COUNCIL OF THE EUROPEAN UNION

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING REGULATION clarifying the scope of the definitive anti-dumping duties imposed by Regulation (EC) No 383/2009 on imports of certain PSC wires and strands originating in the People's Republic of China

COUNCIL IMPLEMENTING REGULATION(EU)No…/2012

of

clarifying the scope of the definitive anti-dumping duties imposed by Regulation (EC) No 383/2009 on imports of certain PSC wires and strands originating in the People's Republic of China

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 ('the Commission'), after consulting the Advisory Committee,

[1] OJ L 343, 22.12.2009, p. 51.

Whereas:

A. PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 383/2009[1] ('the definitive Regulation'), the Council imposed a definitive anti-dumping duty on imports of PSC wires and strands originating in the People's Republic of China ('the measures in force').

2. Request for an interim review

(2) The Commission received a request from ECN Cable Group S.L., a Spanish producer of cables ('the applicant') for a partial interim review pursuant to Article 11(3) of the basic Regulation.

[1] OJ L 118, 13.5.2009, p. 1.

(3) The applicant requested the exclusion of certain wires and strands from the scope of the current anti-dumping measures on imports of certain pre- and post-stressing wires and wire strands of non-alloy steel (PSC wires and strands) originating in the People's Republic of China. The product requested to be excluded is stranded wire consisting of seven wires of non-alloy steel, plated or coated with zinc, containing by weight 0,6 % or more of carbon, with a maximum cross-sectional dimension exceeding 3 mm, and respecting the International Standard IEC 60888 or the European/Cenelec Standard UNE-EN 50189 ('strands used as a steel core for conductors').

(4) The applicant provided prima facie evidence demonstrating that the basic physical and technical characteristics of the product to be excluded differ significantly from those of the product concerned subject to the measures in force.

3. Initiation

(5) Having determined that sufficient evidence existed to justify the initiation of a partial interim review, and after consulting the Advisory Committee, the Commission announced by a notice published on 4 October 2011 in the *Official Journal of the European Union*[1] ('the Notice of Initiation') the initiation of a partial interim review in accordance with the provisions of Article 11(3) of the basic Regulation limited to the examination of the product scope.

[1] OJ C 291 4.10.2011, p. 6.

4. Review investigation

(6) The Commission officially informed the authorities of the People's Republic of China ('the country concerned') and all other parties known to be concerned, i.e. known exporting producers in the country concerned, users and importers in the Union and producers in the Union, of the initiation of the partial interim review investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.

(7) The Commission sent questionnaires to all parties known to be concerned, and all other parties which made themselves known within the deadlines set out in the Notice of Initiation.

(8) Questionnaire replies were received from the applicant, two Chinese exporting producers, twelve Union producers of PSC wires and strands, two Union producers of conductors for electricity lines, six users and two Union importers. In view of the scope of the partial review, no investigation period was set for the purpose of this partial review.

(9) The Commission sought and verified all information deemed necessary for the purpose of the assessment as to whether there was a need to amend the scope of the existing anti-dumping measures and carried out verification visits at the premises of the following companies:

– ECN Cable Group S.L. Vitoria Gasteiz, Spain

– Tycsa – Trenzas y Cables de Acero PSC, S.L., Santander, Spain

– DWK Drahtwerk Köln GmbH, Köln, Germany

– Nedri Spanstaal, B.V.,Venlo, Netherlands

– Gongyi Hengxing Hardware co., Ltd, Henan Province, China

– Solidal Condutores Eléctricos S.A, Esposende, Portugal

– Tele-fonika Kable Sp. z o.o. S.K.A, Krakow, Poland

B. PRODUCT CONCERNED

(10) The product concerned is the same as that defined in Article 1 of the definitive Regulation, i.e. not plated or not coated wire of non-alloy steel, wire of non-alloy steel plated or coated with zinc and stranded wire of non-alloy steel whether or not plated or coated with not more than 18 wires, containing by weight 0,6 % or more of carbon, with a maximum cross-sectional dimension exceeding 3 mm, currently falling within CN codes ex 7217 10 90, ex 7217 20 90, ex 7312 10 61, ex 7312 10 65 and ex 7312 10 69 and originating in the People's Republic of China.

C. RESULTS OF THE REVIEW INVESTIGATION

1. Background

(11) Pre- or post-stressed wires or strands are made of high-carbon steel and are used mostly in the construction industry for concrete reinforcement, suspension elements and stay-cable bridges. PSC wires and strands are manufactured from steel wire rods.

(12) There are two main different types of PSC wires and strands: those used in concrete applications that are not galvanised and those used for stay cable bridges or suspension bridges that are galvanised. The galvanised strands used for suspension bridges represent only around 1 % of the total Union PSC wires and strands market. Accordingly, the main users of the PSC wires and strands are enterprises in the construction industry.

(13) The applicant is a Spanish producer of conductors for overhead electricity lines. The product type which the applicant is seeking to have excluded from the product definition is a seven wire galvanised strand used as a steel core for conductors for overhead electricity lines.

2. Methodology

(14) In order to assess whether strands used as a steel core for conductors for overhead electricity lines should be covered by the product definition of Article 1 of the definitive Regulation, it was examined whether strands used as a steel core for conductors and other PSC wires and strands shared the same physical and technical characteristics and end uses. In this regard, the interchangeability between the strands used as a steel core for conductors for overhead electricity lines and other PSC wires and strands subject to the measures concerned in the Union was also assessed.

(15) The applicant proposed to differentiate the two products by the use of standards. According to the applicant, the PSC wires and strands used in the construction industry do not meet the requirements of the International Standard IEC 60888 or the European/Cenelec Standard UNE-EN 50189. Both of these norms apply to zinc-coated steel wires to be used in stranded conductors of electricity.

3. Findings

3.1. Physical and technical characteristics

(16) The standards referred to in the request and set out in recital (15) above are only used with regard to conductors for electricity lines. Accordingly, the Union producers of PSC wires and strands for use in the construction industry were not familiar with those norms and consequently their questionnaire replies showed differing opinions as to whether those standards are met with regard to seven wire galvanised strands used for suspension bridges.

(17) The investigation revealed that most physical characteristics/standard specifications of the two products in question are at least partially comparable, however it also revealed that there is one identifiable particular physical difference - which allows for a clear distinction of the two products - when comparing the norms used for conductors for overhead lines with the norm for pre-stressing steel used in the construction business.

(18) According to standard EN 10337 for pre-stressing steel, which is used in the construction industry, "the diameter of the central wire shall be at least 3 % greater than the diameter of the outer helical wires" (point 7.1.3. of the norm), whereas, according to the standard for overhead conductors (EN 50182), the wires in a seven-wire galvanised strand used as a steel core for conductors have all the same diameter.

(19) The differences in thickness of the central wire can be verified by using equipment that is able to measure the thickness of the wires. Accordingly, this product type can be distinguished from other product types of the product concerned.

(20) Interested parties were consulted and, in summary, agreed that it is possible to distinguish the two types of products as described above.

3.2. Basic end-uses and interchangeability

(21) The investigation also showed that the two product types have different, distinct applications and are used in two different industries. PSC wires and strands are used in the construction industry while the strands requested to be excluded are used as a supporting core in the conductors for overhead electricity lines in the cable industry.

(22) Furthermore, due to the different specifications of each product type there is no possible interchangeability in the applications of the PSC wires and strands and the strands used as a steel core for conductors.

(23) On this basis, it is considered that there are significant basic physical and technical differences between PSC wires and strands and the strands used as a steel core for conductors for overhead electricity lines, which are identifiable.

3.3. Product investigated in the original investigation

(24) None of the companies that cooperated in the original investigation (seven Union producers, seven exporting producers in the People's Republic of China, four unrelated importers in the EU and seven users) was involved in manufacturing and/or trading of strands used as a steel core for conductors. It is apparent from the original investigation that the relevant information was at that time not collected with regard to the strands used as a steel core for conductors.

(25) Thus, it seems that although the strands used as a steel core for conductors were not explicitly excluded, the investigation at that time did not intend to include them in the product concerned.

4. Allegations of possible circumvention of the measures in place

(26) Some interested parties expressed concerns regarding possible circumvention of the measures if the strands used as a steel core for conductors were to be excluded from the scope of the measures.

(27) However, the seven wire galvanised strands used in the conductors for overhead electricity lines are sold non-further-coated, whereas the galvanised seven wire strands used in the construction of bridges, suspension elements and wind generators are mostly further coated with polyethylene and waxed or greased for a life-expectancy of 50 or more years.

(28) During the investigation only one application for galvanised PSC wires and strands, which is not further coated – the temporary support of bridges during the building process – was identified. However, this application represents only a small fraction of the already small market of all galvanised PSC wires and strands applications (see recital 12).

(29) Therefore, the different types of strands are in the vast majority of cases easily distinguishable between galvanised and non-galvanised, and within the group of galvanised between further coated and non-further-coated, thereby making control feasible.

(30) In addition, the vast majority of EU Member States require for standard/traditional "PSC applications" a national homologation for the utilisation of PSC wires and strands in order to ensure product quality. The homologation process is very detailed and it is mandatory to disclose the wire rod quality and supplier, the production facilities, the machinery used, the laboratory tests, etc.

(31) In some cases the national homologation process can - in accordance with procedures in force in most EU Member States - be replaced by a "quality reception" or a "project specific homologation".

(32) However, in both cases, an independent technical expert certifies that the products intended to be used are in line with the PSC standard specifications. These procedures provide additional assurance regarding any possible attempts to circumvent the measures.

(33) Furthermore, the different product types can be distinguished if necessary by using special measuring instruments/equipment in cases where galvanised non-further-coated strands should be cleared through customs for free circulation.

(34) From the above it can be concluded that the risk of circumvention is minimal.

D. CONCLUSIONS ON THE PRODUCT SCOPE

(35) The above findings show that the strands used as a steel core for conductors and other PSC wires and strands subject to the measures concerned do not share the same basic physical and technical characteristics and end-uses. The two products have different end-uses, target different markets and are not interchangeable. In addition, the strands used as a steel core for conductors were not investigated in the framework of the original investigation. On this basis, it is concluded that the strands used as a steel core for conductors and other PSC wires and strands are two different products.

(36) In view of the above, and since it could be established that the strands used as a steel core for conductors can be distinguished from the product concerned, they should be excluded from the product scope of the measures in force.

(37) All interested parties were informed of the essential facts and considerations on the basis of which the above conclusions were reached. Parties were granted a period within which they could make representations subsequent to this disclosure. No submissions were received that would result in a different conclusion.

E. RETROACTIVE APPLICATION

(38) Since the current proceeding is limited to the clarification of the product scope and since the strands used as a steel core for conductors were not covered in the original investigation and the consequent anti-dumping measures, it is considered appropriate that the findings be applied from the date of the entry into force of the definitive Regulation, including any imports subject to provisional duties between 16 November 2008 and 13 May 2009. The Commission has not found any overriding reason preventing such retroactive application.

(39) Consequently, for goods not covered by Article 1(1) of Council Regulation (EC) No 383/2009, as amended by this Regulation, the definitive anti-dumping duty paid or entered in the accounts pursuant to Article 1(1) of Regulation (EC) No 383/2009 and the provisional anti-dumping duties definitively collected pursuant to Article 2 of the same Regulation should be repaid or remitted. Repayment or remission must be requested from national customs authorities in accordance with applicable customs legislation. In cases where the time limits provided for in Article 236(2) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[1] have expired before or on…..*, or if they expire within six months after that date, they are hereby extended so as to expire six months after the date of publication of this Regulation,

HAS ADOPTED THIS REGULATION:

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[1] OJ L 302, 19.10.1992, p. 1.

* the date of publication of this Regulation.

Article 1

Article 1(1) of Council Regulation (EC) No 383/2009 is replaced by the following:

"1. A definitive anti-dumping duty is hereby imposed on imports of not plated or not coated wire of non-alloy steel, wire of non-alloy steel plated or coated with zinc and stranded wire of non-alloy steel whether or not plated or coated with not more than 18 wires, containing by weight 0,6 % or more of carbon, with a maximum cross-sectional dimension exceeding 3 mm, currently falling within CN codes ex 7217 10 90, ex 7217 20 90, ex 7312 10 61, ex 7312 10 65 and ex 7312 10 69 (TARIC codes 7217 10 90 10, 7217 20 90 10, 7312 10 61 11, 7312 10 61 91, 7312 10 65 11, 7312 10 65 91, 7312 10 69 11 and 7312 10 69 91) and originating in the People's Republic of China. Galvanised (but not with any further coating material) seven wire strands in which the diameter of the central wire is identical to or less than 3 % greater than the diameter of any of the 6 other wires shall not be covered by the definitive anti-dumping duty.".

Article 2

For goods not covered by Article 1(1) of Council Regulation (EC) No 383/2009, as amended by this Regulation, the definitive anti-dumping duty paid or entered in the accounts pursuant to Article 1(1) of Council Regulation (EC) No 383/2009 in its initial version and the provisional anti-dumping duties definitively collected pursuant to Article 2 of the same Regulation shall be repaid or remitted. Repayment or remission shall be requested from national customs authorities in accordance with applicable customs legislation. In cases where the time limits provided for in Article 236(2) of Council Regulation (EEC) No 2913/92 have expired before or on …*, or if they expire within six months after that date, they are hereby extended so as to expire six months after….*.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union.* It shall apply from 14 May 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

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* the date of publication of this Regulation.