

1.1. *General*

(10) The movement of resale prices in the Community was assessed by comparing the resale prices of the new IP with those of the original IP. It should be noted that, though only one unrelated importer cooperated in the proceeding, its imports represented the vast majority of the total imports of the product concerned into the Community during the new IP, so that the resale prices of this importer can be considered as representative of the average resale price of Polish twines in the Community market. Moreover, this importer was representative not only as far as the total imports were concerned, but also in respect of the three cooperating Polish exporting producers when considered individually, which in turn accounted for the totality of the Polish exports of twines during the new IP.

(11) That comparison showed that resale prices of twines in the Community had decreased slightly.

1.2. *Claims made by interested parties*

1.2.1. Reduction in SG&A and profit of the importer

(12) It was examined whether the lack of movement of resale prices was due to a decrease in the SG&A expenses and profits of the unrelated importer. It was established that the importer reduced in fact somewhat its profit margin as far as its trading of Polish twines is concerned. Consequently, an allowance was granted for the difference between the profit margin relating to the resale of Polish twine obtained by the importer in the original IP and a reasonable profit margin for an independent importer operating in the same business sector in the new IP.

1.2.2. Foreign currency conversion

(13) An allowance was also granted to take account of the depreciation of the Polish national currency, the Zloty, against the Deutsche Mark and the euro which were the main currencies of denomination of Polish twines sales to the Community during both the original IP and the new IP.

1.2.3. Other claims of the importer

(14) The importer argued that the movement in resale prices should be assessed with reference to twines in general, regardless of their origin, as twines are a commodity product. It pointed out that the same lack of movement observed in the resale prices of twines of Polish origin could be equally seen in the resale prices of twines originating in Member States and other third countries. The importer also claimed that the low level of resale prices of Polish twines and other twines should not be seen as the direct effect of the low export prices of these twines but, rather, as the effect of a general situation of the twine market in the Community.

(15) These arguments are not relevant in the context of the first step of an absorption investigation, where what matters is whether the anti-dumping duty is duly reflected in resale prices of the product imported from the country concerned. However, the impact of any overall price depression was taken into consideration when examining whether changes to the normal values previously established were warranted.

1.3. *Conclusion*

(16) It was therefore concluded that some absorption had taken place, as the slight decrease occurred in the resale price of twines of Polish origin could not be fully justified even after taking into consideration the allowances described in recitals 12 and 13. The investigation then turned to a reassessment of the export prices.

2. **Reassessment of the export prices**

(17) On that basis, it was concluded that export prices appeared to be unreliable because of a compensatory arrangement. Therefore, export prices were reassessed pursuant to Article 2(9) of the basic Regulation on the basis of the originally established export prices, taking into account all applicable costs, in particular the amount of the anti-dumping duty in force. The resulting export price was also adjusted for any elements found to be warranted, i.e. any reduction in the SG&A expenses or profit of the importers, or foreign currency conversion (see recitals 12 and 13).

(18) The methodology referred to in recital 17 was followed for each of the three exporting producers. In consideration of the fact that a fall in export prices had been observed during the new IP, these export prices were also examined, in order to verify that they would not be lower than the export prices reassessed as indicated in recital 17. This was indeed the case for one exporter. For this company, therefore, the actual — lower — export prices of the new IP were used in the calculations.

3. **Normal value**

(19) Article 12(5) of the basic Regulation provides for the possibility of taking alleged changes in normal value into account, where complete information is made available to the Commission within given time limits. In their replies to the questionnaire, two of the three cooperating exporting producers claimed that normal value had changed due to reduced cost of production.

(20) These two exporters were asked further to substantiate their claims and, after verification, it was established that their cost of production had decreased and that, as a result, normal values decreased for both companies.

(21) As the third exporting producer had not claimed that the movement in its export prices was due to a decrease in its normal value, its normal value was not re-examined.

4. **Recalculation of the dumping margin taking account of reassessed export prices and of adjusted normal values**

(22) As required under Article 12 of the basic Regulation, the dumping margins for the three exporting producers concerned were recalculated. This was done by comparing the reassessed average export price with the average normal value established in the original IP, adjusted where warranted. The difference was then expressed as a percentage of the average cif value.

(23) For two exporting producers, Defalin and Terplast, the recalculated dumping margin was found not to have increased when compared to the dumping margin established in the course of the original investigation.

(24) For the remaining exporting producer Bezalin, the recalculated dumping margin was slightly higher than the dumping margin established in the original investigation, namely 19,4 %, as compared with 17,2 % in the original investigation.

5. **New level of duties**

(25) In the case of Bezalin, the original measures were based on the dumping margin. The recalculated dumping margin is still lower than the injury margin found in the course of the original investigation. In application of the lesser duty rule, the revised duty rate should correspond to the revised dumping margin, i.e. 19,4 %.

(26) In the case of Defalin and Terplast, given that no increase in the dumping margin was found, their duty rates should be left unchanged.

(27) The duty rates for the other individual companies, as well as the countrywide duty rate, should also be left unchanged, in consideration of the fact that the three cooperating exporting producers represented the totality of the exports of the product concerned to the Community during the new IP, and that — accordingly — the findings made in the original investigation with regard to other parties are therefore not affected,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 603/1999 shall be replaced by the following:

'2. The rate of the definitive anti-dumping duty applicable to the net free-at-Community frontier prices before duty of the products manufactured by the companies listed below shall be as follows:

Country	Company	Rate of duty (%)	TARIC additional code
Poland	BZLP Bezalin	19,4	8450
	PAT Defalin s.a.	16,3	8569
	Industrial Chemistry Research Institute	12,8	8578
	Terplast sp z.o.o.	6,1	8579
	WKI Isoliertechnik Spolka z.o.o.	15,7	A091
	All other companies	20,3	8900
Czech Republic	All companies	24,8	8900
Hungary	All companies	32,9	8900'

Article 2

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

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

Done at Brussels, 10 August 2001.

For the Council

The President

L. MICHEL