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**COUNCIL REGULATION (EC) No 1858/2005**

**of 8 November 2005**

**imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China, India, South Africa and Ukraine following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96**

(OJ L 299, 16.11.2005, p. 1)

Amended by:

		Official Journal		
		No	page	date
► <b><u>M1</u></b>	Council Regulation (EC) No 121/2006 of 23 January 2006	L 22	1	26.1.2006
► <b><u>M2</u></b>	Council Regulation (EC) No 1459/2007 of 10 December 2007	L 326	18	12.12.2007
► <b><u>M3</u></b>	Council Regulation (EC) No 283/2009 of 6 April 2009	L 94	5	8.4.2009



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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> (the basic Regulation), and in particular Article 11(2) thereof,

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

Whereas:

**1. PROCEDURE**

**1.1. Measures in force**

- (1) In August 1999, by Regulation (EC) No 1796/1999 <sup>(2)</sup> (the original Regulation), the Council imposed a definitive anti-dumping duty on imports of steel ropes and cables (SWR) originating in the People's Republic of China (PRC), Hungary, India, Mexico, Poland, South Africa and Ukraine. The investigation that led to these measures is hereinafter referred to as 'the original investigation'.
- (2) The measures applying to these imports consisted of an *ad valorem* duty, except for imports from one Indian, one Mexican, one South African and one Ukrainian exporting producers from which undertakings were accepted by Commission Decision 1999/572/EC <sup>(3)</sup>. By Regulation (EC) No 1678/2003, the Commission withdrew the undertaking offered by the above Ukrainian exporting producer, and by Regulation (EC) No 1674/2003, the Council reimposed the corresponding *ad valorem* anti-dumping duty for this exporter.
- (3) Thereafter, it was found that circumvention of the original measures concerning imports from Ukraine and the PRC took place via respectively Moldova and via Morocco following investigations pursuant to Article 13 of the basic Regulation. Consequently, by Regulation (EC) No 760/2004 <sup>(4)</sup>, the Council extended the definitive anti-dumping duty imposed on imports originating in the Ukraine to imports of the same steel ropes and cables consigned from Moldova. Similarly, the anti-dumping duty imposed on imports originating in the PRC was extended, by Council Regulation (EC) No 1886/2004 <sup>(5)</sup>, to imports of the same steel ropes and cables consigned from Morocco, with the exception of those produced by a genuine Moroccan producer.

<sup>(1)</sup> 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).

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

<sup>(4)</sup> OJ L 120, 24.4.2004, p. 1.

<sup>(5)</sup> OJ L 328, 30.10.2004, p. 1.

**▼B****1.2. Investigation concerning another country**

- (4) On 20 November 2004, by a notice published in the *Official Journal of the European Union* <sup>(1)</sup>, the Commission initiated an anti-dumping proceeding concerning imports of the same product originating in the Republic of Korea, further to a complaint lodged by the Community industry showing *prima facie* evidence that such imports are being dumped and are thereby causing material injury to the Community industry. The investigation was terminated by Commission Decision 2005/739/EC <sup>(2)</sup> without imposing measures.

**1.3. Request for a review**

- (5) Following the publication of a notice of impending expiry of the anti-dumping measures in force of SWR originating in the PRC, Hungary, India, Mexico, Poland, South Africa and Ukraine <sup>(3)</sup>, the Commission received, on 17 May 2004, a request to review these measures pursuant to Article 11(2) of the basic Regulation.
- (6) The request was lodged by the Liaison Committee of European Union Wire Rope Industries (EWRIS) (the applicant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of SWR. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.
- (7) In the absence of such evidence concerning imports originating in Mexico, the applicant did not request the initiation of an expiry review concerning imports originating in Mexico. Consequently, the measures applicable to imports originating in Mexico expired on 18 August 2004 <sup>(4)</sup>.
- (8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review pursuant to Article 11(2) of the basic Regulation, the Commission initiated a review <sup>(5)</sup>.

**1.4. Investigation**

- (9) The Commission officially advised the exporting producers, importers, users known to be concerned and their associations, the representatives of the exporting countries and the Community producers of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set out in the notice of initiation.
- (10) In view of the large number of Community producers and of importers in the Community not related to an exporting producer in one of the countries concerned, it was considered appropriate, in conformity with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would indeed be necessary and, if so, to select a sample, the above parties were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within two weeks of the initiation of the proceeding and to provide the Commission with the information requested in the notice of initiation.
- (11) Seventeen Community producers properly completed the sampling form within the deadline and formally agreed to

<sup>(1)</sup> OJ C 283, 20.11.2004, p. 6.

<sup>(2)</sup> OJ L 276, 21.10.2005, p. 62.

<sup>(3)</sup> OJ C 272, 13.11.2003, p. 2.

<sup>(4)</sup> OJ C 203, 11.8.2004, p. 4.

<sup>(5)</sup> OJ C 207, 17.8.2004, p. 2.

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cooperate further in the investigation. The sampling form requested, *inter alia*, information concerning the development of certain 'macro' injury indicators, namely production capacity, production volume, stocks, sales volumes and employment.

- (12) From the above 17 producers, 5 companies, which were found to be representative of the Community industry in terms of volume of production and sales of the product concerned in the Community, were selected for the sample.
- (13) Only one importer provided the information requested in the notice of initiation and expressed its willingness to further cooperate with the Commission services. In view of this situation, the Commission services decided not to apply sampling in the case of the unrelated importers, but to send a questionnaire to the aforementioned importer. Subsequently, the said importer failed to complete the questionnaire. It is therefore considered that no cooperation could be obtained from the unrelated importers. The Association representing the interests of the importers (EWRIA) made comments of a general nature, notably on the definition of the product concerned and the like product. These comments are addressed under recitals (19) and (20).
- (14) Questionnaires were therefore sent to the five sampled Community producers and to all known exporting producers. In addition, one producer in Turkey (analogue country) was contacted and received a questionnaire.
- (15) Replies to the questionnaires were received from the five sampled Community producers and three exporting producers in the countries concerned, as well as from two related importers and one producer in the analogue country.
- (16) Verification visits were carried out at the premises of the following companies:

Sampled Community producers:

- BTS Drahtseile GmbH (Germany),
- Cables y Alambres especiales, SA (Spain),
- CASAR Drahtseilwerk Saar GmbH (Germany),
- Manuel Rodrigues de Oliveira Sa & Filhos, SA (Portugal),
- Trefileurope (France).

Producer in the exporting country:

- Usha Martin Ltd (India).

Related importers in the Community:

- Usha Martin UK (United Kingdom),
- Usha Martin Scandinavia (Denmark).

Producer in the analogue country:

- Celik Halat (Turkey).

- (17) The investigation regarding the continuation and/or recurrence of dumping and injury covered the period from 1 July 2003 to 30 June 2004 (investigation period or IP). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2001 up to the end of the IP (period considered).

**▼B****2. PRODUCT CONCERNED AND LIKE PRODUCT****2.1. Product concerned**

- (18) The product concerned is the same as that in the original investigation which led to the imposition of measures currently in force, i.e. steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm. They are currently classifiable within CN codes ex 7312 10 82, ex 7312 10 84, ex 7312 10 86, ex 7312 10 88 and ex 7312 10 99.

**2.2. Like product**

- (19) As established in the original investigation, this review investigation confirmed that the product concerned and the products manufactured and sold by the exporting producers on the domestic market, as well as those manufactured and sold by the Community producers on the Community market and by the producer in the analogue country on the domestic market of the analogue country have the same basic physical characteristics and end uses and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.
- (20) EWRIA reiterated the argument made in the original investigation that the product concerned differs substantially from the products manufactured and sold in the Community, and should not be compared. The argument has been addressed in depth in the original Regulations imposing provisional and definitive measures on imports of the product concerned and it was found that the Community-produced and imported SWR were alike. As EWRIA did not bring any new element showing that the basis on which these original findings were made had changed, the conclusions reached in the original definitive Regulation are confirmed.

**3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING**

- (21) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and, if so, whether or not the expiry of the measures would be likely to lead to a continuation of dumping.

**3.1. Preliminary remarks**

- (22) During the IP, the total import volume, as recorded in Eurostat, of steel wire ropes from the PRC, India, South Africa and Ukraine (the countries concerned) amounted to 7 784 tonnes, representing 4,4 % of the Community market share.
- (23) The investigation period of the original investigation covered 15 months (1 January 1997 to 31 March 1998) and only covered imports into the Community prior to Enlargement. Therefore, import figures from the original investigation period and the IP are not directly comparable. In any case, total imports in EU-15 of the countries concerned in the original investigation period amounted to 21 102 tonnes, representing 14,3 % of the Community market share.
- (24) In India one exporting producer cooperated, covering 75 % of the export volumes recorded in Eurostat. In South Africa, the sole known exporting producer submitted information on its export sales to the Community during the IP, which represented all export sales of South Africa to the Community during the same period. As regards the PRC, one exporting producer cooperated which represented 75 % of export sales of the product concerned from the PRC to the Community. Finally, as regards Ukraine, none of the two known exporting producers cooperated in the present investigation.

**▼B****3.2. Dumping of imports during the investigation period**

- (25) In accordance with Article 11(9) of the basic Regulation, the same methodology was used as in the original investigation, whenever circumstances have not changed.

**3.2.1. India**

- (26) During the IP, the total import volume, as recorded in Eurostat, of SWR from India amounted to 3 869 tonnes, representing 2,2 % of the Community market share.

**3.2.1.1. Normal value**

- (27) As far as the determination of normal value is concerned, it was first established for the cooperating Indian exporting producer whether its total domestic sales of the like product were representative, i.e. whether the total volume of such sales represented at least 5 % of its total export sales volume to the Community. In accordance with Article 2(2) of the basic Regulation, this was found to be the case.
- (28) Further to the disclosure, the cooperating Indian exporting producer objected to the method used by the Commission. He argued that for the representativity test the sales volume of the product concerned to the first independent customer in the Community and not to the related importer in the Community should have been used. However, Article 2(2) of the basic Regulation provides that for the determination whether domestic sales of the like product were representative, the domestic sales volume should be compared to the sales volume of the product concerned exported to the Community, without specifying whether export sales to the first independent customer or export sales to the related importer should be taken into consideration. Consequently, it was found that the method used by the Commission was reasonable and in line with the basic Regulation. Therefore this claim had to be rejected.
- (29) The Commission subsequently identified those product types, sold domestically by the company concerned, that were identical or directly comparable to the types sold for export to the Community.
- (30) For each type sold by the exporting producer on its domestic market and found to be directly comparable with the type of SWR sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of SWR were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of SWR exported to the Community. This was the case for 31 % of all types exported to the Community.
- (31) An examination was also made as to whether the domestic sales of each product type, sold domestically in representative quantities, could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the product type in question. In cases where the sales volume of a product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type,

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or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.

- (32) In cases where the volume of profitable sales of any product type represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (33) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value either because they had not been sold on the domestic market or not in the ordinary course of trade, another method had to be applied. In the absence of any other reasonable method, constructed normal value was used.
- (34) In all cases where constructed normal value was used and in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit. In this regard and in accordance with Article 2(6) of the basic Regulation, the amounts for SG&A and profits were based on actual data pertaining to the production and sale, in the ordinary course of trade, of the like product on the domestic market.
- (35) Further to the disclosure the cooperating Indian exporting producer argued that when calculating its domestic profit margin in accordance with Article 2(6) of the basic Regulation, the Commission wrongly included domestic sales of products outside the scope of the investigation, i.e. locked coil wire ropes. However, as indicated in recital (18), locked coil ropes are expressly included in the definition of the product concerned not only for the present investigation, but they were also included in the original investigation. Therefore this claim had to be rejected.
- (36) The Indian exporting producer claimed that the normal value used to calculate its dumping margin during the IP would not reasonably reflect domestic prices and costs, since it was determined on an unrepresentative basis, i.e. on the basis of 4 months of the IP instead of 12. It should be noted that in the framework of an expiry review and in accordance with Article 11 (2) of the basic Regulation, it is examined whether the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury. As a result, definitive anti-dumping duties are either confirmed or repealed, while individual duty rates as such cannot be amended. Since the calculation of precise dumping margins in the framework of an expiry review is therefore not necessary, the examination of the continuation of dumping is based on a representative set of data during the IP. In the present proceeding, data were requested for the months at the end of each quarter and the exporting producers were invited to comment on their representativity. The exporting producer did not object to this approach within the requested deadline, but only after the on-spot verification visit, i.e. at a time where the verification of a different set of data would not have been possible anymore. Furthermore, the exporting producer did not explain nor provide any evidence as to why, in this specific case, the selected periods would be unrepresentative. This claim had therefore to be rejected.

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## 3.2.1.2. Export price

- (37) Since all export sales of the product concerned to the Community were made to related companies in the Community, the export price was constructed in accordance with Article 2(9) of the basic Regulation on the basis of the price at which the imported products were first resold to an independent buyer. Adjustments for all costs incurred between importation and resale, and for profits accruing, were made in order to establish a reliable export price, at the Community frontier level. In this regard, the related importer's SG&A were deducted from the resale price in the Community. As far as the profit margin is concerned and since there was no cooperation from unrelated importers, it was considered that, in the absence of any other more reliable information, the same profit margin as was used in the original investigation, i.e. 5 %, should be used. No information was available to show that this was not a reliable margin.

## 3.2.1.3. Comparison

- (38) For the purpose of making a fair comparison by product type, on an ex-factory basis and at the same level of trade, due allowance was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made in respect of transportation costs, insurance costs, banking and credit costs in accordance with Article 2(10) of the basic Regulation.

## 3.2.1.4. Dumping margin

- (39) In order to calculate the dumping margin, the weighted average normal value was compared to the weighted average export price to the Community per product type. This comparison showed the existence of significant dumping for the exporting producer concerned, at the level of more than 10 %. This compares with a dumping margin of 39,8 % found in the original investigation. For non-cooperating exporting producers, an assessment of the level of dumping was made based on data relating to normal value and export prices, as provided by the applicant in the review request. This also showed a dumping margin of more than 20 %.

3.2.2. *The PRC*

- (40) During the IP, the total import volume, as recorded in Eurostat, of steel wire ropes from the PRC amounted to 1 942 tonnes, representing 1,1 % of the Community market share. As mentioned in recital (24), the sole cooperating exporting producer represented 75 % of the total Chinese imports.
- (41) In the original investigation four Chinese exporting producers cooperated, however none of them was granted market economy status or individual treatment.

## 3.2.2.1. Analogue country

- (42) Since the PRC is an economy in transition, normal value had to be based on information obtained in an appropriate market economy third country in accordance with Article 2(7)(a) of the basic Regulation.
- (43) In the original investigation, Poland was used as analogue country for the purpose of establishing normal value. As Poland has been a member of the European Union since 1 May 2004, it can no longer be used as an analogue country for the purpose of anti-dumping investigations. For the present investigation the applicant proposed the United States of America (USA) as an analogue country.



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- (44) One importer association objected to the choice of the USA and proposed South Korea as an appropriate analogue country. However, none of the producers in the USA and South Korea were willing to cooperate in the present expiry review.
- (45) The Commission services therefore explored other possible analogue countries such as Norway, Thailand, India and Turkey. As far as Norway and Thailand are concerned, likewise, none of the producers in these countries was willing to cooperate.
- (46) Only one producer of SWR in Turkey cooperated with the investigation by replying to the questionnaire and accepting an on-spot verification visit. The investigation showed that Turkey has a competitive market for SWR with two domestic producers supplying around 83 % of the market and competition from imports from other third countries. Import duties in Turkey are low and there are no other restrictions for imports of SWR into Turkey. The production volume in Turkey constituted more than five times the volume of Chinese exports of the product concerned to the Community. The Turkish market was therefore deemed sufficiently representative for the determination of normal value for the PRC. Finally, as mentioned in recital (19), the product produced and sold on the Turkish domestic market was alike to the product exported by the Chinese exporting producer to the Community.
- (47) Subsequent to the disclosure one importer association objected to the choice of Turkey as analogue country. However, this claim was not substantiated and had therefore to be rejected.
- (48) It is therefore concluded that Turkey constitutes an appropriate analogue country for the purpose of establishing normal value in accordance with Article 2(7)(a) of the basic Regulation.

## 3.2.2.2. Normal value

- (49) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of verified information received from the cooperating producer in the analogue country, i.e. on the basis of the price paid or payable on the domestic market of Turkey by unrelated customers, since these sales were found to be made in the ordinary course of trade.
- (50) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the cooperating producer in Turkey.

## 3.2.2.3. Export price

- (51) Given that the export sales of the cooperating exporter represented 75 % of the EC imports of the product concerned from the PRC in the IP, the determination of the export price was based on the information provided by the cooperating exporting producer in the PRC. Since all export sales of the product concerned were made directly to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable.

## 3.2.2.4. Comparison

- (52) For the purpose of making a fair comparison by product type, on an ex-factory basis and at the same level of trade, due allowance was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made in respect of transportation costs, insurance costs, banking and credit costs in accordance with Article 2(10) of the basic Regulation.

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- (53) For certain product types sold on the domestic market in Turkey, adjustments had to be made in order to make them comparable with the Chinese exported types. Adjustments were made in order to take account of physical differences in accordance with Article 2(10)(b) of the basic Regulation such as diameter, tensile strength and core. The adjustments were based on the price differences of the types in question on the Turkish market.

## 3.2.2.5. Dumping margin

- (54) In order to calculate the dumping margin, the weighted average normal value was compared to the weighted average export price to the Community per product type. This comparison showed the existence of significant dumping of imports of the product concerned by the cooperating exporter, at the level of more than 65 %. This compares with a dumping margin of 60,4 % found in the original investigation.

3.2.3. *South Africa*

- (55) During the IP, the total import volume, as recorded in Eurostat, of SWR from South Africa amounted to 278 tonnes, representing 0,1 % of the Community market share, i.e. at a *de minimis* level. The sole known exporting producer represented 100 % of these imports.
- (56) In the absence of full cooperation from the South African exporting producer as outlined in recital (57), recourse had to be made to facts available in accordance with Article 18 of the basic Regulation.
- (57) The sole known exporting producer only submitted information regarding its export sales to the Community, but did not provide any information with regard to costs and prices of the like product on the domestic market. Therefore, no normal value could be established for the IP. Nevertheless, the exporting producer admitted that dumping was still taking place during the IP. On this basis and in the absence of any other more reliable information, it was concluded that dumping continued at significant levels during the IP.

3.2.4. *Ukraine*

- (58) During the IP, the total import volume, as recorded in Eurostat, of SWR from Ukraine amounted to 1 695 tonnes, representing 1 % of the Community market share, which was considered as a *de minimis* market share.
- (59) In the absence of any cooperation from Ukraine, recourse had to be made to facts available, in accordance with Article 18 of the basic Regulation. On this basis normal value as established for the analogue country was compared with the export price as contained in the applicant's review request. As a result, a dumping margin of more than 65 % was established for the IP.

**3.3. Developments of imports should measures be repealed**3.3.1. *Preliminary remarks*

- (60) Out of the eight Indian exporting producers named in the complaint, one cooperated in the investigation. Of the two South African exporting producers named in the complaint, only one cooperated partially. There are no other known producers in South Africa. As far as Ukraine is concerned, neither of the two known exporting producers cooperated and likewise, no other producers are known in Ukraine. Of nine known Chinese exporting producers, only one cooperated with the investigation.

**▼B**3.3.2. *India*

## 3.3.2.1. Preliminary remarks

- (61) Seven of the eight known producers in India did not cooperate during the present expiry review. It is noted that in the original investigation, six of these producers were selling SWR only on their domestic market or to other third country markets and they were therefore not subject to the original investigation. Furthermore, due to their non-cooperation in the present investigation, no information was available as to their production capacity and volume, stocks and sales to markets other than the Community. The examination of whether it would be likely that dumping continues should measures be repealed was therefore based on the information available, i.e. the information provided by the cooperating exporting producer. Information relating to the import prices from exporters other than the cooperating exporter, determined on the basis of Eurostat, was also examined. In order to establish whether dumping would be likely to continue should measures be repealed, the pricing behaviour of the cooperating exporting producer to other export markets, its export prices to the Community, its production capacity and stocks were examined. Also, the likely effect of a repeal of the measures on prices of other imports was also assessed.

## 3.3.2.2. Relationship between export prices to third countries and export prices to the Community

- (62) It was found that the average export price of sales to non-EU countries was significantly below the average export price to the Community and also below the prices on the domestic market, which indicated that exports to non-EU countries were very likely dumped at even higher levels than the export sales to the Community. It should be noted, however, that during the IP a minimum price undertaking was in force which required the exporting producer concerned to respect a certain price level for exports to the Community. Some prices were found to be slightly higher than the undertaking level, but the majority of the sales were at prices at the level of the undertaking. The exporter's sales to non-EU countries were made in significant quantities, accounting for 86 % of total export sales. Therefore, it was considered that the export price level to other third countries can be seen as an indicator as to the likely price level for export sales to the Community should measures be repealed. On this basis, and given the low price levels to third country markets, it was concluded that there is a likelihood that the cooperating exporter would reduce its export prices to the Community, which as a consequence would also increase the level of dumping.
- (63) It is noted that the margin of dumping found in the IP was significant. On this basis, it has to be assumed that even if price levels to the Community would remain the same or increase, it is very likely that dumping would still continue should the measures in force be repealed. In view of the company's export behaviour to the Community in the past (i.e. in the original investigation, it was found that the company exported high quantities to the EU at dumped levels), as well as its pricing strategies with regard to exports to other third country markets, it is more likely that any further exports to the Community would be made at lower, and consequently dumped price levels.

## 3.3.2.3. Relationship between export prices to third countries and the price level in the Community

- (64) It is also noted that export prices to third countries were found to be on average below the sales prices of the Community industry in the

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Community, which means that the prevailing price level for the product concerned in the Community market makes the Community market a very attractive one for exporters in India. On this basis, it was considered that there is indeed an economic incentive to shift exports from non-EU countries to the more profitable Community market in case of repeal of the measures in force.

## 3.3.2.4. Prices of non-cooperating exporters

- (65) Eurostat prices of all imports of the product concerned, excluding those of the cooperating exporter, are significantly below those of the cooperating exporter. In the absence of other information, based on the normal value of the cooperating exporter, these imports would be dumped at significantly high levels. In the absence of measures, there is no reason to consider that these imports would not be made at similar dumped prices but in higher quantities.

## 3.3.2.5. Unused capacity and stocks

- (66) The cooperating Indian producer, despite increasing capacity utilisation over the last years, still has significant spare capacities representing almost five times the export quantity to the Community during the IP. Furthermore, stocks — although decreasing in terms of volume — are significant and, at the end of the IP, represented a major portion of the volume exported to the Community. Therefore, the capacity to significantly increase export quantities to the EC exists, in particular because there are no indications that third country markets or the domestic market could absorb any additional production. In this regard, it should be noted that it is very unlikely that the domestic market in India, due to the presence of eight competing producers, would be able to absorb all of the spare capacity of this exporting producer. In fact, according to the review request, spare capacities of all Indian producers were estimated at 35 000 tonnes, representing almost 20 % of Community consumption.

## 3.3.3. PRC

## 3.3.3.1. Preliminary remarks

- (67) As mentioned in recital (41), none of the Chinese companies was granted market economy status or individual treatment in the original investigation, i.e. all companies are subject to the single countrywide anti-dumping duty at a rate of 60,4 %. Import volumes from the PRC decreased significantly, i.e. from 11 484 tonnes during the IP of the original investigation (EU-15) to 1 942 tonnes during the IP (EU-25). The current market share of the PRC is slightly above *de minimis*, i.e. 1,1 %. It is, however, noted that Chinese imports have, since 2001, an increasing trend. The exports to the EC of the sole cooperating Chinese exporting producer represented 75 % of total Chinese exports, amounting to 1 456 tonnes during the IP. There are seven other exporting producers which exported only small quantities to the Community during the IP.
- (68) In order to establish whether dumping would be likely to continue should the measures be repealed, the pricing behaviour of the cooperating exporting producer to other export markets, its export prices to the Community, the likely effect on prices of other imports, its production capacity and stocks were examined. Information relating to the import prices from exporters other than the cooperating exporter was determined on the basis of Eurostat.

## 3.3.3.2. Relationship between export prices to third countries and export prices to the Community

- (69) Export prices from the PRC to the USA, one of the major export markets of the Chinese exporting producers and a market in

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which no measures are in force, were, on average, significantly below the export prices to the Community. Since, as concluded in recital (54), export sales from the PRC to the Community were made at dumped levels, this indicated that exports to the USA and other third country markets were likely dumped at even higher levels than the export sales to the Community. It was also considered that the export price level to the USA and to other third countries can be seen as an indicator as to the likely price level for export sales to the Community should measures be repealed. On this basis, and given the low price levels to third country markets it was concluded that there is a considerable margin to reduce export prices to the Community, which as a consequence would also increase the dumping.

#### 3.3.3.3. Relationship between export prices to third countries and the price level in the Community

- (70) It was also found that the price level of sales by the Community industry in the Community was on average considerably higher than the export price level of the cooperating Chinese exporter's prices to other third country markets. As indicated already in recital (64) for India, the fact that the generally prevailing price level for the product concerned in the Community market makes the Community market a very attractive one, applies also for the PRC. The higher price level on the Community market is an incentive for increasing exports to the Community.

#### 3.3.3.4. Prices of non-cooperating exporters

- (71) Eurostat prices of all imports of the product concerned, excluding those of the cooperating exporter, are below those of the cooperating exporter. Based on the normal value calculated for the analogue country, these imports would be dumped at significantly high levels. In the absence of measures, there is no reason to consider that these imports would not be made at similar dumped prices but in higher quantities.

#### 3.3.3.5. Unused capacity and stocks

- (72) The cooperating Chinese producer, despite slightly increasing capacity utilisation over the last years, has still significant spare capacities representing almost four times the export quantity to the Community during the IP. According to the review request, spare capacities of all exporting producers in the PRC were estimated at 270 000 tonnes. Thus, the capacity to increase export quantities to the Community exists, in particular, because there are no indications that third country markets or the domestic market could absorb any additional production. In this regard it should be noted that it is very unlikely that the domestic market in PRC, due to the presence of a considerable number of competing producers would be able absorb any spare capacities.

#### 3.3.3.6. Circumvention practices

- (73) It is noted that the measures in force on imports of the product concerned from the PRC were found to have been circumvented by means of imports transhipped via Morocco. This indicates the clear interest in the Community market of sellers of Chinese SWR and their inability to compete on the Community market at non-dumped levels. This was considered as a further indication that Chinese exports would likely increase in volume and enter the Community market at dumped prices should measures be repealed.

**▼B**3.3.4. *South Africa*

## 3.3.4.1. Preliminary remarks

- (74) There is only one known producer in South Africa. This producer partially cooperated in this review investigation.
- (75) Imports from South Africa dropped considerably since the imposition of definitive measures. The market share of imports from South Africa was below the *de minimis* threshold (1 %) during the IP. Thus, total exports from South Africa during the IP amounted to 278 tonnes of which major quantities were shipped to a bond store in Rotterdam, whereby these goods were eventually re-exported and not customs cleared in the EU. Only minor quantities of the product concerned were released for free circulation in the EU.
- (76) As mentioned in recitals (57) and (60), recourse was made to facts available, in particular as regards the situation of the South African domestic market. Since little information is known about the South African industry, the following conclusions rely on the information contained in the applicant's review request and publicly available export trade statistics.
- (77) In order to establish whether dumping would recur should measures be repealed information provided by the cooperating exporter relating to export prices to the Community and to third countries, unused capacity and stocks were examined.

## 3.3.4.2. Relationship between export prices to third countries and prices in the exporting country

- (78) As already explained in recital (76), no information regarding domestic prices was provided. Therefore, the information on domestic prices, as contained in the request, was used. As to the prices in export markets other than the Community, five major export destinations were analysed. In all instances, the export prices to third countries were below domestic prices. Assuming that these export prices will serve as a bottom line which the exporter may accept when coming back to the Community market, it is clear that these exports would likely continue to be at dumped prices.

## 3.3.4.3. Relationship between export prices to third countries and the export price level to the Community

- (79) An examination of the average export sales prices to the five major export markets other than the Community showed that these sales were made at prices significantly lower than export prices to the Community. As in the case of India, this is at least partly due to the fact that, during the IP, a minimum price undertaking was in force which required the exporting producer concerned to respect a certain price level for exports into the Community. All prices were found to be slightly higher than the undertaking level.
- (80) Therefore, it was considered that the export price level to these five export markets outside the Community can be seen as an indicator as to the likely price level for export sales to the Community should measures be repealed. On this basis, it was concluded that there is a considerable margin for the sole South African exporter to reduce export prices to the Community, which as a consequence would also increase the level of dumping.

**▼B****3.3.4.4. Relationship between export prices to third countries and the price level in the Community**

- (81) It was furthermore found that prices on the Community market were on average substantially higher than the export prices to the five major exporting countries outside the Community. As indicated already in recital (64) for India and recital (70) for the PRC, this makes the Community market a very attractive one for the future should measures be repealed. In this regard, it was considered that the higher price level on the Community market is an incentive for increasing exports to the Community market.

**3.3.4.5. Unused capacity and stocks**

- (82) Since the imposition of the definitive duty, the partly cooperating exporting producer accumulated significant stocks and spare capacities, the latter of over more than 40 % of the level of installed capacity. According to the request, spare capacities were estimated at 23 000 tonnes to 25 000 tonnes. Thus, the capacity to increase export quantities to the Community exists, in particular because there are no indications that third country markets or the domestic market could absorb any additional production.

**3.3.5. Ukraine****3.3.5.1. Preliminary remarks**

- (83) Given the absence of any cooperation from the two known Ukrainian exporting producers, findings were based on facts available, in accordance with Article 18 of the basic Regulation. Since little information is known about the Ukrainian industry, the following conclusions rely on the information contained in the applicant's review request and publicly available trade statistics. It is noted that there are no other known producers in the Ukraine and that the following considerations regarding in particular production capacities, relate to the two known exporting producers.
- (84) In order to establish whether dumping would be likely to recur should measures be repealed, the export prices to third countries, unused capacity and stocks were examined.

**3.3.5.2. Relation between export prices to third countries and the export price level to the Community**

- (85) In the absence of any other more reliable information, the information provided in the request with regard to exports to Russia and the USA, which was based on publicly available statistics, has been taken into account. An analysis of the figures available revealed that the average export prices to these countries were significantly below the average export prices to the Community. As already explained above in the case for India, the PRC and South Africa, export prices to other third countries were considered as an indicator as to the likely price level for export sales to the Community should measures be repealed. On this basis it was concluded that there is a considerable margin to reduce export prices to the Community, and very likely to dumped levels.

**3.3.5.3. Unused capacity**

- (86) According to the evidence available in the request, the estimated production capacity in the Ukraine amounts to 100 000 tonnes, of which only 50 % is used for actual production. A spare capacity of 50 000 tonnes would represent the highest spare capacity of all

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countries concerned and amount to more than one third of the Community consumption. Therefore, the capacity to increase export quantities to the Community is, in the case of Ukraine, by far the most imminent from all countries concerned, in particular because there are no indications that third country markets or the domestic market could absorb any additional production.

#### 3.3.5.4. Violation of an undertaking and circumvention of the measures

- (87) In 1999, in the framework of the original investigation, the Commission accepted an undertaking offered by one of the Ukrainian exporters. Subsequently, the Commission found a breach of this undertaking in two respects. Firstly, the Ukrainian exporter concerned provided misleading declarations of origin and secondly, the exporter issued undertaking invoices for product types not falling within the scope of the undertaking, thereby unduly benefiting from the exemption of the payment of the anti-dumping duties. Consequently, by Regulation (EC) No 1678/2003, the Commission withdrew its acceptance of the undertaking.
- (88) Moreover, following the imposition of the existing measures on imports of SWR from the Ukraine, it was found that these measures were being circumvented by imports of SWR from Moldova. As mentioned in recital (3), the existing measures were accordingly extended to imports of SWR consigned from Moldova.
- (89) Although the violation of an undertaking and circumvention practices in the past do not *per se* justify the conclusion of dumping practices in the future, it was considered that in this case such practices were additional factors indicating the exporters' interest in entering the Community market and their inability to compete on the Community market at non-dumped levels.

#### 3.4. Conclusion

- (90) Continuation of significant dumping was found in all cases, albeit import volumes for South Africa and the Ukraine were at *de minimis* levels.
- (91) For the examination as to whether it would be likely that dumping would continue or recur should the anti-dumping measures be repealed, spare capacities and unused stocks as well as pricing and export strategies in different markets were analysed. This examination revealed that there were important spare capacities and accumulated stocks in all exporting countries concerned. It was further found that export prices to other third countries were generally of a significant lower level than those to the Community market and that therefore the Community remained an attractive market for the exporting producers of all countries concerned. It was therefore concluded that exports from the countries concerned to third countries would very likely be redirected to the Community should the access to the Community market be without anti-dumping measures. The available spare production capacities would also likely lead to increased imports from all countries concerned.
- (92) An analysis of the pricing strategies of all countries concerned revealed furthermore, that these exports would most likely be made at dumped prices. In the case of the PRC and Ukraine, these conclusions were reinforced by the fact that the existing measures were found to have been circumvented by imports via other countries which indicated that exporting countries were not able to compete in the Community market at fair prices.



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- (93) Considering the above, it was established for all countries concerned that dumping would likely continue or recur in significant quantities should measures be allowed to expire.

#### 4. DEFINITION OF THE COMMUNITY INDUSTRY

##### 4.1. Community production

- (94) Within the Community, the product concerned is manufactured by 30 producers which constitute the total Community production within the meaning of Article 4(1) of the basic Regulation.

##### 4.2. Community industry

- (95) It should be noted that in the original investigation the Community industry consisted of 20 producers. Nine of these companies did not cooperate in the review investigation. Conversely, six companies which were not part of the Community industry in the original investigation, both supported the review request and agreed to cooperate in the review investigation. Accordingly, the following 17 producers supported the complaint and agreed to cooperate:

- Bridon International Ltd (United Kingdom),
- BTS Drahtseile GmbH (Germany),
- Cables y Alambres especiales, SA (Spain),
- CASAR Drahtseilwerk Saar GmbH (Germany),
- D. Koronakis SA (Greece),
- Drahtseilwerk GmbH (Germany),
- Drahtseilwerk Hemer GmbH and Co. KG (Germany),
- Drahtseilerei Gustav Kocks GmbH (Germany),
- Drumet SA (Poland),
- Hamburger Drahtseilerei A. Steppuhn GmbH (Germany),
- Iscar Funi Metalliche Srl (Italy),
- Manuel Rodrigues de Oliveira Sa & Filhos, SA (Portugal),
- Metalcavi wire ropes Srl (Italy),
- Metal Press Srl (Italy),
- Trefileurope (France),
- WADRA GmbH (Germany),
- Westfälische Drahtindustrie GmbH (Germany).

As indicated under recital (12), a sample consisting of five companies was selected.

- (96) These companies fully cooperated in the investigation. The five sampled Community producers accounted for 30 % of the total Community production during the IP, whilst the above 17 Community producers accounted for 68 % of the total Community production during the IP.
- (97) It is therefore considered that the above 17 Community producers account for a major proportion of the total Community production of the like product. The above 17 Community producers are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and are hereinafter referred to as the 'Community industry'.

**▼B****5. SITUATION ON THE COMMUNITY MARKET****5.1. Consumption in the Community market**

- (98) Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, the sales volumes of the other Community producers on the Community market, and Eurostat data for all EU imports.
- (99) Between 2001 and the IP, Community consumption decreased by 9 %. Specifically, it decreased by 3 % between 2001 and 2002, and by a further 6 % between 2002 and 2003. It then remained broadly stable at this level in the IP.

	2001	2002	2003	IP
Total EC consumption (tonnes)	194 547	187 845	176 438	177 825
<i>Index (2001=100)</i>	<i>100</i>	<i>97</i>	<i>91</i>	<i>91</i>

**5.2. Imports from the countries concerned****5.2.1. Cumulation**

- (100) In the original investigation imports of SWR originating in the PRC, India, South Africa and Ukraine were assessed cumulatively in accordance with Article 3(4) of the basic Regulation. It was examined whether a cumulative assessment was also appropriate in the current investigation.
- (101) In this respect, it was found that the margin of dumping established in relation to the imports from each country was above the *de minimis* level. As regards the quantities exported by each of the four countries concerned, as stated in recitals (22) to (24), it was considered that, if the measures were repealed, imports from each of the countries concerned would be likely to increase to levels significantly above those reached in the IP and certainly exceed the negligibility threshold.
- (102) As regards the conditions of competition, the investigation has found that SWR imported from the countries concerned, considered on a type-by-type basis, were alike in all their essential physical and technical characteristics. Furthermore, these types of SWR were interchangeable with other types imported from the countries concerned and those produced in the Community and they were marketed in the Community during the same period, through comparable sales channels under similar commercial conditions. The imported SWR were therefore considered to compete with each other and with the SWR produced in the Community.
- (103) In the light of the above, it was considered that all the criteria set out in Article 3(4) of the basic Regulation were met. The imports from the four countries concerned were therefore examined cumulatively.

**5.2.2. Volume, market share and prices of imports**

- (104) With respect to the four countries concerned, the import volumes, market shares and average prices developed as set out below. The following price trends are based on Eurostat import prices and include anti-dumping duties and estimated post-importation costs.
- (105) The volume of imports originating in the four countries concerned first increased and reached a level of 9 153 tonnes in 2002, corresponding to a market share of 4,9 %, before declining to 7 784 tonnes during the IP, corresponding to a market share of 4,4 %. During the IP of the original investigation, the cumulated market share of the four countries concerned was 14,3 %.

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- (106) Prices of imports from the four countries concerned decreased on average from 1 364 EUR/tonne in 2001 to 1 296 EUR/tonne in the IP.
- (107) The investigation showed that imports from the countries concerned were undercutting those of the Community industry by 36 to 68 % in the IP.

	2001	2002	2003	IP
Volume of imports from the four countries concerned (tonnes)	7 951	9 153	7 168	7 784
Market share of imports from the four countries concerned	4,1 %	4,9 %	4,1 %	4,4 %
Prices of imports from the four countries concerned (EUR/tonne)	1 364	1 450	1 331	1 296

**5.3. Imports found to be circumventing**

- (108) As mentioned in recital (3), it was further found that circumvention of the original measures concerning Ukraine and the PRC took place respectively via Moldova and Morocco. Consequently, the anti-dumping duty imposed on imports originating in the PRC was extended to imports of the same steel ropes and cables consigned from Morocco, with the exception of those produced by a genuine Moroccan producer. Similarly, the definitive anti-dumping duty imposed on imports originating in the Ukraine was extended to imports of the same steel ropes and cables consigned from Moldova.

	2001	2002	2003	IP
Volume of imports from Moldova (tonnes)	1 054	1 816	0	0
Market share of imports from Moldova	0,5 %	1,0 %	0,0 %	0,0 %
Prices of imports from Moldova (EUR/tonne)	899	843	0	0
<i>Index (2001=100)</i>	<i>100</i>	<i>94</i>	<i>0</i>	<i>0</i>
Volume of imports from Morocco (tonnes)	231	1 435	2 411	1 904
Market share of imports from Morocco	0,1 %	0,8 %	1,4 %	1,1 %
Prices of imports from Morocco (EUR/tonne)	963	955	1 000	1 009
<i>Index (2001=100)</i>	<i>100</i>	<i>99</i>	<i>104</i>	<i>105</i>

- (109) While the volume of imports from Moldova stood at zero in the years before 2000, it rose sharply to 1 816 tonnes in 2002. Subsequently it dropped to zero again, probably as a consequence of the initiation of the aforementioned anti-circumvention investigation in the course of 2003. Imports from Moldova were made at very low prices in 2001 and 2002, i.e. 899 EUR/tonne in 2001 and 843 EUR/tonne in 2002.
- (110) During the investigation period of the original investigation, the market share of imports from Morocco was 0 %. The volume of imports from Morocco rose sharply from 231 tonnes in 2001 to

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2 411 tonnes in 2003. It declined to 1 904 tonnes during the IP. The above anti-circumvention investigation evidenced that a limited volume of imports from Morocco (around 100 tonnes) was attributed in 2003 to a genuine Moroccan producer. Imports from Morocco were made at very low prices between 2001 and the IP, i.e. around 1 000 EUR tonne.

**5.4. Imports from other countries***5.4.1. The Republic of Korea (South Korea)*

- (111) On 20 November 2004, the Commission initiated an anti-dumping proceeding concerning imports of the same product originating in the Republic of Korea, further to a complaint lodged by the Community industry showing *prima facie* evidence that such imports are being dumped and are thereby causing material injury to the Community industry.
- (112) The evolution of imports from the Republic of Korea is as follows:

	2001	2002	2003	IP
Volume of imports from the Republic of Korea (tonnes)	13 582	16 403	22 400	25 835
Market share of imports from the Republic of Korea	7,0 %	8,7 %	12,7 %	14,5 %
Prices of imports from the Republic of Korea (EUR/tonne)	1 366	1 256	1 187	1 123
<i>Index (2001=100)</i>	<i>100</i>	<i>92</i>	<i>87</i>	<i>82</i>

- (113) The volume of imports from the Republic of Korea rose from 13 582 tonnes in 2001, corresponding to a market share of 7 %, to 25 835 tonnes in the IP, corresponding to a market share of 14,5 %. Average prices of imports from the Republic of Korea declined by 18 % between 2001 and the IP, i.e. from 1 366 EUR/tonne to 1 123 EUR/tonne. As no dumping was evidenced as regards imports from the Republic of Korea, this proceeding was terminated (see recital (4)).

*5.4.2. Mexico*

- (114) As indicated in recital (7), the measures imposed on imports originating in Mexico by the original definitive Regulation expired on 18 August 2004. The volume of imports originating in Mexico remained very limited since 2001 through the IP. It was nil in 2001 and during the IP, and reached an annual level ranging from around 700 to 400 tonnes in 2002 and 2003, corresponding to a market share of respectively 0,4 % and 0,2 %.
- (115) Prices of imports from Mexico reached around 2 400 EUR/tonne in 2002 and 2003.

	2001	2002	2003	IP
Volume of imports from Mexico (tonnes)	0	669	433	0
Market share of imports from Mexico	0,0 %	0,4 %	0,2 %	0,0 %
Prices of imports from Mexico (EUR/tonne)	n/a	2 358	2 434	n/a
<i>Index (2001=100)</i>	<i>n/a</i>	<i>100</i>	<i>103</i>	<i>n/a</i>

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5.4.3. *Other countries concerned by anti-dumping measures*

- (116) By Regulation (EC) No 1601/2001 <sup>(1)</sup>, the Council imposed anti-dumping measures on imports of similar products originating, *inter alia*, in Russia, Thailand and Turkey.
- (117) The rate of the duty applicable to imports from Russia ranged between 36,1 % and 50,7 %, except for imports from one Russian exporter from whom a price undertaking was accepted. The volume of imports from Russia declined from 3 630 tonnes in 2001, corresponding to a market share of 1,9 %, to 2 101 tonnes in the IP, corresponding to a market share of 1,2 %. Average prices of imports from Russia remained relatively stable between 2001 and the IP, at around 1 000 EUR/tonne.

	2001	2002	2003	IP
Volume of imports from Russia (tonnes)	3 630	2 557	2 198	2 101
Market share of imports from Russia	1,9 %	1,4 %	1,2 %	1,2 %
Prices of imports from Russia (EUR/tonne)	1 038	997	980	1 046
<i>Index (2001=100)</i>	<i>100</i>	<i>96</i>	<i>94</i>	<i>101</i>

- (118) The rate of the duty applicable to imports from Thailand ranged between 24,8 % and 42,8 %, except for imports from one exporter from whom a price undertaking was accepted. The volume of imports from Thailand declined from 1 039 tonnes in 2001, corresponding to a market share of 0,5 %, to 277 tonnes in the IP, corresponding to a market share of 0,2 %. Average prices of imports from Thailand increased from around 1 335 EUR/tonne in 2001 to 1 722 EUR/tonne in the IP.

	2001	2002	2003	IP
Volume of imports from Thailand (tonnes)	1 039	1 002	368	277
Market share of imports from Thailand	0,5 %	0,5 %	0,2 %	0,2 %
Prices of imports from Thailand (EUR/tonne)	1 335	1 433	1 593	1 722
<i>Index (2001=100)</i>	<i>100</i>	<i>107</i>	<i>119</i>	<i>129</i>

- (119) The rate of the duty applicable to imports from Turkey during the period considered ranged between 17,8 % and 31 %, except for imports from two Turkish exporters from whom a price undertaking was accepted in 2001 and subsequently withdrawn in 2003. The volume of imports from Turkey declined from 4 354 tonnes in 2001, corresponding to a market share of 2,2 %, to 1 457 tonnes in the IP, corresponding to a market share of 0,8 %. Average prices of imports from Turkey decreased from 1 448 EUR/tonne in 2001 to 1 302 EUR/tonne in the IP.

	2001	2002	2003	IP
Volume of imports from Turkey (tonnes)	4 354	4 448	2 248	1 457

<sup>(1)</sup> OJ L 211, 4.8.2001, p. 1. Regulation as last amended by Regulation (EC) No 564/2005 (OJ L 97, 15.4.2005, p. 1).

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	2001	2002	2003	IP
Market share of imports from Turkey	2,2 %	2,4 %	1,3 %	0,8 %
Prices of imports from Turkey (EUR/tonne)	1 448	1 414	1 376	1 302
<i>Index (2001=100)</i>	<i>100</i>	<i>98</i>	<i>95</i>	<i>90</i>

5.4.4. *Other third countries not mentioned above*

- (120) The volume of imports from other third countries not mentioned above declined from around 23 000 tonnes in 2001, corresponding to a market share of 12 %, to around 19 000 tonnes in the IP, corresponding to a market share of 10,5 %. Average prices of imports from other third countries not mentioned above increased from around 1 500 EUR/tonne in 2001 to around 1 900 EUR/tonne in 2003, before declining again to around 1 500 EUR/tonne in the IP.

	2001	2002	2003	IP
Volume of imports from countries not mentioned above (tonnes)	23 321	14 924	17 227	18 741
Market share of imports from countries not mentioned above	12,0 %	7,9 %	9,8 %	10,5 %
Prices of imports from countries not mentioned above (EUR/tonne)	1 472	1 749	1 895	1 497
<i>Index (2001=100)</i>	<i>100</i>	<i>119</i>	<i>129</i>	<i>102</i>

## 6. ECONOMIC SITUATION OF THE COMMUNITY INDUSTRY

- (121) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.

### 6.1. Preliminary remarks

- (122) In view of the fact that sampling had been used with regard to the Community industry, the injury has been assessed both on the basis of information collected at the level of the entire Community industry (C.I. in the appended tables) and on the basis of information collected at the level of the sampled Community producers (S.P. in the appended tables).
- (123) Where recourse is made to sampling, in accordance with established practice, certain injury indicators (production, capacity, productivity, stocks, sales, market share, growth and employment) are analysed for the Community industry as a whole, while those injury indicators relating to the performance of individual companies, i.e. prices, costs of production, profitability, wages, investments, return on investment, cash flow, ability to raise capital are examined on the basis of the information collected at the level of the sampled Community producers.

### 6.2. Data relating to the Community industry as a whole

#### (a) Production

- (124) The Community industry's production decreased by 10 % between 2001 and the IP, i.e. from a level of around 125 000

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tonnes in 2001 to a level of around 112 000 tonnes in the IP. Specifically, production increased by 2 % in 2002, before declining by 5 percentage points in 2003 and by a further 7 percentage points in the IP.

	2001	2002	2003	IP
C.I. production (tonnes)	124 549	127 118	121 065	111 765
<i>Index (2001=100)</i>	<i>100</i>	<i>102</i>	<i>97</i>	<i>90</i>

(b) *Capacity and capacity utilisation rates*

- (125) Production capacity increased marginally (by 2 %) between 2001 and the IP. As production declined, while at the same time capacity rose slightly, the resulting capacity utilisation declined, from a level of 67 % in 2001 to a level of 59 % in the IP.

	2001	2002	2003	IP
C.I. production capacity (tonnes)	184 690	185 360	188 430	189 150
<i>Index (2001=100)</i>	<i>100</i>	<i>100</i>	<i>102</i>	<i>102</i>
C.I. capacity utilisation	67 %	69 %	64 %	59 %
<i>Index (2001=100)</i>	<i>100</i>	<i>102</i>	<i>95</i>	<i>88</i>

(c) *Stocks*

- (126) The level of closing stocks of the Community industry decreased progressively throughout the period considered. In the IP, the level of stocks was 14 % lower than in 2001.

	2001	2002	2003	IP
C.I. closing stock (tonnes)	31 459	30 222	29 336	26 911
<i>Index (2001=100)</i>	<i>100</i>	<i>96</i>	<i>93</i>	<i>86</i>

(d) *Sales volume*

- (127) The sales by the Community industry on the Community market decreased by 10 % between 2001 and the IP. This development is in line with the evolution of the Community market, which declined by 9 % between 2001 and the IP.

	2001	2002	2003	IP
C.I. EC sales volume to unrelated customers (tonnes)	80 019	79 089	73 636	72 072
<i>Index (2001=100)</i>	<i>100</i>	<i>99</i>	<i>92</i>	<i>90</i>

(e) *Market share*

- (128) The market share held by the Community industry decreased by 1 percentage point between 2001 and the IP. Specifically, it increased by 0,5 percentage points in 2002, declined by 0,3 percentage points in 2003 and finally declined by 1,2 percentage points in the IP.

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	2001	2002	2003	IP
Market share of Community industry	42,8 %	43,3 %	43,0 %	41,8 %
<i>Index (2001=100)</i>	<i>100</i>	<i>101</i>	<i>101</i>	<i>98</i>
Market share of the four countries concerned	4,1 %	4,9 %	4,1 %	4,4 %
<i>Index (2001=100)</i>	<i>100</i>	<i>119</i>	<i>99</i>	<i>107</i>

(f) *Growth*

- (129) Between 2001 and the IP, when the Community consumption decreased by 9 %, the sales volume of the Community industry decreased by 10 %. The Community industry thus lost a part of its market share, whereas the imports concerned gained 0,3 percentage points during the same period.

(g) *Employment*

- (130) The level of employment of the Community industry declined by 4 % between 2001 and the IP.

	2001	2002	2003	IP
C.I. employment product concerned	2 049	2 028	1 975	1 975
<i>Index (2001=100)</i>	<i>100</i>	<i>99</i>	<i>96</i>	<i>96</i>

(h) *Productivity*

- (131) Productivity of the Community industry's workforce, measured as output per person employed per year, remained fairly stable between 2001 and 2003. In the IP, as the production volume dropped whilst employment remained flat, productivity dropped by 8 %.

	2001	2002	2003	IP
C.I. productivity (tonnes per employee)	61	63	61	57
<i>Index (2001=100)</i>	<i>100</i>	<i>103</i>	<i>101</i>	<i>93</i>

(i) *Magnitude of dumping margin*

- (132) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible, especially in transparent and thus highly price sensitive markets like the one of the product concerned.

(j) *Recovery from the effects of past dumping*

- (133) While the indicators examined above and below show some improvement in the economic and financial situation of the Community industry, further to the imposition of anti-dumping measures in 1999, they also evidence that the Community is still in a fragile and vulnerable situation.



**▼B****6.3. Data relating to the sampled Community producers***(a) Sales prices and factors affecting domestic prices*

- (134) Unit sales prices of the Community industry remained relatively stable between 2001 and the IP, and experienced a very limited increase towards the end of the period considered. This price development is broadly in line with that of the principal raw material, which also showed a rise at the end of the period considered.

	2001	2002	2003	IP
S.P. unit price EC market (EUR/tonne)	2 195	2 171	2 224	2 227
<i>Index (2001=100)</i>	<i>100</i>	<i>99</i>	<i>101</i>	<i>101</i>

*(b) Wages*

- (135) Between 2001 and the IP, the average wage per employee increased by 5 %, a moderate figure in comparison with the rate of increase of the average nominal unit labour costs (6 %) observed during the same period in the Community economy at large.

	2001	2002	2003	IP
S.P. annual labour cost per employee (1 000 EUR)	36,6	37,6	38,2	38,5
<i>Index (2001=100)</i>	<i>100</i>	<i>103</i>	<i>104</i>	<i>105</i>

*(c) Investments*

- (136) The annual flow of investments in the product concerned made by the five sampled producers stayed relatively stable at around EUR 4 million per annum. The big increase observed in 2003 corresponds to a large extent to an exceptional purchase of equipment made by one sampled company.

	2001	2002	2003	IP
S.P. net investments (1 000 EUR)	4 284	3 074	8 393	4 914
<i>Index (2001=100)</i>	<i>100</i>	<i>72</i>	<i>196</i>	<i>115</i>

*(d) Profitability and return on investments*

- (137) Profitability of the sampled producers, while showing a gradual improvement over the period considered, remained negative between 2001 (– 4,2 %) and the IP (– 0,3 %). The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the above profitability trend over the whole period considered.

	2001	2002	2003	IP
S.P. profitability of EC sales to unrelated (% of net sales)	– 4,2 %	– 1,7 %	– 1,5 %	– 0,3 %
S.P. ROI (profit in % of net book value of investments)	– 13,9 %	– 6,5 %	– 4,5 %	– 1,0 %

**▼B***(e) Cash flow and ability to raise capital*

- (138) The cash-flow situation improved between 2001 and the IP, as the above limited losses were more than offset by other non-cash items, such as assets depreciation and inventory movements.

	2001	2002	2003	IP
S.P. cash flow (EUR 1 000)	- 6 322	10 670	2 124	4 485

- (139) The investigation has shown that capital requirements of several sampled Community producers have been adversely affected by their difficult financial situation. Although several of these companies are part of large steel companies, capital requirements are not always met to the desired level, as financial resources are generally allocated within these groups to the most profitable entities.

**6.4. Conclusion**

- (140) Between 2001 and the IP, the following indicators developed positively: production capacity of the Community industry increased and closing stocks decreased. Unit sales prices of the Community industry remained flat between 2001 and the IP, profitability improved to an almost break-even situation in the IP, while return on investment and cash-flow improved as well. Wages developed moderately and the Community industry continued to invest at a stable pace.
- (141) Conversely, the following indicators developed negatively: production and capacity utilisation declined, sales volumes decreased (in line though with the development of the market), employment and productivity dropped. The market share of the Community industry slightly decreased, although the loss was clearly less pronounced than in the period preceding the adoption of anti-dumping measures when a loss of 9 percentage points of market share had been observed.
- (142) Overall, the situation of the Community industry is characterised by mixed developments: while some indicators show positive trends, a number of others show a negative one. If one compares the above trends with the ones described in the Regulations imposing provisional and definitive measures, it is clear that the introduction of the anti-dumping measures in 1999 concerning imports from India, the PRC, Ukraine and South Africa had a positive impact on the economic situation of the Community industry. Had the measures not been circumvented by imports from Moldova and Morocco, the situation might have been even more favourable. In addition, further to the imposition of anti-dumping measures on imports from Russia, Thailand and Turkey, the respective market shares of these countries declined (see recitals (116) to (119)), which certainly alleviated the pressure on prices of the Community industry. Nevertheless, it should be stressed that even indicators showing positive developments, such as in particular profitability and return on investment, are still far from reaching levels that could be expected if the Community industry had fully recovered from the injury caused.
- (143) It is therefore concluded that the situation of the Community industry has improved, as compared to the period preceding the imposition of measures, but is still fragile.

**7. LIKELIHOOD OF RECURRENCE OF INJURY**

- (144) As concluded under recital (91), the producers in the countries concerned have the potential to raise and/or redirect their export

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volumes to the Community market. The investigation showed that, on the basis of comparable product types, the cooperating exporting producers sold the product concerned at a significantly lower price than the Community industry's (58-68 % for the PRC, 47-55 % for India). As to Ukraine and South Africa, in the absence of cooperation and due to the variety of product types and thus import prices, no price comparison on a type-by-type basis could be carried out. However, the available facts indicate that both the average Ukrainian import price and the average South African import price (both without anti-dumping duty) are significantly lower than the domestic prices of the Community industry, i.e. respectively by 65 % and 25 %. These low prices would most likely continue to be charged by the countries concerned, also in order to regain their lost market shares. Such a price behaviour, coupled with the ability of the exporters in the countries concerned to deliver significant quantities of the product concerned on the Community market, would in all likelihood have the effect of reinforcing the price-depressive trend on the market, with an expected negative impact on the economic situation of the Community industry.

- (145) As shown above, although the situation of the Community industry has improved as compared to the one prevailing before the imposition of existing anti-dumping measures, it remains vulnerable and fragile. It is likely that if the Community industry were exposed to increased volumes of imports from the countries concerned at dumped prices it would result in a deterioration of its financial situation as found in the original investigation. On this basis, it is therefore concluded, that the repeal of the measures would in all likelihood result in the recurrence of injury to the Community industry.

## 8. COMMUNITY INTEREST

### 8.1. Introduction

- (146) According to Article 21 of the basic Regulation, it was examined whether maintenance of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved.
- (147) It should be recalled that, in the original investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (148) On this basis, it was examined whether, despite the conclusions on the likelihood of a continuation or recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

### 8.2. Interest of the Community industry

- (149) The Community industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation observed after the imposition of anti-dumping measures in 1999. In particular, the fact that the Community industry virtually stopped its loss of market share in the few years before the IP contrasts sharply with the situation preceding the imposition of the measures. Also, the Community industry improved its profit situation between 2001 and the IP. It is further recalled that circumvention had been found by imports from Moldova and Morocco. Had these developments not

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occurred, the situation of the Community industry would have been even more favourable.

- (150) It can reasonably be expected that the Community industry will continue to benefit from the measures currently imposed and further recover by regaining market share and improving its profitability. Should the measures not be maintained, it is likely that the Community industry will start again to suffer injury from increased imports at dumped prices from the countries concerned and that its currently fragile financial situation will deteriorate further.

**8.3. Interest of importers**

- (151) It is recalled that in the original investigation it was found that the impact of the imposition of measures would not be significant. As indicated above, no importer fully cooperated in this investigation. Therefore, it can accordingly be concluded that the maintenance of the measures will not have a significant negative effect on importers or traders.

**8.4. Interest of users**

- (152) SWR are used in a wide variety of applications and therefore a large number of user industries might be concerned. The following list of user industries is only indicative: fishing, maritime/shipping, oil and gas industries, mining, forestry, aerial transport, civil engineering, construction, elevator. In examining the possible effect of the imposition of measures on users, it was concluded in the original investigation that given the negligible incidence of the cost of SWR on the user industries, any increase in these costs was unlikely to have a significant effect on the particular user industry. The fact that no user provided any information contradicting the above finding in the frame of the current review investigation tends to confirm that: (i) SWR represent a very small part of total production costs for these user industries, (ii) the measures currently in force did not have any substantial negative effect on their economic situation, and (iii) the continuation of measures would not adversely affect the financial interests of the user industries.

**8.5. Interest of suppliers**

- (153) The original investigation concluded that suppliers of the Community industry would benefit from the imposition of measures. In the absence of any information to the contrary in the framework of this review, it is considered that the maintenance of the current measures would continue to have a positive impact on the suppliers.

**8.6. Conclusion on Community interest**

- (154) Given the above, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.

**9. ANTI-DUMPING MEASURES**

- (155) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure. No comments were received which were of a nature to change the above conclusions.
- (156) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of SWR, originating in India, the PRC, Ukraine and

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South Africa should be maintained. It is recalled that these measures consist of *ad valorem* duties, with the exception of the imports of the product concerned which are manufactured and sold for export to the Community by one Indian company and one South African company from which undertakings have been accepted.

- (157) As outlined under recital (3), the anti-dumping duties in force on imports of the product concerned from Ukraine and the PRC were extended to cover, in addition, imports of SWR consigned from Moldova and Morocco respectively, whether declared as originating in Moldova or Morocco or not. The anti-dumping duty to be maintained on imports of the product concerned, as set out in recital (156), should continue to be extended to imports of SWR consigned from Moldova and Morocco, whether declared as originating in Moldova or Morocco or not. The Moroccan exporting producer who was exempted from the measures as extended by Regulation (EC) No 1886/2004 should also be exempted from the measures as imposed by this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, falling within CN codes ex 7312 10 82 (TARIC code 7312 10 82 19), ex 7312 10 84 (TARIC code 7312 10 84 19), ex 7312 10 86 (TARIC code 7312 10 86 19), ex 7312 10 88 (TARIC code 7312 10 88 19) and ex 7312 10 99 (TARIC code 7312 10 99 19) and originating in India, the People's Republic of China, Ukraine and South Africa.

2. The rate of the definitive anti-dumping duty applicable to the CIF net, free-at-Community-frontier price, before duty, of the products manufactured by the companies listed below shall be as follows:

Country	Company	Rate of duty (%)	TARIC additional code
India	Usha Martin Limited 2A, Shakespeare Sarani Kolkata 700 071, West Bengal, India	0	8613
People's Republic of China	All companies	60,4	—
Ukraine	All companies	51,8	—
South Africa	All companies	38,6	8900

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3. The definitive anti-dumping duty applicable to imports from Ukraine, as set out in paragraph 2, is hereby extended to imports of the same steel ropes and cables consigned from Moldova, whether declared as originating in Moldova or not (TARIC codes 7312 10 82 11, 7312 10 84 11, 7312 10 86 11, 7312 10 88 11, 7312 10 99 11 respectively).

4. The definitive anti-dumping duty applicable to imports from the People's Republic of China, as set out in paragraph 2, is hereby

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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).

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► M2 5. ◀ Unless otherwise specified, the provisions in force concerning customs duties shall apply.

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This Regulation shall enter into force on the day following 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.

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