Council Implementing Regulation (EU) No 1242/2010 of 20 December 2010 imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 9(4) and Article 11(2) and (5) thereof,

Having regard to the proposal submitted by the European Commission after having consulted the Advisory Committee,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) By Regulation (EC) No 1312/98 of 24 June 1998[(2)], the Council, following an anti-dumping investigation ('the original investigation') imposed definitive anti-dumping duties ('the original measures') on imports of synthetic fibre ropes originating in India. The duty levels imposed were 53 % for one Indian exporting producer and 82 % for all other imports originating in India ('the country concerned').

(2) Following an expiry review pursuant to Article 11(2) of the basic Regulation ('the previous expiry review'), the Council maintained these measures by Regulation (EC) No 1736/2004 of 4 October 2004 imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India[(3)].

2. **Request for a review**

(3) A request for an expiry review pursuant to Article 11(2) of the basic Regulation was lodged on 4 May 2009 by the Liaison Committee of the EU Twine, Cordage and Netting Industries (Eurocord) ('the applicant') on behalf of Union producers representing a major proportion, in this case more than 50 %, of the Union production of synthetic fibre ropes.

(4) The request was based on the grounds that expiry of the measures would be likely to result in a recurrence of dumping and injury to the Union industry.

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission announced on 7 October 2009, by a notice of initiation published in the *Official Journal of the European Union*[(4)] ('the notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

3. Investigation

3.1. *Investigation period*

(6) The investigation concerning the likelihood of a continuation or recurrence of dumping covered the period between 1 October 2008 and 30 September 2009 (the 'review investigation period' or 'RIP'). The examination of trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period between 1 January 2006 and the end of the RIP (the 'period considered').

3.2. *Parties concerned by this investigation*

(7) The Commission officially advised the known Union producers, the exporters and exporting producers in the country concerned, the representatives of the country concerned, importers as well as an association of users which were known to be concerned, of the initiation of the expiry review.

(8) Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limits set 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.

4. Sampling

(9) In view of the apparent high number of Union producers and exporting producers in India, it was considered appropriate, in accordance with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the notice of initiation.

(10) A total of five Indian producers, two of which belonging to the same group, came forward and provided the requested information within the given deadline and expressed a wish to be included in the sample. Four of these five companies produced and exported the product concerned to the Union market during the RIP. The fifth company did not export the product concerned to the Union market during the RIP. All five companies were regarded as cooperating companies and were considered for sampling. The level of cooperation from India, i.e. the percentage of exports to the Union by the Indian cooperating companies as compared to all Indian exports to the

Union could not be calculated as the total exports to the Union during the RIP reported by the five cooperating companies was significantly higher than the volume registered by Eurostat for all exports from India, for the reasons detailed in recitals 21 to 23.

(11) The sample was selected in agreement with the Indian authorities and included those four companies which reported export sales to the Union. Two of the four sampled companies were related. It is recalled that in the original investigation only one exporting producer cooperated and it is at present subject to an individual anti-dumping duty. It is also recalled that in the previous expiry review none of the Indian exporting producers cooperated and therefore, in accordance with the provisions of Article 18(1) of the basic Regulation, the findings were based on the facts available.

(12) Eighteen Union producers (all fifteen complainants and three further producers, altogether representing 78 % of the total Union production) provided the requested information and agreed to be included in the sample. On the basis of the information received from the cooperating Union producers, the Commission selected a sample of five Union producers representing approximately 40 % of the Union industry, as defined in recital 40, and about half of the sales by all cooperating Union producers to unrelated customers in the Union. The sample was selected on the basis of the largest representative sales volume and geographical coverage of producers within the Union that could reasonably be investigated within the time available. One of the five sampled Union producers started operating during the period considered, therefore their data were not used in the analysis of the trends of injury indicators, in order to avoid distortions in those trends. Nonetheless the figures of the other four sampled Union producers used for the analysis of those trends remained representative.

(13) The Commission sent questionnaires to the five sampled Union producers as well as to the four sampled Indian exporting producers.

(14) Questionnaire replies were received from all five sampled Union producers. Out of the four sampled Indian exporting producers, one ceased cooperating while the other three (two of which related) replied to the questionnaire within the given deadlines. For this reason, in the end, the sample of Indian exporting producers consisted of those three Indian companies that replied to the questionnaire.

5. Verification of information received

(15) The Commission sought and verified all the information it deemed necessary to determine the continuation or likelihood of recurrence of dumping and injury and of the Union interest. Verification visits were carried out at the premises of the following companies:

5.1. *Exporting producers in India*

— Axiom Imex International Ltd., Boisar,

— Tufropes Private Limited, Silvassa,

— India Nets, Indore;

5.2. *Union producers*

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 1242/2010. (See end of Document for details)*

— Cordoaria Oliveira SÁ (Portugal),
— Eurorope SA (Greece),
— Lanex A.S. (Czech Republic),
— Lankhorst Euronete Ropes (Portugal),
— Teufelberger Ges.m.b.H. (Austria).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(16) The product concerned is the same as in the original investigation and is defined as follows: twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics, of polyethylene or polypropylene, other than binder and baler twine, measuring more than 50 000 decitex (5 g/m), as well as of other synthetic fibres of nylon or other polyamides or of polyesters, measuring more than 50 000 decitex (5 g/m). It is currently falling within CN codes 5607 49 11, 5607 49 19, 5607 50 11. and 5607 50 19. The product concerned is used for a wide variety of marine and industrial applications, in particular for shipping (especially for mooring purposes), and the fishing industry.

(17) One interested party claimed that the mooring ropes referred to above are not falling within the definition of the product concerned as, due to the splices attached to these ropes, such products should be declared as ‘articles of ropes’ which belong to another CN code (see also in recital 23). It should be noted however, that the reference to mooring ropes is made only in the context of applications of different types of the product concerned which are all defined as synthetic fibre ropes as set out in recital 16.

2. Like product

(18) As shown in the original investigation, and as confirmed in the present investigation, the product concerned and the synthetic fibre ropes produced and sold by the Indian exporting producers on their domestic market, as well as those produced and sold by the Union producers in the Union, are in all respects identical and share the same basic physical and chemical characteristics. Therefore, they are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(19) One interested party has claimed that the product manufactured by the Union industry is not comparable with the product concerned given that the Union producers had started using a new type of raw material called Dyneema, which is much more expensive than other raw materials as products based on it have much better resistance. Indeed the sampled Indian producers are not using this type of raw material. However, it should firstly be noted that the products in question represent only a small part of the products sold by Union producers. Indeed, albeit it is correct that this type of fibre is increasingly used by some Union producers, Dyneema ropes account for only a minor fraction of Union production. Therefore, while the significant difference in the cost of raw material (potentially around 25-30 times more expensive) can have some impact notably on the injury indicator concerning the average sales price of the Union industry, the impact of Dyneema ropes on the overall assessment remains limited due

to the overwhelming quantity of 'standard' ropes produced in the Union. Secondly, all calculations of this expiry review were based on the comparison of corresponding product types, which takes account of different raw materials. Therefore the calculations cannot be distorted by a difference in the product mix. In any event, the product which uses the raw materials such as Dyneema, still has the same basic physical and chemical characteristics as the product concerned. The claim was therefore rejected.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

(20) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was likely to continue or recur upon a possible expiry of the measures in force against India.

1. Volume of imports

(21) On the basis of Eurostat data, the volume of imports of the product concerned from India was insignificant throughout the period considered. During the RIP, the volume of imports from India was 31 tonnes i.e. less than 0,1 % of Union consumption during the RIP:

(tonnes)	2006	2007	2008	RIP
India	3	4	19	31

Imports of the product concerned from India, source - Comext

(22) However, according to verified data, the three companies included in the sample shipped significantly higher volumes of the product concerned to the Union during the RIP than the volumes reported in Eurostat. In this respect it is recalled that in the original investigation, importers provided information showing that some quantities of the product concerned purchased from India had not been released into free circulation on the Union market but were put into bonded warehouses and sold to ocean-going ships or offshore platforms. One complaining producer reiterated this argument in the present investigation. Due to lack of cooperation of port traders in the investigation, this claim could not be verified. However, on the basis of the customer list submitted by the sampled exporting producers, it was apparent that most of the customers were indeed shipping, maritime and offshore suppliers in the Union ports. On the basis of the above, it appears that the difference between the statistical data and the reported figures is due to such sales.

(23) It should also be mentioned that the request for expiry review contained allegations of circumvention practices. In this respect, the applicant claimed that certain volumes of synthetic fibre ropes from India entered into the Union under CN heading 5609 (Articles of […] twine, cordage, ropes or cables) which is not subject to measures. However, no information was found in the present investigation to support this view.

(24) On the basis of the above, it is considered that 31 tonnes of the product concerned were actually imported from India into the customs territory of the Union in the RIP. As concerns the verified export sales to the Union ports, which had not