COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

extending the definitive anti-dumping duty imposed by Council Regulation (EC) N° 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

(presented by the Commission)

EXPLANATORY MEMORANDUM

By Regulation (EC) N° 1796/1999, the Council imposed an anti-dumping duty of 60.4% on imports of steel ropes and cables originating, inter alia, in the People's Republic of China.

Following a request by the European Federation of Steel Wire Rope Industries, an investigation into the alleged circumvention of the anti-dumping measures imposed on imports of steel ropes and cables originating in the People's Republic of China by imports of steel ropes and cables consigned from Morocco was initiated by Commission Regulation (EC) N° 275/2004 in February 2004.

The investigation showed a significant increase in the imports of steel ropes and cables into the Community from Morocco, a parallel decrease in imports from the People's Republic of China and an increase in exports from the People's Republic of China to Morocco in roughly equivalent proportions. This change in the pattern of trade coincided with the imposition of the anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China. No economic justification or valid reason could be found for these practices other than the existence of the anti-dumping duty. It was therefore concluded that circumvention had taken place.

The investigation established that one Moroccan exporting producer, Remer Maroc SARL, was not involved in any circumvention practices.

Consequently, it is proposed that the anti-dumping duty of 60.4% on imports of steel ropes and cables originating in the People's Republic of China be extended to imports of steel ropes and cables from Morocco.

The Member States were consulted and were all in favour of the proposed amendments.

In the light of the foregoing the Commission consequently proposes that the Council adopt the attached proposal for a Regulation extending the definitive anti-dumping duty imposed by Council Regulation (EC) N°1796/1999 on imports of steel ropes and cables originating 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 by one Moroccan exporter.

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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 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

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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) N° 1674/2003 (OJ L 238, 25.9.2003, p. 1).

had been a significant change in the pattern of trade involving exports of SWR 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.

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[3] OJ L 47, 18.2.2004, p. 13.

B. RESULTS OF THE INVESTIGATION

1. GENERAL CONSIDERATIONS/DEGREE OF COOPERATION

(12) As mentioned in recital (9), no co-operation was received from producers or exporters of SWR in the PRC. However, information was obtained from one co-operating 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 PATTER OF TRADE

Cooperating Moroccan exporter

(15) Remer Maroc SARL, the co-operating 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 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 co-operating 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 co-operating 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 EC 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 EC statistics do. However, in view of the widespread non co-operation 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 co-operating in the investigation. In the absence of co-operation 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 co-operating 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 above-mentioned 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%-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 co-operation, 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.

(29) In accordance with Article 13(1) of the basic Regulation, the normal value to be used in an anti-circumvention investigation is the normal value established during the original investigation.

(30) In the original investigation, Poland was considered to be an appropriate market economy analogue country for the PRC and normal value was established on the basis of prices as well as constructed normal value in that analogue country. On that basis, a country-wide dumping margin of 60.4% was established for the PRC.

(31) In the current anti-circumvention investigation, and in the absence of co-operation, dumping margins could not be computed on a detailed product type basis. However, export prices could be compared with those of the original investigation on a CN code basis, by using EUROSTAT data, which offers a reasonable level of detail. That comparison revealed that CIF export prices from Morocco to the Community in the IP were 3% lower on average than the CIF export prices from the PRC to the Community in the original investigation. Since these export prices are to be compared to the same country-wide normal values as used for the determination of the original dumping margin of 60.4%, it can be inferred that they are also dumped prices at a level of more than 60%.

C. REQUESTS FOR EXEMPTION FROM REGISTRATION OR EXTENSION OF THE DUTY

(32) The Commission received a request for exemption from the registration and measures from one Moroccan producer, Remer Maroc SARL. As stated in recital 12, this company cooperated in the investigation, by submitting a questionnaire reply and accepting a verification visit.

(33) By Regulation (EC) No xxx/2004[4], the Commission amended the initiating Regulation in order to cease registration of imports of SWR from the Moroccan company which was found not to be circumventing the anti-dumping duties, namely Remer Maroc SARL.

(34) In accordance with the above findings that the company was found not to have circumvented the anti-dumping measures in force, the company should also be exempted from the extension of the measures envisaged.

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D. MEASURES

(35) In view of the above finding of circumvention within the meaning of Article 13(1) of the basic Regulation, the existing anti-dumping measures on SWR originating in the PRC should be extended to the same product consigned from Morocco, whether declared as originating in Morocco or not, pursuant to the same Article 13(1) of the basic Regulation, with the exception of products manufactured by the co-operating producer Remer Maroc SARL.

(36) In accordance with Article 14(5) of the basic Regulation, which provides that any extended measures should apply against registered imports from the date of registration, the anti-dumping duty on imports of SWR consigned from Morocco which entered the Community under registration imposed by the initiating Regulation, with the exception of those SWR produced by Remer Maroc SARL, should be collected.

(37) The non-extension of the duties to the imports of the SWR exported by Remer Maroc SARL was established on the basis of the findings of the present investigation. This non-extension is thus exclusively applicable to imports of SWR consigned from Morocco and produced by this specific legal entity. Imported SWR produced or consigned by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from the exemption and should be subject the same duty rate as imposed by Regulation (EC) No 1796/1999.

(38) The circumvention takes place outside the Community. Article 13 of the basic Regulation aims to counter circumvention practices without affecting operators which can prove that they are not involved in such practices, but it does not contain a specific provision providing for the treatment of producers which could establish that they are not involved in circumvention practices. Therefore, it appears necessary to introduce a possibility for producers which have not sold the product concerned for export during the IP and are not related to any exporters or producers subject to the extended anti-dumping duty to request an exemption from the measures on these imports. The producers concerned which would consider lodging a request for an exemption from the extended anti-dumping duty would be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted. Such exemption may be granted after the assessment of, for instance, the market situation of the product concerned, production capacity and capacity utilisation, procurement and sales, the likelihood of practices for which there is insufficient due cause or economic justification and the evidence of dumping. The Commission would normally also carry out an on-spot verification visit. The request would have to be addressed to the Commission forthwith, with all relevant information, in particular any modification in the company's activities linked to production and sales.

(39) Importers could still benefit from exemption for registration or measures to the extent that their imports are from exporters, which are granted such an exemption, and in accordance with Article 13(4) of the basic Regulation.

(40) Where an exemption is warranted, the Commission will, after consultation of the Advisory Committee, propose the amendment of the Regulation accordingly.

Subsequently, any exemptions granted will be monitored to ensure compliance with the conditions set therein.

E. PROCEDURE

(41) Interested parties were informed of the essential facts and considerations on the basis of which the Council intended to extend the definitive anti-dumping duty in force and were given the opportunity to comment and to be heard. No comments which were of a nature to change the above-mentioned conclusions were received,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Council Regulation (EC) No 1796/1999 on imports of steel ropes and cables, originating in the People's Republic of China, falling within CN codes ex 7312 10 82, ex 7312 10 84, ex 7312 10 86, ex 7312 10 88 and ex 7312 10 99, is hereby extended to imports of the same steel ropes and cables consigned from Morocco, whether declared as originating in Morocco or not (TARIC codes 7312 10 82 12, 7312 10 84 12, 7312 10 86 12, 7312 10 88 12, 7312 10 99 12 respectively), with the exception of those produced by Remer Maroc SARL, Zone Industrielle, Tranche 2, Lot 10, Settat, Morocco (TARIC additional code A567).

2. The duty extended by paragraph 1 of this Article shall be collected on imports registered in accordance with Article 2 of Commission Regulation (EC) No 275/2004 and Articles 13(3) and 14(5) of Council Regulation (EC) No 384/96, with the exception of those produced by Remer Maroc SARL, Zone Industrielle, Tranche 2, Lot 10, Settat, Morocco.

3. The provisions in force concerning customs duties shall apply.

Article 2

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the Community and must be signed by a person authorised to represent the applicant. The request must be sent to the following address:

   European Commission
   Directorate-General for Trade
   Directorate B
   Office: J-79 05/17
   1049 Brussels
   Belgium
   Fax (32 2) 295 65 05
   Telex COMEU B 21877.

2. The Commission, after consulting the Advisory Committee, may authorise by decision, the exemption of imports which are shown not to circumvent the anti-

dumping duty imposed by Regulation (EC) No 1796/1999 from the duty extended by Article 1 of the present Regulation.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Regulation (EC) No 275/2004.

Article 4

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union.*

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

Done at Brussels,

For the Council
The Presiden