Council Regulation (EC) No 1886/2004 of 25 October 2004 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 1796/1999 on imports of steel ropes and cables originating, inter alia, in the People's Republic of China to imports of steel ropes and cables consigned from Morocco, whether declared as originating in Morocco or not, and terminating the investigation in respect of imports from one Moroccan exporter

COUNCIL REGULATION (EC) No 1886/2004

of 25 October 2004

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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 (the basic Regulation)[(1)], and in particular Article 13 thereof,

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

Whereas:

A. PROCEDURE

1. Existing measures

(1) The Council, by its Regulation (EC) No 1796/1999[(2)], imposed in August 1999 an anti-dumping duty of 60,4 % on imports of steel ropes and cables (‘steel wire ropes’ or ‘SWR’) originating, *inter alia*, in the People's Republic of China (PRC).

2. Request

(2) On 5 January 2004, the Commission received a request, pursuant to Article 13(3) of the basic Regulation, from the Liaison Committee of the European Federation of Steel Wire Rope Industries (EWRIS) to investigate the alleged circumvention of the anti-dumping measures imposed on imports of steel ropes and cables originating in the PRC. This request was submitted on behalf of producers representing a major proportion of the Community production of SWR.

(3) The request alleged and submitted sufficient prima facie evidence showing that following the imposition of measures on imports of SWR originating in the PRC, there had been a significant change in the pattern of trade involving exports of SWR

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1886/2004. (See end of Document for details)*

from the PRC and Morocco to the Community. This change in the pattern of trade was alleged to stem from transhipment via Morocco of SWR originating in the PRC. There had been a significant increase in imports from Morocco while imports from the PRC had decreased in roughly equivalent proportions in the meantime.

(4) The request concluded that there was insufficient due cause or economic justification for the aforementioned changes other than the existence of the anti-dumping duty on SWR originating in the PRC.

(5) Finally, EWRIS also submitted sufficient evidence that the remedial effects of this duty were being undermined both in terms of quantities and prices and that the prices of SWR from Morocco were dumped in relation to the normal values previously established for the SWR originating in the PRC.

3. Initiation

(6) The Commission, by its Regulation (EC) No 275/2004[(3)] (the initiating Regulation), initiated an investigation of the alleged circumvention and directed, pursuant to Articles 13(3) and 14(5) of the basic Regulation, the customs authorities to register imports of SWR consigned from Morocco, whether declared as originating in Morocco or not, as of 19 February 2004. The Commission advised the authorities of the PRC and Morocco of the initiation of the investigation.

4. Investigation

(7) Questionnaires were sent to Community importers as well as to exporters of SWR located in the PRC and Morocco, which were mentioned in the request, and to other interested parties who came forward within the prescribed time limits. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation. They were also made aware of the consequences of non-cooperation.

(8) A number of Community importers contacted the Commission in writing, declaring that they had not imported any SWR from Morocco.

(9) No replies to the questionnaires were received from exporters/producers in the PRC.

(10) A reply to the questionnaire was received from one Moroccan exporting producer, Remer Maroc SARL, Settat. The Commission carried out a verification visit at the premises of this company.

5. Investigation period

(11) The investigation period covered the period from 1 January 2003 to 31 December 2003 (the IP). Data were collected from 1999 up to the end of the IP to investigate the alleged change in the pattern of trade.

B. RESULTS OF THE INVESTIGATION

1. General considerations/degree of cooperation

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(12) As mentioned in recital 9, no cooperation was received from producers or exporters of SWR in the PRC. However, information was obtained from one cooperating exporting producer in Morocco, Remer Maroc SARL, which produced SWR and exported a small fraction of its production to the Community during the IP. This company accounted for less than 5 % of the total volume of imports of SWR from Morocco to the Community during the IP, as reported by Eurostat. Therefore, findings had to be partially based on facts available, in accordance with Article 18 of the basic Regulation.

2. Product concerned and like product

(13) The product concerned is, as defined in the investigation which lead to the imposition of the existing measures (the original investigation), steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm (in industry terminology referred to as SWR), originating in the People's Republic of China, normally declared under CN codes ex 7312 10 82, ex 7312 10 84, ex 7312 10 86, ex 7312 10 88 and ex 7312 10 99.

(14) The investigation showed that the SWR exported to the Community from the PRC and those consigned from Morocco to the Community have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

3. Change in the pattern of trade

Cooperating Moroccan exporter

(15) Remer Maroc SARL, the cooperating exporter, was set up in 2001 as a fully-owned subsidiary of the Italian company Remer Italia Srl. During the IP, Remer Maroc SARL exported only a very small quantity of the product concerned to the Community, representing less than 5 % of the total imports of SWR from Morocco in the same period. The majority of its sales are destined to the local Moroccan market.

(16) It has also been established that Remer Maroc SARL is both a manufacturer and exporter of SWR operating production facilities for the complete production process of the product concerned, making use of purchased steel wire, textile core and grease. It only sells its own production or that of its mother company in Italy, and never purchased any SWR, or other materials, from the PRC.

(17) Given the above, Remer Maroc SARL has shown that its exports do not play a part in the change in the pattern of trade between the PRC and the Community. Consequently, the investigation with regard to SWR exported by Remer Maroc SARL should be terminated.

Non-cooperating Moroccan exporters

(18) As far as the non-cooperating exporters are concerned, the exports to the Community had to be established on the basis of facts available pursuant to Article 18 of the basic Regulation. It was considered that Eurostat data at CN level were the best information available to establish the findings in respect of exports to the Community

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following the imposition of the anti-dumping duty on imports of SWR originating in the PRC. In this respect, it should be noted that the request from the Community industry is also based on Eurostat data, and that no other independent sources of data were available to the Commission during the present investigation. The export price from Morocco to the EU was established on the basis of total export value and tonnes reported by Eurostat at CN level, from which the quantities and values exported by the cooperating Moroccan company were deducted. In addition, for the data concerning the period before the imposition of the measures, it was considered that Eurostat data at CN level were the best information available, in the absence of any other independent sources.

(19) It was found that a marked switch from imports from the PRC to the Community to those from Morocco to the Community occurred after the entry into force of the anti-dumping measures on SWR originating in the PRC in August 1999. Following the imposition of anti-dumping measures by the Community, imports into the Community of SWR from the PRC have decreased substantially from 14 057 tonnes in 1998 to 364 tonnes in 2000, and have remained at similarly low levels between 2000 and 2003. In the same period, imports into the Community of SWR from Morocco increased from zero in 1998 to 2 338 in 2003.

(20) A clear change in pattern of trade was therefore established in respect of the non-cooperating companies, which came about after the entry into force, in August 1999, of Community anti-dumping measures on SWR originating in the PRC.

4. Insufficient due cause or economic justification (non-cooperating moroccan exporters)

(21) On the basis of facts available it was found that there was no or at least insufficient economic justification for that changed pattern of trade. First of all, the cooperating Moroccan producer did not import any SWR from the PRC. Secondly, on the basis of Chinese, Moroccan and Community statistics, there is an increase of exports from the PRC to Morocco which corresponds to the increase of exports from Morocco to the Community in the same period. Admittedly, Moroccan and Chinese trade statistics do not distinguish between SWR and strands (semi-finished SWR) while Community statistics do. However, in view of the widespread non-cooperation and in the absence of any indication that a transformation process of strands into ropes takes place in Morocco, it can be reasonably assumed that these statistical data give an adequate picture of imports of SWR from the PRC into Morocco. Moreover, if such transformation took place, it would not be substantial. Economically, it would not be worthwhile to carry out any transformation from strands into SWR in a place different from the production site of the strands, as the value added from this process is fairly small relative to transport costs. It is also noted that one Moroccan company which did not complete a questionnaire nor did they accept a verification visit, provided contradictory information as to their activities while they could easily have clarified the situation by cooperating in the investigation. In the absence of cooperation from any other company except Remer Maroc SARL, it can therefore be inferred from the parallelism of the trends, that the imports from the PRC to Morocco were not destined for the Moroccan market, but were meant to be exported to the Community.

(22) This conclusion is reinforced by the fact that the only known exporter of the product concerned from Morocco, besides the cooperating exporter, is a subsidiary of a Chinese exporting producer. This subsidiary was established in Morocco in 2001, coinciding with the start of exports of SWR from Morocco to the Community.

(23) In view of the above, and given that the abovementioned substitution of imports from the PRC by imports from Morocco took place in the period following the imposition of anti-dumping duties, it has to be concluded, in the absence of any other explanation, that the change in the pattern of trade stemmed from the imposition of the duty rather than from any other sufficient due cause or economic justification within the meaning of Article 13(1), second sentence, of the basic Regulation.

(24) Due to the above, it may reasonably be concluded that the allegation contained in the complaint is confirmed, i.e. that the vast majority of exports from the PRC to Morocco were merely transhipped via Morocco to the Community.

5. Undermining of the remedial effects of the duty in terms of the prices and/or quantities of the like products (non-cooperating moroccan exporters)

(25) It is evident from the figures in recital 19 that a clear quantitative change in the pattern of Community imports of the product concerned occurred since the imposition of measures. The significant volume of SWR exports from the PRC to the Community, prior to the imposition of the measures, was partially replaced by a smaller but still significant volume of exports from the non-cooperating Moroccan exporters. The latter volume corresponds to 20 to 25 % of the volume reached by imports from the PRC during the IP of the original investigation (1 January 1997 to 31 March 1998). It is considered, therefore, that this marked change in trade flows undermined the remedial effects of the measures in terms of the quantities imported into the Community market.

(26) With regard to prices, and given the low degree of cooperation, use had to be made of the facts available, i.e. Eurostat figures at CN level. This data revealed that the cif export prices from Morocco were around 3 %, in nominal terms, below the cif prices of the Chinese exports in the original investigation. Consequently, it must be assumed that the export prices of Moroccan exports are below the injury elimination level of Community prices as established in the original investigation.

(27) It is therefore concluded that the imports concerned undermined the remedial effects of the duty both in terms of quantities and prices.

6. Evidence of dumping in relation to the normal values previously established for like or similar products (non-cooperating moroccan exporters)

(28) In order to determine whether evidence of dumping could be found with respect to the SWR exported to the Community from Morocco by the non-cooperating exporters during the IP, export data according to Eurostat at CN level were used pursuant to Article 18 of the basic Regulation, as a basis for establishing export prices to the Community.