

## COMMISSION DECISION

of 20 October 2005

**terminating the anti-dumping proceeding concerning imports of certain iron or steel ropes and cables (SWR) originating in the Republic of Korea**

(2005/739/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 <sup>(1)</sup> (the basic Regulation), and in particular Article 9.3 thereof,

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

Whereas:

**A. PROCEDURE****1. Initiation**

(1) On 20 November 2004, the Commission announced by a notice (notice of initiation) published in the *Official Journal of the European Union* <sup>(2)</sup>, the initiation of an anti-dumping proceeding with regard to imports into the Community of certain iron or steel ropes and cables (SWR) originating in the Republic of Korea (Korea).

(2) The anti-dumping proceeding was initiated following a complaint lodged on 11 October 2004 by the Liaison Committee of European Wire Rope Industries (EWRIS or the complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the Community production of SWR. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

**1.1. Measures in force and on-going investigations concerning imports of SWR from other countries**

(3) In August 1999, by Regulation (EC) No 1796/1999 <sup>(3)</sup>, the Council imposed definitive anti-dumping duties on

imports of steel ropes and cables (SWR) originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine. The measures applying to these imports consisted of an *ad valorem* duty, except for one Indian, one Mexican, one South African and one Ukrainian exporting producers from which undertakings were accepted by Commission Decision 1999/572/EC <sup>(4)</sup>. By Regulation (EC) No 1678/2003 <sup>(5)</sup>, the Commission withdrew the undertaking offered by the above Ukrainian exporting producer, and by Regulation (EC) No 1674/2003 <sup>(6)</sup>, the Council re-imposed the corresponding *ad valorem* anti-dumping duty for this exporter.

(4) By Regulation (EC) No 1601/2001 <sup>(7)</sup>, the Council imposed a definitive anti-dumping duty on imports of certain iron or steel ropes and cables originating in the Czech Republic, Russia, Thailand and Turkey. The measures applying to these imports consisted of an *ad valorem* duty, except for one Czech, one Russian, one Thai and two Turkish exporting producers from which undertakings were accepted by Commission Regulation (EC) No 230/2001 <sup>(8)</sup> and Commission Decision 2001/602/EC <sup>(9)</sup>. The two undertakings from Turkish exporting producers have been withdrawn by Commission Regulations (EC) No 2303/2002 <sup>(10)</sup> and No 1274/2003 <sup>(11)</sup>.

(5) Thereafter, following an investigation pursuant to Article 13 of Regulation (EC) No 384/96 (the basic Regulation), it was found that circumvention of the measures concerning imports from the Ukraine and the People's Republic of China took place via, respectively, Moldova and Morocco. Consequently, the anti-dumping duty imposed on imports originating in the Ukraine was extended to imports of the same steel ropes and cables consigned from Moldova <sup>(12)</sup>. Similarly, the definitive anti-dumping duty imposed on imports originating in the People's Republic of China was extended to imports of the same steel ropes and cables consigned from Morocco <sup>(13)</sup>, with the exception of those produced by a genuine Moroccan producer.

<sup>(4)</sup> OJ L 217, 17.8.1999, p. 63.

<sup>(5)</sup> OJ L 238, 25.9.2003, p. 13.

<sup>(6)</sup> OJ L 238, 25.9.2003, p. 1.

<sup>(7)</sup> OJ L 211, 4.8.2001, p. 1.

<sup>(8)</sup> OJ L 34, 3.2.2001, p. 4.

<sup>(9)</sup> OJ L 211, 4.8.2001, p. 47.

<sup>(10)</sup> OJ L 348, 21.12.2002, p. 80.

<sup>(11)</sup> OJ L 180, 18.7.2003, p. 34.

<sup>(12)</sup> OJ L 120, 24.4.2004, p. 1.

<sup>(13)</sup> OJ L 328, 30.10.2004, p. 1.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

<sup>(2)</sup> OJ C 283, 20.11.2004, p. 6.

<sup>(3)</sup> OJ L 217, 17.8.1999, p. 1.

(6) Following the publication of a notice of impending expiry of the anti-dumping measures in force on SWR originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine<sup>(14)</sup>, the Commission received, on 17 May 2004, a request to review these measures pursuant to Article 11(2) of the basic Regulation.

(7) This request was lodged by the Liaison Committee of European Union Wire Rope Industries (EWRIS) (the applicant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of SWR. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.

(8) Subsequently an expiry review was initiated in accordance with Article 11(2) of the basic Regulation against imports of SWR from the People's Republic of China, India, South Africa and Ukraine. This review is still on-going.

(9) However, this document only deals with imports from Korea, i.e. the investigation mentioned in recitals 1 and 2.

#### 1.2. Parties concerned by the proceeding

(10) The Commission officially advised the exporting producers in Korea, importers/traders and their associations, suppliers and users known to be concerned, the representatives of the exporting countries concerned and the complainant and other known Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(11) In view of the large number of Community producers, Korean exporting producers and Community importers listed in the complaint, sampling was envisaged for these parties in the notice of initiation in accordance with Article 17 of the basic Regulation.

(12) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all Community producers, Community importers and exporting producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period 1 July 2003 to 30 June 2004.

(13) After examination of the information submitted by the exporting producers, three companies were selected for the sample on the basis of their export volumes to the Community. However, one of the exporting producers

selected in the sample withdrew its cooperation subsequently and the next biggest exporter in terms of export volume was therefore included in the sample. The final sample consisted of the following companies:

— Kiswire Ltd,

— DSR Wire Corporation,

— Chung-Woo Rope Co., Ltd.

(14) As far as unrelated importers are concerned, only one importer actually importing the product concerned from the country concerned replied positively to the sampling form and expressed its willingness to further cooperate with the Commission services. In view of this situation, the Commission services decided not to apply sampling in the case of the unrelated importers, but to send a questionnaire to the aforementioned importer.

(15) The complaint was lodged on behalf of 21 Community producers. The Commission sought cooperation from these 21 companies and from any other known producer, by requesting them to complete a sampling form. 17 companies properly completed the sampling form within the deadline and formally agreed to cooperate further in the investigation. The sampling form contained questions concerning the development of certain 'macro' injury indicators, namely production capacity, production volume, stocks, sales volumes and values and employment. From the seventeen producers that expressed a willingness to cooperate further in the investigation, the following five companies were selected for the sample:

— BTS Drahtseile GmbH (Germany),

— Cables y Alambres especiales, SA (Spain),

— CASAR Drahtseilwerk Saar GmbH (Germany),

— Manuel Rodrigues de Oliveira Sa & Filhos, SA (Portugal),

— Trefileurope, SA (France).

(16) The Commission sent questionnaires to the exporting producers and Community producers selected in the sample and all other parties known to be concerned. Replies were received from the three Korean exporting producers selected in the sample, and one importer in the Community related to one of the Korean exporters, the five Community industry producers selected in the sample, the cooperating unrelated importer, two suppliers of raw materials and ten users.

<sup>(14)</sup> OJ C 272, 13.11.2003, p. 2.

- (17) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) Community industry producers

- BTS Drahtseile GmbH, Gelsenkirchen (Germany),
- Cables y Alambres especiales, SA, Bilbao (Spain),
- CASAR Drahtseilwerk Saar GmbH, Kirel (Germany),
- Manuel Rodrigues de Oliveira Sa & Filhos, SA, Gemunde (Portugal),
- Trefileurope SA, Bourg en Bresse (France).

(b) Unrelated importer

- Interkabel GmbH, Solms (Germany),

(c) Exporting producers in Korea

- Kiswire Ltd, Seoul,
- DSR Wire Corporation, Suncheon,
- Chung-Woo Rope Co., Ltd., Busan.

1.3. Investigation period

- (18) The investigation of dumping and injury covered the period from 1 July 2003 to 30 June 2004 (investigation period or IP). The examination of trends in the context of the injury analysis covered the period from 1 January 2001 to the end of the IP (period under consideration).

## 2. Product concerned and like product

### 2.1. Product concerned

- (19) The product concerned is ropes and cables, including locked coil ropes, of iron or steel but not stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, with attached fittings or not originating in the Republic of Korea (the product concerned), normally declared within CN codes 7312 10 82, 7312 10 84, 7312 10 86 and 7312 10 88 and 7312 10 99.

### 2.2. Like product

- (20) The Association representing Community importers (EWRIA) argued that the imported products differ

substantially from the ones manufactured and sold in the Community, and should not be compared. The same argument had been addressed in depth in Regulation (EC) No 230/2001 where it was concluded that the products produced by the Community industry have to be considered as like product. As EWRIA did not bring any new element, the conclusions reached in the aforementioned Regulation are confirmed.

- (21) This investigation showed that the products exported by the exporting producers and those manufactured and sold by the Community producers on the Community market have the same basic physical and technical characteristics and end uses and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation. The same is true with regard to the products manufactured by the Korean producers and sold on the Korean domestic market.

## 3. Dumping

### 3.1. Normal value

#### 3.1.1. Global representativity

- (22) In accordance with Article 2(2) of the basic Regulation, the Commission first examined for each cooperating exporting producer whether its domestic sales of SWR were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume of the producer to the Community.

#### 3.1.2. Product type comparability

- (23) The Commission subsequently identified those types of SWR sold domestically that were identical or directly comparable with the types sold for export to the Community. The Commission considered domestically sold and exported product types to be directly comparable when they had a similar number of strands, number of wires per strand, construction of wires in strand, core, tensile strength, wire characteristics, rope special characteristics, rope cover and diameter.

#### 3.1.3. Product type specific representativity

- (24) For each type sold by the exporting producer on their domestic market and found to be directly comparable with the type of SWR sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of SWR were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of SWR exported to the Community. It was found that the majority of the product types exported to the Community was sold in representative quantities on the domestic market.

### 3.1.4. Ordinary course of trade test

(25) The Commission subsequently examined whether the domestic sales of each company could be considered as being made in the ordinary course of trade in accordance with Article 2(4) of the basic Regulation.

(26) This was done by establishing the proportion of domestic sales to independent customers, of each exported product type, sold at a loss on the domestic market during the IP.

(a) For those product types where more than 80 % by volume of sales on the domestic market were not below unit costs and where the weighted average sales price was equal to or higher than the weighted average production cost, normal value, per product type, was calculated as the weighted average of all domestic sales prices of the type in question.

(b) For those product types where at least 10 %, but not more than 80 %, by volume of sales on the domestic market were not below unit costs, normal value, per product type, was calculated as the weighted average of domestic sales prices which were found equal to or above unit costs only, of the type in question.

(c) For those product types where less than 10 %, by volume, was sold on the domestic market at a price not below unit costs, it was considered that the product type concerned was not sold in the ordinary course of trade and therefore, another methodology had to be applied to determine normal value.

(27) As a result of the above it was found that the majority of the product types exported was sold in the ordinary course of trade on the domestic market.

### 3.1.5. Normal value based on actual domestic prices

(28) For the types sold for export to the Community by the investigated companies where the requirements set out in sections 3.1.3 and 3.1.4(a) and (b) were met, normal value was based, for the corresponding product types, on the actual prices paid or payable, by independent customers in the Korean domestic market, during the IP, in accordance with Article 2(1) of the basic Regulation.

### 3.1.6. Normal value based on domestic prices of other producers in Korea

(29) For product types falling under section 3.1.4(c), as well as for product types which were not sold by the exporting producers in representative quantities on the Korean domestic market, as mentioned in section 3.1.3, it was first considered whether for these product types sales prices of other domestic producers can be used in order to determine normal value. However, it was found that a number of different models of SWR are sold and a variety of factors affect the final sales price. The differences between the models sold would have implied numerous adjustments which would have to be based on estimates. It was therefore considered more appropriate to construct normal value.

### 3.1.7. Normal value based on constructed value

(30) Considering the above, for all product types mentioned in recital 29, normal value was constructed on the basis of Article 2(3) of the basic Regulation.

(31) In constructing normal value, the selling, general and administrative (SG & A) expenses incurred and the weighted average profit realised by the cooperating exporting producers concerned on domestic sales of the like product, made in the ordinary course of trade during the IP, were added to their own average cost of manufacturing during the IP, in accordance with Article 2(6) of the basic Regulation. Where necessary, a part of the manufacturing cost, which had been incorrectly allocated for one company, and SG & A expenses were corrected, before being used in the ordinary course of trade test and in constructing normal value.

(32) In this regard, all exporting producers concerned included non-operating expenses in their SG & A expenses on the domestic market for the like product. Also, these exporters deducted amounts of income not linked to sales of the like product on the domestic market from the SG & A expenses.

(33) However, the investigation revealed that some of these income and expenses could not be linked to the sales of the like product on the domestic market and should therefore not have been allocated to or deducted from the relevant SG & A expenses. Consequently such non-operating income and expenses were excluded from the reported SG & A.

### 3.2. Export price

- (34) 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.
- (35) Where the export sale was made via a related importer, the export price was constructed, pursuant to Article 2(9) of the Basic Regulation, on the basis of the price at which the imported products were first resold to an independent buyer, duly adjusted for all costs incurred between importation and resale and profits. In this regard, the related importer's own SG & A costs were used. In the absence of any other more reliable information, a reasonable profit margin was estimated to be 5 %. This profit margin was used in a prior anti-dumping investigation concerning imports of the same product and where definitive findings were published by Council Regulation (EC) No 1601/2001 <sup>(15)</sup>. No information was available to show that this was not a reliable margin.

### 3.3. Comparison

- (36) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence. On this basis allowances for differences in discounts, rebate, commissions, inland freight, packing, credit cost, ocean freight, insurance, handling and loading charges, bank charges and other factors were made.
- (37) Allowances to the normal value were claimed by all exporting producers for credit costs incurred on the domestic market. However, all Korean exporting producers were using an open account system and no link could be established between the claimed credit cost and the domestic sales transactions in question. Therefore, it could not be established that such factor had an impact on price and price comparability as required by Article 2(10) of the basic Regulation. Consequently, these claims had to be rejected.
- (38) An adjustment was also claimed by all exporting producers for credit costs incurred on export sales to the Community. Although such adjustment was warranted the reported amounts were understated and had to be corrected during the on-the-spot verification.
- (39) The exporting producers concerned claimed an adjustment for differences in import charges and indirect taxes in accordance with Article 2(10)(b) of the

basic Regulation. For two exporting producers concerned, it was found that the amount of import duties refunded exceeded the amount of import duties paid. Therefore it is unlikely that the exporters received refunds only for those imported parts which were incorporated later in exported goods. Moreover, for two of the exporting producers, the refund received when exporting SWR was not linked to import duties paid for the raw materials, i.e. a refund was received whether or not imported raw material was used for the production of the exported product. Therefore, it was considered that no refund of import duties has been taking place within the meaning of Article 2(10)(b) of the basic Regulation. In any case, none of the exporting producers concerned could show whether or to what extent import charges and indirect taxes were borne by the like product when sold on the domestic market. Therefore it could not be established that price comparability was affected. Consequently none of the conditions mentioned in the aforementioned provision was fulfilled and all claims had to be rejected.

- (40) It was found that one of the exporting producers paid a commission to its related importer for activities linked to export sales of SWR made directly by the exporting producer to the independent customers in the Community. Since the commission paid was considered as a factor having an impact on price and price comparability within the meaning of Article 2(10) of the basic Regulation, the sales under consideration were adjusted accordingly.
- (41) Two exporting producers claimed an adjustment on both domestic and export sales for differences in other factors, consisting of the cost incurred by the company for the inspection fees and outside processing (incorporation of fittings) of certain sales in order to meet customers' requirements. It was considered more appropriate to grant this claim as an adjustment for differences in physical characteristics. The amount of the adjustment corresponds to the actual price paid by the exporting producers for the inspection fees and outside processing costs.
- (42) Finally one of the exporting producers claimed an adjustment for differences in the level of trade in accordance with Article 2(10)(d) of the basic Regulation. However, sales on the domestic market were made to national distributors. This is a level of trade similar to the level of trade of sales to the related importer after reconstruction of the export price. Consequently, no adjustment was warranted.

### 3.4. Dumping margin for the companies investigated

- (43) According to Article 2(11) of the basic Regulation, for each exporting producer the weighted average normal value was compared with the weighted average export price per product type, as determined above.

<sup>(15)</sup> OJ L 211, 4.8.2001, p. 1 (recital 25).

(44) On the basis of the above, the dumping margin for the cooperating exporting producers, expressed as a percentage of the cif net free-at-Community-frontier price, before duty are:

— Kiswire Ltd – 8,4 %,

— DSR Wire Corporation 0,7 %,

— Chung-Woo Rope Co., Ltd – 6,1 %.

(45) Regarding those cooperating exporters not included in the sample, it was found that, for the bulk of their sales, their export prices were generally in line with those of the sampled exporters. In the absence of any information indicating the contrary, it was considered that the sampling results are representative for all other exporters. Moreover, it is noted that both the other cooperating exporters and the non-cooperating exporters each accounted for approximately 0,5 % of Community consumption in the IP. For these reasons, it was considered that any impact of these imports, even if they were above the *de minimis* level of dumping, would not have been such as to, in isolation, cause injury to the Community industry.

### 3.5. Conclusion

(46) In accordance with Article 9(3) of the basic Regulation, an anti-dumping proceeding shall be terminated where it is determined that the margin of dumping is less than 2 %.

(47) Consequently and given the above findings, the present proceeding should be terminated.

(48) Given the above determinations with regard to dumping, and in accordance with Article 9(3) of the basic Regulation, i.e. that where dumping margins were found to be *de minimis* a proceeding shall be terminated immediately, it was not considered necessary to conclude on injury, causation and Community interest aspects,

HAS ADOPTED THIS DECISION:

### Article 1

The anti-dumping proceeding concerning imports of ropes and cables, including locked coil ropes, of iron or steel but not stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, with attached fittings or not, falling within CN codes 7312 10 82, 7312 10 84, 7312 10 86, 7312 10 88 and 7312 10 99 and originating in the Republic of Korea is hereby terminated.

### Article 2

The Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Decision is addressed to the Member States.

Done at Brussels, 20 October 2005.

For the Commission

Peter MANDELSON

Member of the Commission