



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.11.2007  
COM(2007) 730 final

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EC) No 1858/2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in South Africa**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 23 December 2005 ('the basic Regulation') in the proceeding concerning imports of steel ropes and cables originating, *inter alia*, in South Africa.

- **General context**

This proposal is made within the context of the implementation of the basic Regulation and is the result of enquiries carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

In August 1999, the Council, by Regulation (EC) No 1796/1999, imposed a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in South Africa. In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005 decided that the anti-dumping measures applicable to imports of the product concerned originating, *inter alia*, in South Africa should be maintained. The Commission, by Decision 1999/572/EC of 13 August 1999, accepted a price undertaking from a South African company, Scaw Metals Group Haggie Steel Wire Rope ("Haggie" or the "company").

- **Consistency with other policies and objectives of the Union**

Not applicable.

### 2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The interested party concerned has already had the possibility to defend its interests, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not foresee a general impact assessment for the circumstances surrounding the present proposal.

### 3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

In August 1999, the Council, by Regulation (EC) No 1796/1999, imposed a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in South Africa. In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005 decided that the anti-dumping measures applicable to imports of the product concerned originating, *inter alia*, in South Africa should be maintained. The Commission, by Decision 1999/572/EC of 13 August 1999, accepted a price undertaking from a South African company, Scaw Metals Group Haggie Steel Wire Rope.

The company has now been found to have breached the undertaking and therefore the acceptance thereof should be withdrawn.

In view of this, it is necessary to amend Regulation (EC) No 1858/2005 so as to remove the exemption to the anti-dumping duties currently enjoyed by the afore mentioned company.

- **Legal basis**

Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 23 December 2005.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

Other means would not be adequate because the basic Regulation does not foresee alternative options.

#### **4) BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

Proposal for a

## COUNCIL REGULATION

### **amending Regulation (EC) No 1858/2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating, inter alia, in South Africa**

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<sup>1</sup>, and in particular Articles 8 and 9 thereof,

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

Whereas:

#### **A. PREVIOUS INVESTIGATION AND EXISTING MEASURES**

- (1) In August 1999, the Council, by Regulation (EC) No 1796/1999<sup>2</sup>, imposed a definitive anti-dumping duty on imports of steel ropes and cables originating, *inter alia*, in South Africa.
- (2) In November 2005, following an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 1858/2005<sup>3</sup> decided that the anti-dumping measures applicable to imports of the product concerned originating, inter alia, in South Africa should be maintained.
- (3) The Commission, by Decision 1999/572/EC of 13 August 1999<sup>4</sup>, accepted a price undertaking from a South African company, Scaw Metals Group Haggie Steel Wire Rope ("Haggie" or the "company").
- (4) As a result, imports into the Community of the product concerned of South African origin, produced by the company and of the product type covered by the undertaking (the "product covered") were exempted from the definitive anti-dumping duties.
- (5) In this regard it should be noted that certain types of steel wire ropes and cables currently produced by Haggie were excluded from the scope of the undertaking. Accordingly, such steel wire ropes and cables were liable to the payment of the anti-dumping duty when entered into free circulation in the Community.

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<sup>1</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005, OJ L 340, 23.12.2005, p. 17

<sup>2</sup> OJ L 217, 17.8.1999, p. 1.

<sup>3</sup> OJ L 299, 16.11.2005, p.1 as last amended by Regulation (EC) No 121/2006, OJ L 22, 26.1.2006, p. 1.

<sup>4</sup> OJ L 217, 17.8.1999, p. 63.

## B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (6) The undertaking offered by the company obliges it to, *inter alia*, export the product covered to the European Community above certain minimum prices (MIPs) as stated in the undertaking.
- (7) It was acknowledged by the company that, with regard to the exemption from the anti-dumping duties afforded by the undertaking, such exemption is conditional upon the presentation to the Community customs services of an "undertaking invoice". Moreover, the company undertook not to issue such undertaking invoices for sales of those types of product concerned which are not covered by the undertaking and which are therefore liable to the anti-dumping duty. The company also acknowledged that the undertaking invoices issued had to contain the information set out in the Annex of Regulation 1858/2005.
- (8) The terms of the undertaking also oblige the company to provide the Commission with regular and detailed information, in the form of a quarterly report of its sales of the product concerned to the European Community. Such reports were to include the products covered by the undertaking which benefited from the exemption from the payment of the anti-dumping duty as, well as those types of steel ropes and cables which are not covered by the undertaking and which are therefore liable to the anti-dumping duty.
- (9) It is clear that the aforementioned sales reports should be, as submitted, complete, exhaustive and correct in all particulars and that the transactions fully comply with the terms of the undertaking.
- (10) For the purpose of ensuring compliance with the undertaking, the Company also undertook to allow on-spot verification visits at its premises in order to verify the accuracy and veracity of the data submitted in the said quarterly reports and to provide all information considered necessary by the Commission.
- (11) It should be noted that the company already received a warning letter from the Commission services on 28 October 2003 for breaching the undertaking by issuing undertaking invoices for products not covered by the undertaking but otherwise being subject to the anti-dumping measures. The warning letter stated that in view of the particular circumstances under which these breaches took place it was not intended to withdraw the acceptance of the undertaking, but it was also pointed out that any subsequent infringement of the undertaking, even of a minor nature, would make it difficult for the Commission to maintain the acceptance of the undertaking from the company.
- (12) A verification visit was carried out on 5-6<sup>th</sup> February 2007 at the premises of the company in South Africa.
- (13) The verification visit to the company established that the company issued undertaking invoices for steel ropes and cables not covered by the undertaking but otherwise subject to the anti-dumping measures. It also established that the company failed to meet its obligation to respect the MIP on one occasion. Moreover, the company issued undertaking invoices not in conformity with the Annex of Regulation (EC) No 1858/2005. Furthermore, during the verification visit, it was established that the quarterly undertaking sales reports as submitted by the company were not complete, exhaustive and correct in all particulars.

(14) Commission Decision 2007/[..]/EC sets out in more detail the nature of the breaches found,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 1(5), Article 2 and the Annex of Regulation (EC) No 1858/2005 shall be deleted, and Article 1(6) thereof shall be renumbered as Article 1(5), and also Article 3 thereof shall be renumbered as Article 2.

*Article 2*

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 President*