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*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EC) No 760/2004

## of 22 April 2004

## extending the definitive anti-dumping duty imposed by Regulation (EC) No 1796/1999 on imports of steel ropes and cables originating, *inter alia*, in Ukraine to imports of steel ropes and cables consigned from Moldova, whether declared as originating in Moldova or not

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] (the basic Regulation), 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) By Regulation (EC) No 1796/1999 [2] (the original Regulation), the Council imposed an anti-dumping duty of 51,8 % on imports of steel ropes and cables originating, *inter alia*, in Ukraine. By Decision 1999/572/EC [3], the Commission accepted an undertaking from the exporting producer Joint Stock Company Silur, Ukraine. By Regulation (EC) No 1678/2003, the undertaking which had previously been accepted from Joint Stock Company Silur was withdrawn.

### 2. Request

(2) On 16 June 2003, the Commission received a request pursuant to Article 13(3) of the basic Regulation (the request) from the Liaison Committee of the European Federation of Steel Wire Rope Industries (EWRIS) (the applicant) to investigate the alleged circumvention of the anti-dumping measures imposed on imports of steel ropes and cables originating in Ukraine. The request was submitted on behalf of a major proportion of the Community production of steel ropes and cables.

(3) The applicant alleged and submitted sufficient evidence showing that, following the imposition of measures on imports of steel ropes and cables originating, *inter alia*, in Ukraine, there had been a significant change in the pattern of trade involving exports of steel ropes and cables from Ukraine and Moldova to the Community. This change in the pattern of trade was alleged to stem from the transhipment via Moldova of steel ropes and cables originating in Ukraine. It was alleged that there was insufficient due cause or economic justification for the aforementioned changes other than the imposition of the duty on imports of steel ropes and cables from Ukraine.

(4) Finally, the applicant alleged and submitted evidence that the remedial effects of this duty were being undermined both in terms of quantities and prices. It was claimed that significant volumes of imports of steels ropes and cables from Moldova have replaced imports of steel ropes and cables originating in Ukraine. In addition, the applicant submitted evidence that the prices of steel ropes and cables imported from Moldova were dumped in relation to the normal values previously established for the steel ropes and cables originating in Ukraine.

### 3. Initiation

(5) By Regulation (EC) No 1347/2003 [4] (the initiating Regulation), the Commission initiated an investigation into the alleged circumvention of steel ropes and cables originating in Ukraine by imports of steel ropes and cables consigned from Moldova, whether declared as originating in Moldova or not and, pursuant to Articles 13(3) and 14(5) of the basic Regulation, directed the customs authorities to register imports of steel ropes and cables consigned from Moldova, whether declared as originating in Moldova or not, as of 31 July 2003. The Commission advised the authorities of Ukraine and Moldova of the initiation of the investigation.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] OJ L 217, 17.8.1999, p. 1. Regulation as amended by Regulation (EC) No 1674/2003 (OJ L 238, 25.9.2003, p. 1).
[3] OJ L 217, 17.8.1999, p. 63. Decision as amended by Regulation (EC) No 1678/2003 (OJ L 238, 25.9.2003, p. 13).
[4] OJ L 190, 30.7.2003, p. 3.

### 4. **Investigation**

(6) Questionnaires were sent to the parties located in Ukraine and Moldova that were either named in the request or subsequently became known to the Commission. Questionnaires were sent to importers in the Community that were named in the request or cooperated in the original investigation that led to the existing measures. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being made on the basis of the facts available.

(7) No complete reply to the questionnaires was received from exporters/producers in Ukraine. The two known exporting producers in Ukraine informed the Commission that they had only exported an insignificant quantity of the product concerned to Moldova during the investigation period, and that these exports were exclusively destined for internal consumption in Moldova. No replies to the questionnaires were received from exporters/producers in Moldova.

(8) In the course of the investigation, statistical data concerning imports and exports of the product concerned were obtained from the Ukrainian and Moldovan authorities.

(9) A number of Community importers replied by declaring that they had not imported any steel ropes and cables from Moldova during the investigation period. One importer reported that it had two deliveries of the product concerned amounting to 196 tonnes declared as of Moldovan origin during the investigation period.

### 5. **Investigation Period**

(10) The investigation period covered the period from 1 July 2002 to 30 June 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. **Degree of cooperation**

(11) As mentioned in recital 7, no producers/exporters of steel ropes and cables in Moldova made themselves known, or cooperated in the investigation. Accordingly, findings in respect of the exports of steel ropes and cables consigned from Moldova to the Community had to be made on the basis of the facts available in accordance with Article 18 of the basic Regulation. At the outset of the investigation, all companies known were informed that non-cooperation might lead to the application of the said Article, as explained in recital 6.

### 2. **Additional information**

(12) Without prejudice to the present investigation and by way of background it is mentioned here that an investigation on alleged fraud involving steel ropes and cables declared as originating in Moldova but likely to be originating in Ukraine was initiated by the European Anti-Fraud Office (OLAF) in 2002 and is still ongoing. Other OLAF investigations are also ongoing, concerning similar allegations relating to the same product likely to be originating in Ukraine but declared as originating in another third country. Moreover, the customs authorities of one Member State considered that a quantity of 196 tons imported into the Community during the IP and declared as of Moldovan origin was not of that origin but of Ukrainian origin.

### 3. **Product concerned and like product**

(13) The product under consideration is, as defined in 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, currently classifiable within CN codes ex 7312 10 82, ex 7312 10 84, ex 7312 10 86, ex 7312 10 88, ex 7312 10 99.

(14) In the absence of cooperation by any Moldovan company and given the statements provided in the request, it is considered that steel ropes and cables exported to the Community from Ukraine and those consigned from Moldova to the Community have the same basic characteristics and the same uses. Therefore, they are considered as like products within the meaning of Article 1(4) of the basic Regulation.

### 4. **Change in the pattern of trade between third countries and the Community**

(15) Due to the non-cooperation of any Moldovan company, the volume and value of Moldovan exports of the product concerned to the Community were determined on the basis of the information available, which in this case was Eurostat data at CN level.