Council Implementing Regulation (EU) No 580/2010 of 29 June 2010 amending Regulation (EC) No 452/2007 imposing a definitive anti-dumping duty on imports of ironing boards originating, inter alia, in Ukraine

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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 11(3) thereof,

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

Whereas:

1. **PROCEDURE**

1.1. **Measures in force**

(1) The Council, by Regulation (EC) No 452/2007[(2)] (the original Regulation), imposed a definitive anti-dumping duty on imports of ironing boards originating, inter alia, in Ukraine. The measures consist of an *ad valorem* duty at a rate of 9,9 %.

1.2. **Request for a review**

(2) In August 2008, the Commission received a request for a partial interim review pursuant to Article 11(3) of the basic Regulation (the interim review). The request was completed in December 2008. The request, limited in scope to the examination of dumping, was lodged by an exporting producer from Ukraine, Eurogold Industries Ltd ('the applicant' or 'EGI'). The applicant had cooperated in the investigation which led to the findings and conclusions laid down in the original Regulation (the original investigation). The anti-dumping duty applicable to the applicant, which is the only known exporting producer of the product concerned in Ukraine, is 9,9 %.

(3) In its request, the applicant claimed that the circumstances on the basis of which measures were imposed have changed and that these changes are of a lasting nature. The applicant provided prima facie evidence that the continued imposition of the measure at its current level is no longer necessary to offset dumping.

1.3. **Initiation of a review**

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an interim review, the Commission decided to initiate a partial interim review in accordance with Article 11(3) of the basic Regulation, limited in scope to the examination of dumping as far as EGI is concerned. The Commission published a notice of initiation on 9 April 2009 in the *Official Journal of the European Union*[3] (Notice of initiation) and commenced an investigation.

1.4. **Product concerned and like product**

(5) The product concerned by the interim review is the same as that in the original investigation, i.e. ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest, originating in Ukraine, currently falling within CN codes ex 3924 90 00, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00.

(6) The product produced and sold in Ukraine and that exported to the Union have the same basic physical and technical characteristics and uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

1.5. **Parties concerned**

(7) The Commission officially advised the Union industry, the applicant and the authorities of the exporting country of the initiation of the interim review. Interested parties were given the opportunity to make their views known in writing and to be heard.

(8) The Commission sent a questionnaire to the applicant and received a reply within the deadline set for that purpose. The Commission sought and verified all the information it deemed necessary for the determination of dumping, and a verification visit was carried out at the premises of the applicant:

— Eurogold Industries Ltd, Zhitomir, Ukraine,

— and its related company Eurogold Service Zumbühl & Co., Zug in Switzerland (EGS).

1.6. **Investigation period**

(9) The investigation covered the period from 1 January 2008 to 31 December 2008 (‘the investigation period’ or ‘IP’).

2. **RESULTS OF THE INVESTIGATION**

2.1. **Normal value**

(10) For the determination of normal value, it was first established whether EGI’s total volume of domestic sales of the like product to independent customers was representative in comparison with its total volume of export sales to the Union. In accordance with Article 2(2) of the basic Regulation domestic sales are considered to be representative when the total domestic sales volume is at least 5 % of the total volume

of sales of the product concerned to the Union. It was found that the overall sales by EGI of the like product on the domestic market were representative.

(11) For each product type sold by EGI on its domestic market and found to be directly comparable with the product type sold for export to the Union, 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 product type were considered sufficiently representative when the total volume of that product type sold on the domestic market to independent customers during the IP represented at least 5 % of the total sales volume of the comparable product type exported to the Union.

(12) It was also examined whether the domestic sales of each product type could be regarded as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers on the domestic market which were profitable for each exported type of the product concerned during the IP.

(13) For those product types where more than 80 % by volume of sales on the domestic market of the product type were above cost and the weighted average sales price of that type was equal to or above the unit cost of production, normal value, by product type, was calculated as the weighted average of the actual domestic prices of all sales of the type in question, irrespective of whether those sales were profitable or not.

(14) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the unit cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the IP.

(15) Wherever domestic prices of a particular product type sold by EGI could not be used in order to establish normal value, the normal value was constructed in accordance with Article 2(3) of the basic Regulation.

(16) When constructing normal value pursuant to Article 2(3) of the basic Regulation, the amounts for selling, general and administrative costs and for profits have been based, pursuant to Article 2(6), *chapeau*, of the basic Regulation, on the actual data pertaining to the production and sales, in the ordinary course of trade, of the like product, by EGI.

(17) Following disclosure of the findings, EGI claimed that the percentage rate for selling, general and administrative costs, which was used when constructing normal value, did not correspond to that in respect of domestic sales made in the ordinary course of trade and that, consequently, certain constructed normal values were overstated in this respect.

(18) The claim was examined, but it was found to have no basis since the percentage rate for selling, general and administrative costs used is that reported for domestic sales and is the same irrespective of whether or not sales are made in the

ordinary course of trade, since it is expressed as a percentage on turnover. The claim is therefore rejected.

2.2. **Export price**

(19) EGI made export sales to the Union either directly to independent customers or through its related company EGS, located in Switzerland.

(20) Where export sales to the Union were made directly to independent customers in the Union, export prices were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

(21) Where export sales to the Union were made through the related company, EGS, which performed all import functions in relation to the goods entering into free circulation in the Union, i.e. that of a related importer, the export price was established in accordance with Article 2(9) of the basic Regulation, on the basis of prices at which the imported products were first resold to an independent buyer. For this purpose, adjustments were made to take account of all costs, incurred between importation and resale, and for profits accruing, so that a reliable export price could be established. For this purpose, in the absence of new information from independent importers concerning profits accruing, use was made of the same percentage profit as that used in the original investigation.

(22) EGI claimed, under Article 11(10) of the basic Regulation, that, if the export price is established in accordance with Article 2(9) of the basic Regulation, the anti-dumping duty paid should not be deducted as a cost, since, they argued, it is duly reflected in resale prices.

(23) In this regard, the evidence in support of the claim, which consisted of a number of selling price calculations, was examined. However, the calculations provided only concerned some of the models sold during the IP and showed that the selling price did not fully reflect the anti-dumping duty in all cases. Consequently, the evidence provided was not found to be conclusive on whether the anti-dumping duty was reflected in the resale prices. The claim was therefore rejected and, when establishing the export price for sales to the Union made through EGS in accordance with Article 2(9) of the basic Regulation, the anti-dumping duty was deducted as a cost.

(24) Following disclosure of the findings, EGI repeated their claim. However, no new evidence or arguments in support of that claim were submitted. The claim is therefore rejected.

2.3. **Comparison**

(25) The normal value and the export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and export price, due allowance in the form of adjustments was made for transport costs, packing costs, credit costs, and commissions, where applicable and justified, in accordance with Article 2(10) of the basic Regulation.