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C(2019) 1407 final

**COMMISSION IMPLEMENTING DECISION**

**of 22.2.2019**

**concerning an application for refund of anti-dumping duties paid  
on imports of certain cold-rolled flat steel products originating in the Russian  
Federation  
(only the Czech text is authentic)**

*This is the non-confidential version of the Commission Implementing Decision C(2019) 1407 final of 22 February 2019. The Decision has been expunged of personal data pursuant to Article 4(2) of Regulation (EC) 1049/2001. The information withheld under Article 4(2) first indent concerns the identity of the undertaking that is the addressee of the Commission Decision and other commercially sensitive details. The disclosure of this information could confer an undue advantage to its competitors which could exploit this information to the detriment of the undertaking concerned, thereby undermining its commercial interests.*

# COMMISSION IMPLEMENTING DECISION

of 22.2.2019

## concerning an application for refund of anti-dumping duties paid on imports of certain cold-rolled flat steel products originating in the Russian Federation (only the Czech text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union<sup>1</sup>, and in particular Article 11(8) thereof,

After informing the Member States,

Whereas:

### A. PROCEDURE

#### Measures in force

- (1) By Implementing Regulation (EU) 2016/1328<sup>2</sup>, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of certain cold rolled flat steel products originating in the People's Republic of China and the Russian Federation ('the product concerned'). The rates of the anti-dumping duty for the individual Russian exporting producers were set in the range between 18,7 % and 34 % and the rate of the anti-dumping duty for all other companies was set at 36,1 %.
- (2) By Implementing Regulation (EU) 2016/1329<sup>3</sup>, the Commission levied the definitive anti-dumping duty on the registered imports of the product concerned for the period 13 December 2015 to 12 February 2016, namely during the registration period<sup>4</sup>. The rates of the anti-dumping duty for the individual Russian exporting producers were set in the range between 18,7 % and 25,4 %. The rate of the anti-dumping duty for all other companies was set at 26,2 %.

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<sup>1</sup> Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8.6.2016 (OJ L 176, 30.6.2016, p. 21) repealing Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

<sup>2</sup> Commission Implementing Regulation (EU) 2016/1328 of 29 July 2016 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cold rolled flat steel products originating in the People's Republic of China and the Russian Federation (OJ L 210, 4.8.2016, p. 1).

<sup>3</sup> Commission Implementing Regulation (EU) 2016/1329 of 29 July 2016 levying the definitive anti-dumping duty on the registered imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation (OJ L 210, 4.8.2016, p. 27).

<sup>4</sup> The Commission made the product concerned subject to registration by Implementing Regulation (EU) 2015/2325 of 11 December 2015 making imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation subject to registration, OJ L 328, 12.12.2015, p. 104.

## Refund application

- (3) On 13 March 2017, [omissis], ('the applicant'), a Czech importer, submitted via the relevant Czech authority an application for a refund of anti-dumping duties pursuant to Article 11(8) of Regulation (EU) 2016/1036 ('the basic Regulation'). The application related to duties paid on three import transactions of the product concerned originating in the Russian Federation and subject to a duty rate of 26,2 %.
- (4) The total amount of anti-dumping duties for which a refund was claimed is [omissis]. The related three import transactions were customs cleared in December 2015, i.e. during the registration period and therefore subject to retroactive collection of the definitive anti-dumping duties. The anti-dumping duties were levied by the customs authorities in September 2016. The goods concerned were manufactured by the Russian exporting producer [omissis] and sold to the applicant via the unrelated Czech trader [omissis].

## Refund investigation periods

- (5) The investigation of the dumping margin of the exporting producer was set to cover the period 1 July 2015 to 31 December 2015 ('refund investigation period').

### B. ARGUMENTS OF THE APPLICANT

- (6) The applicant claimed that the dumping margin on the basis of which anti-dumping duties were paid was eliminated or reduced below the level of the duty in force at the time and therefore requested the anti-dumping duties paid to be reimbursed.

### C. ADMISSIBILITY

- (7) The application relating to the request referred to in recital (3) was submitted within the time limit applicable to refund requests and contained sufficient evidence and precise information on the amount of refund of anti-dumping duties claimed. Therefore, the application was admissible under Article 11(8) of the basic Regulation.
- (8) The application was considered to have been duly supported by evidence as of 9 February 2018, the date on which full evidence on export prices and normal values was submitted.

### D. MERITS OF THE APPLICATION

#### General

- (9) The Commission sought and verified all the information deemed necessary to determine the exporting producer's dumping margin. The exporting producer [omissis] uses its related trading company [omissis] for all exports of the product concerned to the Union. Therefore, a verification visit was carried out at the premises of the following companies:
  - [omissis], the exporting producer,
  - [omissis] related trader.

#### Normal value

- (10) The Commission first examined whether the total volume of domestic sales for the exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the refund investigation period. On this basis, the total

sales by the exporting producer of the like product on the domestic market were representative.

- (11) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producer with representative domestic sales.
- (12) The Commission then examined whether the domestic sales by the exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the refund investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (13) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the refund investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (14) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if
  - the sales volume of the 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 this product type; and
  - the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (15) The analysis of domestic sales showed that all domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of all domestic sales during the refund investigation period.
- (16) Where there were no or insufficient sales of certain product types of the like product, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation. For such product types normal value was constructed by adding the following to the average cost of production of the like product of the exporting producer during the refund investigation period:
  - the weighted average selling, general and administrative ('SG&A') expenses incurred by the exporting producer on domestic sales of the like product, in the ordinary course of trade, during the refund investigation period; and
  - the weighted average profit realised by the exporting producer on domestic sales of the like product, in the ordinary course of trade, during the refund investigation period.
- (17) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profits of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average amounts for SG&A expenses and profits of all transactions made in the ordinary course of trade on the domestic market were added.

## **Export price**

- (18) The exporting producer exported to the Union through a related [omissis] trader/importer.
- (19) The export price was established in accordance with Article 2(9) of the basic Regulation on the basis of prices at which the imported products were first resold to an independent buyer, adjusted for all costs incurred between importation and resale, as well as a reasonable margin for SG&A and for profits.
- (20) Pursuant to Article 11(9) of the basic Regulation, the Commission followed the same methodology as that which was used in the investigation which led to the duty, including the usage of the contract date for currency conversion and the construction of the export price (pursuant to Article 2(9) of the basic Regulation), using the SG&A expenses as reported by the related trader/importer and a 2 % profit margin as established in the investigation which led to the duty.

## **Comparison**

- (21) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport related costs, sales commissions, credit costs and bank charges.

## **Dumping margin**

- (22) As provided for under Article 2(11) and Article 2(12) of the basic Regulation, for the refund investigation period, the weighted average normal value was compared with the weighted average export price of the product concerned. This comparison showed the existence of dumping for the refund investigation period.
- (23) The dumping margin for the exporting producer, expressed as a percentage of the net, free-at-Union-frontier price, duty unpaid, was found to be 18,5 %.

### **E. REFUND CALCULATION**

- (24) Following the refund investigation, the revised anti-dumping duty rates that would be applicable to the registered imports of the product concerned manufactured by [omissis] amounts to 18,5 % in the refund investigation period.
- (25) For the transactions customs cleared during the refund investigation period, the exporting producer has been able to demonstrate that the anti-dumping duty (18,5 %) should have been lower than the level of the duty applied for the same period (26,2 %). Accordingly, the application for a refund is accepted for an amount corresponding to the difference (7,7 %) between the duty actually paid and the duty which would result in the refund investigation period.
- (26) The total amount to be refunded to the applicant is therefore [omissis].

### **F. DISCLOSURE**

- (27) On 18 October 2018, a disclosure of the essential facts and considerations on the basis of which it was intended to amend the duty rate applicable to the refund investigation period was sent to the exporting producer. The exporting producer did not make any comments.

- (28) On 15 January 2019, a disclosure of the above findings on the basis of which it was intended to propose to adopt a Commission Decision granting a partial refund was sent to the applicant. The applicant did not make any comments.

#### **G. CONCLUSION**

- (29) On the basis of the findings of this investigation, it is concluded that a comparison between the dumping margin established during the refund investigation period and the anti-dumping duty in force shows that a refund should be granted for an amount of [omissis], whilst the application should be rejected in respect of the remaining [omissis].
- (30) The applicant is hereby informed of its right under Article 263(4) of the Treaty of the Functioning of the European Union to bring an action before the Court of Justice within two months of the notification of this Decision,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The refund application submitted by [omissis] in respect of anti-dumping duties paid on imports of certain cold rolled flat steel products originating in the Russian Federation is partially granted in the amount of [omissis].

#### *Article 2*

This Decision is addressed to [omissis] and to the Czech Republic.

Done at Brussels, 22.2.2019

*For the Commission*  
*Cecilia MALMSTRÖM*  
*Member of the Commission*