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COUNCIL REGULATION (EC) No 383/2009

of 5 May 2009

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pre- and post-stressing wires and wire strands of non-alloy steel (PSC wires and strands) originating in the People's Republic of China

(OJ L 118, 13.5.2009, p. 1)

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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 9 thereof,

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

Whereas:

1. PROCEDURE

1.1. Provisional measures

(1) The Commission, by Regulation (EC) No 1129/2008 [2] of 14 November 2008 (the 'provisional Regulation') imposed a provisional anti-dumping duty on imports of certain pre- and post-stressing wires and wire strands of non-alloy steel ('PSC wires and strands') originating in the People's Republic of China ('PRC').

(2) It is noted that the proceeding was initiated following a complaint lodged by Eurostress Information Service (ESIS) on behalf of producers representing a major proportion of the total Community production of PSC wires and strands in this case more than 57 %.

(3) As set out in recital 13 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2007 to 31 December 2007 ('investigation period' or 'IP'). The examination of the trends for the assessment of injury covered the period from 1 January 2004 to the end of the investigation period ('period considered').

1.2. Subsequent procedure

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard. The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 306, 15.11.2008, p. 5.

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(5) The Commission continued its investigation with regard to Community interest aspects and carried out analyses of data contained in the questionnaire replies provided by some users in the Community after the imposition of the provisional anti-dumping measures.

(6) Four additional verification visits were carried out at the premises of the following user companies:

— Hormipresa SL, Santa Coloma de Queralt, Spain,

— Grupo Pacadar SA, Madrid, Spain,

— Strongforce Engineering plc, Dartford, United Kingdom,

— Hanson Building Products Limited, Somercotes, United Kingdom.

(7) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping measures on imports of PSC wires and strands originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period within which they could make representations subsequent to this disclosure.

(8) The oral and written comments submitted by the interested parties were considered and, where appropriate, the findings have been modified accordingly.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(9) One interested party has claimed that a specific type of strand with 19 wires should be excluded from the scope of the proceeding on the grounds that this product type was used for very specific applications, could not be used in concrete reinforcement or suspension elements or for stay-cable bridges, which are the main applications of the product concerned, and it was not produced in the Community. The Community industry was consulted and confirmed that the product described, i.e. strand of 19 wires but also strands of more than 19 wires, was not the product concerned. The claim has therefore been accepted and strands with 19 wires or more will be excluded from the product scope.

(10) In the absence of any other comments concerning the product concerned and the like product, recitals 14 to 20 of the provisional Regulation are hereby confirmed.

3. DUMPING

3.1. Market economy treatment (MET)

(11) One Chinese exporting producer contested the provisional findings with regard to the determination of MET and claimed that criteria 1 to 3 set out in Article 2(7)(c) of the basic Regulation were met.

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(12) As regards criterion 1 of Article 2(7)(c) of the basic Regulation, the investigation with regard to MET determined that the electricity costs incurred by the exporting producer concerned and which constitute an important part in the total cost of manufacturing were unreliable. It has been found that electricity costs were invoiced via a third company in liquidation (instead of directly by the supplier of the electricity). It was explained that the company in liquidation which was originally the owner of the production facilities where the product concerned was produced but which was meanwhile in liquidation was still considered as the owner of part of the facilities. The electricity company would therefore still invoice all electricity consumption to the company in liquidation which in turn would invoice these costs to the exporting producer concerned.

(13) However, it was verified that the exporting producer purchased the production facilities during the IP in 2007 and was at least during part of the IP the legal owner of the production facilities. Furthermore, the amounts reported could not be reconciled with the exporting producer's accounts. Finally, subsequent to provisional disclosure, the company did not submit any information or evidence which would have shown the reliability of the electricity costs and which could thus have reversed the provisional findings in this respect.

(14) The same exporting producer reiterated that the limited duration of its business licence would not indicate significant State interference within the meaning of criterion 1 of Article 2(7)(c) of the basic Regulation as determined by the investigation on MET. In this regard it is noted that the limited duration of the business licence was found to be an obstacle for long-term business decisions and planning. In particular, it was found that companies in similar situations usually benefited from a significantly longer duration of business licences. However, subsequent to the provisional disclosure, it could be clarified that the timely extension of the business license of the exporting producer was a simple formality which could not be considered as an obstacle for long-term business decisions and planning anymore.

(15) On the above basis, it was concluded that in this particular case the duration of the business licence could not indeed be qualified as significant State interference within the meaning of criterion 1 of Article 2(7)(c) of the basic Regulation and the exporting producer's arguments were accepted. The provisional findings were revised accordingly.

(16) The exporting producer concerned also contested the findings that it did not fulfil the conditions set out in criterion 2 of Article 2(7)(c) of the basic Regulation, i.e. that it had one clear set of basic accounting records audited in line with international accounting standards. It is noted that the investigation concerning MET revealed that significant amounts of a recurring loan were booked under a wrong position. Although the exporting producer claimed that this finding would not correspond to the real facts it did not submit any convincing explanation or any valid evidence in support of its claim. This claim had therefore to be rejected.

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(17) Finally, the same exporting producer claimed that there were no significant distortions carried over from the non-market economy system as set out in criterion 3 of Article 2(7)(c) of the basic Regulation. In particular, the exporting producer contested the finding that it could borrow money at an interest rate which was significantly below the market rate. However, the exporting producer did not provide any new information or evidence which could revise the provisional findings in this respect and this claim had therefore to be rejected.

(18) On the basis of the above, and despite the findings as described in recital 14, the findings on MET with regard to this exporting producer as set out in the provisional Regulation in recital 35 are hereby confirmed.

(19) In the absence of any other comments with regard to the determination of MET, the provisional findings as set out in recitals 25 to 36 of the provisional Regulation are hereby confirmed.

3.2. **Individual treatment (IT)**

(20) The exporting producer to which IT was not granted claimed that its decision-making was sufficiently independent from State interference within the meaning of Article 9(5)(c) of the basic Regulation.

(21) In support of this claim, the exporting producer was able to clarify the composition of the company's board of directors and the voting rights of its shareholders. Thus, the exporting producer could show that it was sufficiently independent from potential State interference in its price setting within the meaning of Article 9(5)(c) of the basic Regulation. In addition, the exporting producer, as mentioned in recital 14, could also demonstrate that the duration of its business licence cannot be qualified as significant State interference. As a consequence, since this exporting producer met the requirements for IT as set out in Article 9(5) of the basic Regulation an individual definitive duty should be calculated applicable to products produced and exported by it.

(22) As regards two of the exporting producers to whom IT was granted, new information available after the imposition of the provisional measures showed that key personnel of these companies were members of State bodies within the meaning of Article 9(5)(c) of the basic Regulation. Both companies omitted this information in their claim for MET/IT.

(23) It was considered that the omission of such information was misleading within the meaning of Article 18(1) of the basic Regulation and the information provided in their respective claims for MET/IT should be disregarded. The companies concerned were given the opportunity to provide further explanations in accordance with Article 18(4) of the basic Regulation. However, none of the companies concerned provided satisfactory explanations. On this basis IT was denied to the above companies.

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(24) As regards the third company to which IT was granted, the Community industry questioned whether it was in fact a wholly foreign owned company and whether it therefore fulfilled the criterion set out in Article 9(5)(c) of the basic Regulation. However, all relevant payments and bank transfers when acquiring the company could be verified and reconciled during the investigation demonstrating that the company was a wholly foreign owned company. This claim had therefore to be rejected.

4. NORMAL VALUE

4.1. Analogue country

(25) Certain interested parties claimed that the choice of the analogue country was inappropriate. It was claimed, in particular, that due to the fact that only one producer of PSC wires and strands existed in the Turkish market, the level of competition in Turkey would be insufficient to base normal value on data concerning that producer.

(26) These parties, however, did not submit any new evidence in this regard but only reiterated the claims made prior to the imposition of the provisional measures. As outlined in recital 44 of the provisional Regulation, even though there was only one producer in Turkey, imports into Turkey were substantial, i.e. they accounted for more than 50 % of the total market. On this basis, and considering that none of the producers of other potential analogue countries cooperated in the present investigation, it is confirmed that Turkey constitutes an appropriate analogue country within the meaning of Article 2(7)(a) of the basic Regulation.

(27) In the absence of any other comments with regard to the analogue country, the provisional conclusions as outlined in recitals 40 to 45 of the provisional Regulation are hereby confirmed.

4.2. Method for calculating the normal value

(28) One exporting producer claimed that the normal value used was not appropriate since for most product types, as indicated in recitals 48 and 49 of the provisional Regulation, normal value was constructed on the basis of the costs of manufacturing of the Turkish producer. This exporting producer argued that normal value, for those product types exported by the Chinese exporters, should have been based on the cost of production of the Chinese exporters themselves.

(29) It is noted that the basic Regulation in Article 2(7)(a) expressly foresees that normal value shall be determined on the basis of the price or constructed value of a market economy country. Therefore, the fact that normal value was determined on the basis of constructed values does not allow the conclusion that the values used were inappropriate. It is noted that since MET was not granted to the exporter in question its costs related to the exported models were considered unreliable. The purpose of the selection of an analogue country is to establish reliable costs and prices based on the information gathered in an appropriate analogue country. Since it has been determined that Turkey was an appropriate choice there were no grounds to consider that costs related to the product concerned were not reliable or inappropriate.

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(30) The exporting producer concerned did not come forward with any specific reason (other than the ones mentioned in recital 25) that the choice of the analogue country was inappropriate, in particular on which grounds it was considered that the product types produced and sold by this exporting producer and the ones produced and sold by the producer in the analogue country were not comparable. These claims had therefore to be rejected.

(31) In the absence of any other comments with regard to the method for calculating the normal value, the provisional conclusions as outlined in recitals 46 to 50 of the provisional Regulation are hereby confirmed.

4.3. **Export price**

(32) The exporting producer mentioned in recital 52 of the provisional Regulation who made export sales via its related importer in the Community claimed that when constructing the export price in accordance with Article 2(9) of the basic Regulation, the actual profit earned by the related importer when reselling PSC wires and strands in the Community should have been used.

(33) It is noted that sales prices between related parties are considered unreliable due to the relationship between the buyer and the seller. Consequently, the profit margin resulting from a resale has also to be considered as unreliable. The exporting producer did not submit any evidence that the profit margin of its related importer would be none the less reliable. This claim had therefore to be rejected.

(34) It is noted that for the exporting producer mentioned in recital 32, IT was denied for the reasons set out in recitals 22 and 23 and since its dumping margin was therefore determined on the basis of the methodology outlined in recital 41, the question of the methodology applied when determining this exporting producer's export price has become irrelevant.

(35) With regard to one of the exporting producers to whom IT was granted, the Community industry questioned the reliability of its export price reported. It was argued that given the low quantity exported during the IP, as well as the particular circumstances (in particular the product exported did not have the required homologation certificate) would indicate a relationship between the importer and the exporting producer and the corresponding export price should therefore be disregarded. However, the Community industry could not submit any evidence in support to their claim. The investigation did furthermore not reveal any relationship between the exporting producer and the unrelated importer. This claim had therefore to be rejected.

(36) In the absence of any other comments with regard to the determination of the export price, the provisional conclusions as outlined in recital 51 of the provisional Regulation are hereby confirmed.

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4.4. **Comparison**

(37) In the absence of any other comments with regard to the comparison of the normal value and the export price, the provisional conclusions as outlined in recitals 53 and 54 of the provisional Regulation are hereby confirmed.

5. DUMPING MARGINS

5.1. **Cooperating producers granted IT**

(38) For the companies granted IT, the weighted average normal value was compared with the weighted average export price as provided for in Article 2(11) and (12) of the basic Regulation.

(39) The definitive weighted average dumping margin expressed as a percentage of the CIF Community frontier price, duty unpaid, is:

Company	Definitive dumping margin
Kiswire Qingdao, Ltd, Qingdao	26,8 %
Ossen MaanShan Steel Wire and Cable Co. Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang	49,8 %

5.2. **All other exporting producers**

(40) As outlined in recital 57 of the provisional Regulation, the level of cooperation was low.

(41) It was therefore considered appropriate to determine the country-wide dumping on the basis of data provided by companies to whom neither MET nor IT was granted.

(42) On this basis the country-wide level of dumping for all exporting producers to whom individual treatment was not granted, was established at 50,0 % of the CIF Community frontier price, duty unpaid.

6. INJURY

6.1. **Community production and definition of the Community industry**

(43) In the absence of any comments concerning the production and definition of the Community industry, recitals 60 to 63 of the provisional Regulation are hereby confirmed.

6.2. **Community consumption**

(44) In the absence of any comments concerning Community consumption, recitals 64 to 66 of the provisional Regulation are hereby confirmed.

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6.3. **Imports into the Community from the PRC**

(45) One interested party claimed that the average price of Chinese imports was similar to the average sales price of the Community industry. In this regard, the Commission findings, which were based on data from Eurostat for the import prices from the PRC, and verified data for the Community industry showed that this statement was not correct. Therefore this claim had to be rejected.

(46) In the absence of any other comments in this regard, recitals 67 to 70 of the provisional Regulation are hereby confirmed.

6.4. **Situation of the Community industry**

(47) One user claimed that the average prices of the Community industry in 2004 and 2005 were higher than the ones presented in the provisional Regulation and thus not correct. Concerning this claim, it should be stressed that the current findings are the result of an investigation at EU level and not at regional or country level. As no evidence in regard to this claim was submitted by the interested party, it had therefore to be rejected.

(48) In the absence of any other comments concerning the situation of the Community industry, the conclusion in recitals 71 to 91 of the provisional Regulation, that the Community industry has suffered material injury, is hereby confirmed.

7. **CAUSATION**

7.1. **Effects of the dumped imports**

(49) Certain interested parties claimed that the market share of the Chinese imports was not enough to cause the injury suffered by the Community industry. As clearly demonstrated in recital 93 of the provisional Regulation, the massive increase of 2 106 % in the volume of the dumped imports between 2004 and the IP and their corresponding increase in market share from 0,4 % in 2004 to 8,2 % in the IP on the Community market, as well as the 18 % undercutting found during the IP, coincided in time with the deterioration of the economic situation of the Community industry.

(50) In addition, the rise in the cost of the main raw material, that is, wire rod, which accounts for 75 % of the manufacturing costs, should have affected all operators in the market. However, the average Chinese prices of wire rod decreased by 45 % between 2004 and the IP. It is therefore concluded that the pressure exerted by the dumped imports, which significantly increased in volume and market share from 2006 onwards played a determining role in the injury suffered by the Community industry. This claim is therefore rejected.

(51) On that basis, the findings and the conclusions reached in recitals 92 to 94 of the provisional Regulation are hereby confirmed.

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7.2. **Effects of other factors**

(52) Certain interested parties claimed that the injury suffered by the Community industry was caused by imports from other third countries. As shown in recitals 95 and 96 of the provisional Regulation, the volume of imports from other third countries increased by 112 % from 2004 until the end of the IP. However, the average prices of these imports were far above those of the Chinese exporting producers and even those of the Community industry. Consequently, they cannot be considered to have contributed to the injury suffered by the Community industry.

(53) Two of the other third countries holding a combined market share of 2,5 % were found to have prices below the import prices of the product concerned from the PRC. However, given the relatively low volume of imports involved this cannot be considered sufficient to break the causal link between the dumped imports from the PRC and the injury suffered by the Community industry.

(54) On that basis, the findings and the conclusions reached in recitals 95 and 96 of the provisional Regulation are hereby confirmed.

7.3. **Export performance of the sampled Community industry**

(55) Certain interested parties claimed that the injury suffered by the Community industry was caused by exports made at prices below cost of production. Exports to non-Community countries represented only around 14 % of the Community industry's total sales of the like product in the IP. These exports increased by about 16 % between 2004 and the IP. However, the unit export selling price of the Community producers decreased by 8 % from EUR 715 per tonne in 2004 to EUR 660 per tonne in the IP. As explained in recital 98 of the provisional Regulation, it cannot be assumed that these sales were made at prices below cost of production. This is due to significant variations in costs and prices between companies and over time. The decrease in the export price was due to the pressure from the Chinese exports also in the principal export markets of the Community industry through severe price suppression.

(56) On that basis, the findings and the conclusions reached in recitals 97 to 99 of the provisional Regulation are hereby confirmed.

(57) In the absence of any comments concerning the rise in costs of production, and competition from other producers in the Community, the conclusions reached in recitals 100 to 102 of the provisional Regulation are hereby confirmed.

7.4. **Conclusion on causation**

(58) Given the above analysis, which has properly distinguished and separated the effects of all other known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby confirmed that these other factors do not affect the finding that the material injury assessed must be attributed to the dumped imports.

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(59) Given the above, it is confirmed that the dumped imports of PSC wires and strands originating in the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

(60) In the absence of other comments in this respect, the conclusions in recitals 103 and 104 of the provisional Regulation are hereby confirmed.

8. COMMUNITY INTEREST

8.1. Interest of the Community industry and of other Community producers

(61) In the absence of any comments concerning the interest of the Community industry and the interest of other producers, the conclusions in recitals 105 to 111 of the provisional Regulation are hereby confirmed.

8.2. Interest of importers

(62) One interested party importing PSC wires and strands from the PRC alleged that the imposition of any anti-dumping measures would have serious effects on the situation of importers since they would be unable to pass on the price increase to their customers.

(63) The investigation revealed that the importers' profit margins for the product concerned were relatively high. Moreover, the low proportion of the costs of the product concerned in their customers' total costs should make it possible for the importers to pass any price increase on to them. In addition, the terms of their contracts with the suppliers are not such as to prevent importers from switching the source of supply of the product concerned, either to companies with low or no duties or to other supplying countries such as Thailand and South Africa. Therefore, this claim had to be rejected.

(64) In the absence of any other comments in this particular regard, the findings set out in recitals 112 to 114 of the provisional Regulation are hereby confirmed.

8.3. Interest of users

(65) Some interested parties claimed that the imposition of any anti-dumping measures would have serious effects on the situation of users of PSC wires and strands since they would be unable to pass on the price increase to their customers.

(66) As outlined in recitals 4 and 5, the possible effect of measures on the situation of the user industries was further examined after the imposition of provisional measures by carrying out additional on-the-spot investigations at the premises of four users. These users were all intermediate users producing and supplying the concrete elements for concrete reinforcement, suspension elements and stay-cable bridges.

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(67) The Commission's findings showed that for the most representative user visited, and for most of the applications, the product concerned represented only 5 % of its total cost of production. However on average the proportion for users can reach up to 13 %. The impact of the anti-dumping duty on their costs was estimated at between 0 and 6 %. None the less, with regard to their final customers (mainly construction companies), the impact of the duty will be minimal and in any case below 1 % of their total cost of production. As a result, they should not have much difficulty in passing on the duty to their customers. Therefore, this claim had to be rejected.

(68) One interested party claimed that the imposition of any anti-dumping measures would lead to a shortage of PSC wires and strands in the United Kingdom (UK) due to the UK market's reliance on imports. In this respect, it has to be borne in mind that the current findings were established at EU level and not at a regional or country level. However, if one looks only at the UK market, the findings show that the investigated UK producers have large spare capacity to supply the market. Moreover, as a whole, the Community industry has sufficient spare capacity to supply total EU consumption. Therefore, this claim had to be rejected.

(69) Allegations as to the existence of a cartel in the Community industry of PSC wires and strands were made by certain interested parties. In this regard, it is noted that the Commission issued a Statement of Objections in October 2008 to a number of companies active in the supply of pre-stressing steel. However, no final decision has yet been taken by the Commission on this matter. Indeed sending a Statement of Objections does not prejudge the final outcome of the procedure. If the existence of a cartel should be shown to have existed on the Community market, the measures may be reviewed as appropriate.

(70) In the absence of any other comments in this particular regard, the findings set out in recitals 115 to 117 of the provisional Regulation are hereby confirmed.

8.4. **Conclusion on Community interest**

(71) Given the results of the further investigation of the Community interest aspects, the findings contained in recital 118 of the provisional Regulation are hereby confirmed.

9. **DEFINITIVE ANTI-DUMPING MEASURES**

9.1. **Injury elimination level**

(72) Several interested parties contested the provisional finding that a profit margin of 8,5 % would be the profit margin that could reasonably be achieved by an industry of this type in the sector under normal conditions of competition.

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(73) One interested party claimed that the 2005 profitability should not be taken into account when calculating the profit margin of the Community industry, since it was an exceptionally prosperous year for the sector. This was found to be the case and the claim was therefore accepted. As a result, a 6,2 % profit margin was used for the calculation of the injury elimination level, as achieved in 2004 at a time when import quantities from the PRC were not significant and prices were above those of the CI.

(74) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.

(75) One interested party claimed that the weighted average underselling margin should be calculated by using the quantity of each product type sold by the Community industry as the weight. It is consistent practice to use the CIF value of the exports of each product type as the weight to calculate the weighted average underselling margin. The rationale for this calculation is that a duty calculated in this way would, if applied to the company's sales during the IP, result in zero underselling, i.e. a non-injurious price. This would not be the case if the quantity of each product type sold by the Community industry was used as weights, as claimed.

(76) The injury elimination level of one of the Chinese exporting producers to whom IT was granted mentioned in recital 24, was recalculated further to a clerical mistake in the provisional determination. As a result, the injury elimination level amounted to less than 2 % which was considered to be *de minimis*. Consequently, no duty should be imposed with regards of imports of the product concerned produced by that company.

(77) In the absence of any other comments concerning the injury elimination level, recitals 119 to 122 of the provisional Regulation are hereby confirmed.

(78) The country-wide injury elimination level was recalculated on the basis of data provided by companies to whom neither MET nor IT was granted.

9.2. **Form and level of the duties**

(79) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at a level sufficient to eliminate the injury caused by the dumped imports without exceeding the dumping margin found.

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(80) The rate of the definitive duties are definitively set as follows:

Company	Dumping margin	Injury elimination margin	Definitive anti-dumping duties rate
Kiswire Qingdao, Ltd, Qingdao	26,8 %	0 %	0 %
Ossen MaanShan Steel Wire and Cable Co. Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang	49,8 %	31,1 %	31,1 %
All other companies	50,0 %	46,2 %	46,2 %

(81) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(82) Any claim requesting the application of this individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.

9.3. **Definitive collection of provisional duties**

(83) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation should be definitively collected to the extent of the amount of the definitive duties imposed. Where the definitive duties are lower than the provisional duties, amounts provisionally secured in excess of the definitive rate of anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties shall be definitely collected. Amounts provisionally secured for products excluded from the product scope, in accordance with recital 9, should be released.

[1] European Commission, Directorate-General for Trade, Directorate H, Office N-105 4/92, 1049 Brussels, Belgium.

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9.4. **Special monitoring**

(84) In order to minimise the risks of circumvention due to the high difference in the duty rates among the exporting producers, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. These special measures include the following:

(85) The 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 this Regulation. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters.

(86) Should the exports by the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rates and the consequent imposition of a country-wide duty.

10. **UNDERTAKINGS**

(87) Following the disclosure of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping measures, one of the exporting producers to whom individual treatment was granted offered a price undertaking in accordance with Article 8(1) of the basic Regulation.

(88) This offer was examined and it was found that during the IP, the prices of the product were extremely variable, i.e. the difference between the lowest and the highest sales price to the EU for the same product category could vary by as much as 46 % for the mentioned company. Moreover, significant price variations were also found for sales prices of the Community industry during the period considered. Therefore, the product is not suitable for a fixed price undertaking. The company proposed that the minimum price should be indexed on the basis of the price development of a raw material, namely wire rod. However in the absence of publicly available price information for the raw material used in the product concerned and in view of the opposite price trend of a comparable raw material, namely wire rod mesh quality, no correlation could be established between the sales prices of the finished product in the community and the main raw material. The undertaking's offer is considered as impractical within the meaning of Article 8(3) of the basic Regulation as it would not remove the injurious effect of dumping found.

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(89) Moreover, the product concerned exists in numerous different types. The company, in order to facilitate the requested reporting in the framework of the investigation, simplified the product classification criteria and arranged to group the number of product types produced and sold. This, however, does not change the fact that the company produced and sold several types of wire and strands to the EU during the IP. In order to limit the risk of cross-compensation between different product types, the company offered to respect three minimum import prices, one for PSC wires and two for strands depending on the diameter. However, in view of the reasons described in recital 88, the undertaking offered by the exporting producer concerned could not be accepted.

11. **CHANGE OF NAME**

(90) After the IP and in the course of the present investigation, one of the exporting producers concerned, a group consisting of two related companies, namely, Ossen MaanShan Steel Wire and Cable Co. Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang, changed name to Ossen Innovation Materials Co. Joint Stock Company Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang.

(91) The modification does not entail any substantive change which would have an impact on the findings in the present investigation and it was therefore concluded that the definitive findings with regard to Ossen MaanShan Steel Wire and Cable Co. Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang are applicable to Ossen Innovation Materials Co. Joint Stock Company Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang,

HAS ADOPTED THIS REGULATION:

Article 1

▼M1

1. A definitive anti-dumping duty is hereby imposed on imports of not plated or not coated wire of non-alloy steel, wire of non-alloy steel plated or coated with zinc and stranded wire of non-alloy steel whether or not plated or coated with not more than 18 wires, containing by weight 0,6 % or more of carbon, with a maximum cross-sectional dimension exceeding 3 mm, currently falling within CN codes ex 7217 10 90, ex 7217 20 90, ex 7312 10 61, ex 7312 10 65 and ex 7312 10 69 (TARIC codes 7217 10 90 10, 7217 20 90 10, 7312 10 61 11, 7312 10 61 91, 7312 10 65 11, 7312 10 65 91, 7312 10 69 11 and 7312 10 69 91) and originating in the People's Republic of China. Galvanised (but not with any further coating material) seven wire strands in which the diameter of the central wire is identical to or less than 3 % greater than the diameter of any of the 6 other wires shall not be covered by the definitive anti-dumping duty.

▼B

2. The rate of anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described in paragraph 1 and produced by the companies below shall be as follows:

Company	Anti-dumping duty	TARIC additional code
Kiswire Qingdao, Ltd, Qingdao	0 %	A899
Ossen Innovation Materials Co. Joint Stock Company Ltd, Maanshan, and Ossen Jiujiang Steel Wire Cable Co. Ltd, Jiujiang	31,1 %	A952
All other companies	46,2 %	A999

3. The application of the individual duty rate specified for the companies mentioned in paragraph 2 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. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of provisional anti-dumping duties pursuant to Commission Regulation (EC) No 1129/2008 of 14 November 2008 on imports of certain pre- and post-stressing wires and wire strands of non-alloy steel (PSC wires and strands) originating in the People's Republic of China shall be definitively collected. Amounts provisionally secured for goods not covered by Article 1(1) shall be released.

Article 3

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.

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ANNEX

A declaration signed by an official of the company, in the following format must appear on the valid commercial invoice referred to in Article 1(3):

1. The name and function of the official of the company which has issued the commercial invoice.

2. The following declaration

   'I, the undersigned, certify that the [volume] of PSC wires and strands sold for export to the European Community covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.

   Date and signature'