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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 121/2006

of 23 January 2006

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 Articles 8 and 9 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

(1) In August 1999, by Regulation (EC) No 1796/1999 [2], the Council imposed a definitive anti-dumping duty on imports of steel ropes and cables (the product concerned) originating, *inter alia*, in India.

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

(3) By Decision 1999/572/EC [4], the Commission accepted a price undertaking from an Indian company, Usha Martin Industries and Usha Beltron Ltd. This company has changed its name in the meantime and is now known as Usha Martin Ltd (UML). The change of name has in no way affected the activities of the company.

(4) As a result, imports into the Community of the product concerned of Indian origin, produced by UML or by any other related company worldwide, and of a type covered by the undertaking (the product covered by the undertaking), were exempt from the definitive anti-dumping duties.

(5) In this regard, it should be noted that certain types of steel wire rope currently produced by UML were not exported to the Community during the investigation period which led to the imposition of definitive anti-dumping measures and were not, therefore, within the scope of the exemption afforded by the undertaking. Accordingly, such steel-wire ropes were liable to payment of the anti-dumping duty when they entered into free circulation in the Community.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

(6) The undertaking offered by UML obliges it (and any related company worldwide) to, *inter alia*, export the product covered by the undertaking to the first independent customer in the Community at or above certain minimum import price levels (MIPs) laid down in the undertaking. These price levels eliminate the injurious effects of dumping. In the case of resale in the Community to the first independent customer by related importers, the resale prices of the product covered by the undertaking, after appropriate adjustments for selling, general and administrative costs and a reasonable profit, must also be at levels which eliminate the injurious effects of dumping.

(7) The terms of the undertaking also oblige UML to provide the Commission with regular and detailed information in the form of a quarterly report of its sales (and resale by its related parties in the Community) of the product concerned originating in India to the Community. Such reports are intended to include the products covered by the undertaking which benefit from the exemption to the anti-dumping duty as well as those types of steel-wire ropes not covered by the undertaking and which are therefore liable to the anti-dumping duty.

(8) Unless otherwise indicated, it is assumed by the Commission that the sales reports of UML (and the reports of resale of related companies established in the Community) are, as submitted, complete, exhaustive and correct in all particulars.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ L 217, 17.8.1999, p. 1.
[3] OJ L 299, 16.11.2005, p. 1.
[4] OJ L 217, 17.8.1999, p. 63. Decision as amended by Regulation (EC) No 1678/2003 (OJ L 238, 25.9.2003, p. 13).

(9) It was also acknowledged by UML that, with regard to the exemption to the anti-dumping duties afforded by the undertaking, such exemption is conditional upon presentation to Community customs services of an 'undertaking invoice'. Moreover, the company undertook not to issue such undertaking invoices for the sale of those types of products concerned, not covered by the undertaking and which are therefore liable to the anti-dumping duty.

(10) It is also a condition of the undertaking that the terms and provisions thereof apply to any related company to UML, worldwide.

(11) For the purposes of ensuring compliance with the undertaking, UML also agreed to provide all information considered necessary by the Commission and to allow on-the-spot verification visits at its premises, and those of any related companies, in order to verify the accuracy and veracity of data submitted in the said quarterly reports.

(12) In this regard, verification visits were carried out at the premises of UML in India and at those of a related company to UML in Dubai, i.e. Brunton Wolf Wire Ropes FZE (BWWR).

(13) The verification visit to the Indian company showed that significant volumes of the product concerned, not covered by the undertaking, had been omitted from the quarterly undertaking sales reports submitted to the Commission. Furthermore, the goods in question had been sold by UML to its related importers in the United Kingdom and Denmark and included on undertaking invoices.

(14) The verification visit to the Dubai company showed that certain steel-wire ropes had been exported to the Community from Dubai and declared at import into the Community as having United Arab Emirates origin when in fact they were of Indian origin and therefore liable to the anti-dumping measures applicable to imports of steel-wire ropes originating in India. The goods in question had not been reported on the quarterly undertaking sales report nor, as was admitted by the company, had anti-dumping duty been paid on them. The goods had also been resold to the first independent customer in the Community at prices below the MIPs.

(15) Commission Decision 2006/38/EC [1], sets out in more detail the nature of the breaches found.

(16) In view of these breaches, acceptance of the undertaking offered by Usha Martin Industries and Usha Beltron Ltd, now known as Usha Martin Ltd (TARIC additional code A024) has been withdrawn by Decision 2006/38/EC. A definitive anti-dumping duty should therefore be imposed forthwith on imports of the product concerned exported to the Community by the company concerned.

(17) In accordance with Article 8(9) of the basic Regulation, the rate of the anti-dumping duty must be established on the basis of the facts established within the context of the investigation which led to the undertaking. As the investigation in question was concluded by a final determination as to dumping and resulting injury by Regulation (EC) No 1796/1999, it is considered appropriate that the definitive anti-dumping rate should be set at the level and in the form imposed by that Regulation, namely 23,8 % of the net, cif free-at-Community-frontier price, before duty.

C. **AMENDMENT OF REGULATION (EC) No 1858/2005**

(18) In view of the above, Regulation (EC) No 1858/2005 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 2(1) of Regulation (EC) No 1858/2005 shall be replaced by the following table:

Country	Company	TARIC additional code
'South Africa	Haggie Lower Germiston Road Jupiter PO Box 40072 Cleveland South Africa	A023'

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 Brussels, 23 January 2006.

For the Council
The President
J. PRÖLL

[1] See page 54 of this Official Journal.