COUNCIL REGULATION (EC) No 283/2009

of 6 April 2009

amending Regulation (EC) No 1858/2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in India

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] (the basic Regulation), and in particular Article 11(3) thereof,

Having regard to the proposal from the Commission, submitted following consultation with the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

(1) On 12 August 1999, by Regulation (EC) No 1796/1999 [2] (the original investigation), the Council imposed a definitive anti-dumping duty on imports of steel ropes and cables (the product concerned) originating, *inter alia*, in India (the country concerned). The rate of the definitive anti-dumping duty applicable to the products manufactured by Usha Martin Limited (UML) was set at 23,8 %.

(2) By Decision 1999/572/EC [3] the Commission accepted a price undertaking from UML and as a result imports of the product concerned of Indian origin, produced by UML and covered by the undertaking, were exempt from the abovementioned definitive anti-dumping duty rate.

(3) On 8 November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005 [4], decided that the anti-dumping measures applicable to imports of steel ropes and cables originating, *inter alia*, in India should be maintained (the expiry investigation).

(4) On 23 January 2006, the Council, by Regulation (EC) No 121/2006 [5], amended Regulation (EC) No 1858/2005 in view of a breach of the abovementioned price undertaking, and the acceptance of the undertaking was withdrawn on 22 December 2005 by Commission Decision 2006/38/EC [6].

2. Request for an interim review

(5) In 2007, the Commission received a request for a partial interim review pursuant to Article 11(3) of the basic Regulation (interim review). The request, limited in scope to the examination of dumping, was lodged by UML. UML claimed that its export prices to the Community had increased at a more rapid pace than the domestic prices in India, as confirmed by the decrease of the dumping margin. Thus UML argued that the circumstances on the basis of which measures were established had changed and that these changes were of a lasting nature.

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an interim review, the Commission decided to initiate a partial interim review in accordance with Article 11(3) of the basic Regulation, limited in scope to the examination of dumping as far as UML is concerned. The Commission published a Notice of initiation on 9 January 2008 in the *Official Journal of the European Union* [7] and commenced an investigation.

3. Parties concerned by the investigation

(7) The Commission officially advised UML, the authorities of the exporting country and the representative organisation of the Community producers, the Liaison Committee of EU Wire Ropes Industries (EWRIS), of the initiation of the partial interim review. 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. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 217, 17.8.1999, p. 1.
[3] OJ L 217, 17.8.1999, p. 63.
[4] OJ L 299, 16.11.2005, p. 1.
[5] OJ L 22, 26.1.2006, p. 1.
[6] OJ L 22, 26.1.2006, p. 54.
[7] OJ C 4, 9.1.2008, p. 22.

4. **Questionnaires and verification visits**

(8) Questionnaires were sent to UML and its related companies, all of which replied within the deadlines set for that purpose. The Commission sought and verified all the information it deemed necessary for its analysis and carried out verification visits at the premises of the following companies:

(a) India

— Usha Martin Limited (UML), Ranchi;

(b) United Arab Emirates (UAE)

— Brunton Wolf Wire Ropes FZCo, Dubai;

(c) United Kingdom

— Usha Martin UK Ltd (UMUK), Worksop.

5. **Review investigation period**

(9) The review investigation period of dumping covered the period from 1 October 2006 to 30 September 2007 (RIP).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(10) The product concerned by this partial interim review is commonly called steel wire rope (SWR) and is the same as that defined in the original and the expiry investigations which led to the imposition of measures currently in force. It consists of steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm originating in India, currently classifiable within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98.

2. **Like product**

(11) It was found that SWR produced by UML and sold on the Indian domestic market and that exported by UML to the Community share the same basic physical, technical and chemical characteristics and uses. These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

(12) For a proper comprehension of the product concerned and the like product, it should be recalled that the process to produce SWR consists of closing a number of steel strands, which themselves are composed of a bundle of steel wires from steel wire rods. It is common practice in investigations to define product control numbers (PCN), which take into account detailed product characteristics, in order to differentiate amongst the various product types produced and sold by the exporting producer on the domestic market of the country concerned and those exported to the Community.

(13) The Community industry claimed that two key elements were not taken into account in the definition of the proposed PCNs for the dumping calculations, namely the type of core and the tensile strength of the wire component.

(14) However, for the purpose of establishing a dumping margin for UML, the PCNs were established in accordance with the company's own product coding system, in order to ensure that the physical characteristics of the products sold on the domestic market were comparable to those of the products exported to the Community.

(15) In the light of the above, it was not considered necessary to modify the PCNs and therefore the claim had to be rejected.

(16) UML argued that closely resembling product types should be included in the comparison of exported types with those sold on their domestic market, taking into account alleged minimal differences in the rope diameter, such as the arrangements of wires in the strands, the number of strands in combinations of strand/wire, or wire characteristics, such as galvanised as opposed to non-galvanised wires.

(17) It was however considered that the investigation reviewing alleged changed circumstances should be carried out as much as possible following the same parameters as those used in the previous investigations. Moreover, the examination of the claim showed that the possible impact on the findings of the investigation would have been insignificant. This claim was therefore rejected.

C. **DUMPING**

1. **Normal value**

(18) For the determination of normal value it was first established whether UML's total volume of domestic sales of the like product were representative in comparison with its total export sales volume to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales is considered representative when the total domestic sales volume is at least 5 % of the total volume of corresponding export sales to the Community. It was found that all UML's sales were sold in the domestic market in representative volumes.

(19) Subsequently, those types of the product concerned sold on the domestic market by UML that were identical and directly comparable to the types sold for export to the Community, were identified.

(20) For each type sold by UML on the domestic market and found to be directly comparable with the types sold for export to the Community, it was established whether domestic sales were sold in representative volume for the purposes of Article 2(2) of the basic Regulation.

(21) It was also examined whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers on the domestic market of each exported type of the product concerned during the RIP.

(22) For those product types where more than 80 %, by volume, of sales on the domestic market were not below unit costs, i.e. where the average sales price of the product type concerned was equal to or higher than the average production cost for the product type concerned, normal value was calculated as the average price of all domestic sales of the product type in question irrespective of whether these sales were profitable or not.

(23) For those product types where no more than 80 %, by volume, of sales on the domestic market were not below unit costs, normal value was calculated as the weighted average sales price of those transactions which were made at or above unit costs of the type in question.

(24) In the cases where all transactions of a certain product type were sold at a loss on the domestic market, it was considered that the product type concerned was not sold in the ordinary course of trade and therefore normal value had to be calculated in accordance with Article 2(3) of the basic Regulation, i.e. on the basis of the manufacturing cost of the type concerned, plus an amount for selling, general and administrative (SG&A) expenses and a reasonable margin of profit. Pursuant to Article 2(6) of the basic Regulation the amounts of SG&A and profit were based on the average SG&A and profit of UML sales in the ordinary course of trade of the like product.

2. **Export price**

(25) In all cases where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

(26) In cases where sales were made via a related importer or trader, the export price taken into account was the resale price of that related importer or trader to independent customers in the Community. In accordance with Article 2(9) of the basic Regulation allowances were made for all costs incurred between importation and resale, including SG&A costs and the profit realised in the Community by the related importer during the RIP. Adjustments were made for inland and ocean freight, insurance costs, handling, packaging, credit costs and import duties, which were all deducted from the resale price in order to arrive at an ex-works basis.

3. **Comparison**

(27) The average normal value was compared with the average export price for each type of the product concerned, on an ex-works basis and at the same level of trade. In accordance with Article 2(10) of the basic Regulation, and for the purpose of ensuring a fair comparison, adjustments were made for discounts, inland and ocean freight, insurance costs, handling, packaging and credit costs, which were all deducted from the export price in order to arrive at an ex-works basis.

(28) Regarding the export sales to related companies, UML made a claim for a level of trade adjustment between domestic sales to dealers and export sales to UML's related companies on the ground that with both of them a long term working relationship existed.

(29) The investigation found, however, that in the case of resale the related importers are merely an intermediate party between UML and unrelated Community customers. Therefore the comparison between domestic sales to traders and end-users and export resale to the same category of customers in the Community is unaffected by the level of trade of the intermediate parties. This claim was therefore rejected.

(30) UML made another claim for an adjustment regarding the adverse evolution of the exchange rates of the euro, the US dollar and the British pound compared to the Indian rupee during the RIP. This claim was rejected because the movement was not considered to be sustained and also because apart from the direct sales to unrelated customers in the Community in euro, the claimed allowance concerned transfer prices to related companies.

4. **Dumping margin**

(31) In accordance with Article 2(11) and (12) of the basic Regulation, a dumping margin was calculated, by comparing the weighted average normal value with the weighted average export price.

(32) Under the conditions described above, the weighted average normal value by type was compared with the weighted average export price of the corresponding type of the product concerned at the same level of trade.

(33) Expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, the dumping margin established for direct sales to unrelated companies in the Community during the RIP was 2,6 % whereas the one determined for sales via related companies was – 3,9 %, leading to an overall negative dumping margin of – 2,8 %.

D. LASTING NATURE OF CHANGED CIRCUMSTANCES

(34) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances which were found to exist could reasonably be said to be of a lasting nature.

(35) The investigation showed that since the expiry investigation, UML significantly restructured and in particular diversified its production and enlarged its worldwide sales network. However, this did not have any particular adverse impact on the investigation, given that the group's recording system from production to sale allows for full traceability.

(36) The Community industry alleged that UML exported to the Community SWR and strands of Indian origin via its related producers in the UK and UAE thereby changing the origin of the SWR sold on the Community market.

(37) In view of the above allegation and for sake of completeness, the various group transactions and transformation of strands into SWR by the related producers in the UK and UAE were also investigated. These transactions were not found to affect the findings of this review investigation.

(38) As regards the related producer in the UAE, it was found that it did not export any SWR purchased from UML in India to the Community during the RIP. All its sales transactions were checked and were found to have the rest of the world as destination.

(39) As regards the transformation of strands into SWR, it was found that this transformation was important at both related producers.

(40) As mentioned in recital 35, the Usha Martin group has restructured and diversified its production. It produces steel wire ropes not only in India but also in its other production facilities worldwide. The group is making further productivity and enhancement investments in India but is at the same time increasingly becoming a global player, investing in all parts of the world, including the Community.

(41) It is also worth noting that according to Eurostat average import prices of SWR from India to the Community have shown an increasing trend since 2004. Indeed the increase in average import prices from India has been much more marked than the increase in world average import prices.

(42) In the light of the above, it is expected that there will be no increase of imports of SWR and no reappearance of dumped imports into the Community of SWR of Indian origin, as a consequence of the repeal of the anti-dumping duty in force on UML.

(43) It is therefore considered that the circumstances that led to the initiation of this review are unlikely to change in the foreseeable future in a manner that would affect the findings of the current review. Therefore the changes are considered to be of a lasting nature.

E. ANTI-DUMPING MEASURES

(44) It follows from the above that, as provided for by Article 11(3) of the basic Regulation, and in the light of the findings of the investigation, i.e. the absence of dumping during the RIP and absence of indications of recurrence of dumping in the future, the anti-dumping measures applicable to imports of steel ropes and cables originating in India should be repealed in respect of UML.

(45) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the repeal of the anti-dumping duty in force on imports of steel ropes and cables originating in India in respect of UML, and were given the opportunity to comment.

(46) Interested parties made their views known. However these were not of a nature to change the above conclusions,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 1(2) of Regulation (EC) No 1858/2005 shall be amended as follows, as far as Usha Martin Limited is concerned:

Country	Company	Rate of duty (%)	TARIC additional code
India	Usha Martin Limited 2A, Shakespeare Sarani Kolkata 700 071, West Bengal, India	0	8613

Article 2

This Regulation shall enter into force on the day following 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 Luxembourg, 6 April 2009.

For the Council
The President
J. POSPÍŠIL