



## Reports of Cases

**Case C-552/10 P**

**Usha Martin Ltd**  
**v**  
**Council of the European Union**  
**and**  
**European Commission**

(Appeal — Dumping — Regulation (EC) No 121/2006 — Imports of steel ropes and cables originating, inter alia, in India — Decision 2006/38/EC — Regulation (EC) No 384/96 — Article 8(9) — Undertakings offered in connection with anti-dumping proceedings)

Summary — Judgment of the Court (Third Chamber), 22 November 2012

1. *Appeals — Grounds — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted — Requirement for the distortion to be obvious from the documents on the Court's file*

*(Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.)*

2. *Common commercial policy — Protection against dumping — Price undertaking — Undertaking relating to the provision of reports and Undertaking Invoices — Breach of undertaking by the trader — Withdrawal by the Commission of its acceptance of the undertaking — Imposition of a definitive anti-dumping duty — Lawfulness — Breach of the principle of proportionality — No such breach*

*(Art. 5, fourth para., TEU; Council Regulation No 384/96, Art. 8)*

1. See the text of the decision.

(see paras 27, 29)

2. Where an undertaking has been given by an exporter to the Commission following a determination of dumping and injury in accordance with Article 8 of basic anti-dumping Regulation No 384/96, the accomplishment of the Commission's task of monitoring such undertakings is dependent on the accuracy of the documents provided in the performance of the undertaking entered into by the exporter concerned. By failing to comply with the reporting obligation attaching to undertakings, the exporter breaches the trust that is necessary to the relationship based on cooperation established by such an undertaking. Accordingly, such a breach may render the undertaking ineffective. In those circumstances, the reporting obligations must be regarded as primary obligations for the purpose of the proper functioning of the system of undertakings by which it is possible to avoid the imposition of anti-dumping duties.

Consequently, where an exporter has failed to comply with its undertaking as regards both its obligation to submit quarterly reports on sales of the product concerned not covered by the undertaking and its obligation not to issue Undertaking Invoices for products not covered by the

undertaking, the Commission is entitled to withdraw acceptance of the undertaking given by the exporter, without infringing the principle of proportionality. In such a case, the Commission is also required, under Article 8(9) of the basic regulation, to impose a definitive anti-dumping duty on the exporter.

(see paras 35, 39)