Council Regulation (EC) No 1459/2007 of 10 December 2007 amending Regulation (EC) No 1858/2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in South Africa

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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)], and in particular Articles 8 and 9 thereof,

Having regard to the proposal from the Commission, submitted following the consultations with the Advisory Committee,

Whereas:

A. PREVIOUS INVESTIGATION AND EXISTING MEASURES

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

(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 South Africa should be maintained.

(3) By Decision 1999/572/EC[(4)] the Commission accepted a price undertaking from a South African company, Scaw Metals Group Haggie Steel Wire Rope ('the company').

(4) As a result, imports into the Community of the product concerned of South African origin, produced by the company, and of the product type covered by the undertaking (the 'product covered') were exempted from the definitive anti-dumping duties.

(5) In this regard it should be noted that certain types of steel wire ropes and cables currently produced by the company were excluded from the scope of the undertaking. Accordingly, such steel wire ropes and cables were subject to the payment of the anti-dumping duty when entered into free circulation in the Community.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1459/2007. (See end of Document for details)*

(6) The undertaking offered by the company obliges it to, *inter alia*, export the product covered to the European Community above certain minimum prices (MIPs) as stated in the undertaking.

(7) It was acknowledged by the company that, with regard to the exemption from the anti-dumping duties afforded by the undertaking, such exemption is conditional upon the presentation to the Community customs services of an 'undertaking invoice'. Moreover, the company undertook not to issue such undertaking invoices for sales of those types of product concerned which are not covered by the undertaking and which are therefore liable to the anti-dumping duty. The company also acknowledged that the undertaking invoices issued had to contain the information set out in the Annex of Regulation (EC) No 1858/2005.

(8) The terms of the undertaking also oblige the company to provide the Commission with regular and detailed information, in the form of a quarterly report of its sales of the product concerned to the European Community. Such reports were to include the products covered by the undertaking which benefited from the exemption from the payment of the anti-dumping duty, as well as those types of steel ropes and cables which are not covered by the undertaking and which are therefore subject to the anti-dumping duty.

(9) It is clear that the aforementioned sales reports should be, as submitted, complete, exhaustive and correct in all particulars and that the transactions fully comply with the terms of the undertaking.

(10) For the purpose of ensuring compliance with the undertaking, the Company also undertook to allow on-the-spot verification visits at its premises in order to verify the accuracy and veracity of the data submitted in the said quarterly reports and to provide all information considered necessary by the Commission.

(11) It should be noted that the company had already received a warning letter from the Commission services on 28 October 2003 for breaching the undertaking by issuing undertaking invoices for products not covered by the undertaking but otherwise being subject to the anti-dumping measures. The warning letter stated that in view of the particular circumstances under which these breaches took place it was not intended to withdraw the acceptance of the undertaking, but it was also pointed out that any subsequent infringement of the undertaking, even of a minor nature, would make it difficult for the Commission to maintain the acceptance of the undertaking from the company.

(12) A verification visit was carried out on 5-6 February 2007 at the premises of the company in South Africa.

(13) The verification visit to the company established that the company issued undertaking invoices for steel ropes and cables not covered by the undertaking but otherwise subject to the anti-dumping measures. It also established that the company failed to meet its obligation to respect the MIP on one occasion. Moreover, the company issued undertaking invoices not in conformity with the Annex of Regulation (EC)