

## COMMISSION IMPLEMENTING DECISION

of 11.4.2019

**concerning an application for refund of anti-dumping duties paid on imports of certain stainless steel wires originating in India  
(only the Spanish and English texts are authentic)**

*"This is the non-confidential version of the Commission Implementing Decision C(2019)2716 of 11 April 2019. The Decision has been expunged of 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."*

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, and in particular Article 11(8) thereof,

After informing the Member States,

Whereas:

### A. PROCEDURE

- (1) By Implementing Regulation (EU) No 1106/2013<sup>1</sup>, the Council imposed a definitive anti-dumping duty on imports of certain stainless steel wires originating in India, ('the anti-dumping measures in force'). The rates of the anti-dumping duty for individual Indian exporting producers were set in the range between 0% and 12.5% and the rate of the anti-dumping duty for all other companies was set at 12.5%.
- (2) By Implementing Regulation (EU) No 861/2013<sup>2</sup>, the Council imposed a definitive countervailing duty on imports of the product concerned. The rates of the countervailing duty for individual Indian exporting producers were set in the range between 0% and 3.7% ([omissis]) and the rate of the countervailing duty for all other companies was set at 3.7%.
- (3) By Implementing Regulation (EU) 2015/1483<sup>3</sup>, the European Commission ('the Commission') amended the anti-dumping measures following an absorption

<sup>1</sup> Council Implementing Regulation (EU) No 1106/2013 of 5 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India (OJ L 298, 8.11.2013, p. 1).

<sup>2</sup> Council Implementing Regulation (EU) No 861/2013 of 2 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India (OJ L 240, 7.9.2013, p. 1).

<sup>3</sup> Commission Implementing Regulation (EU) 2015/1483 of 1 September 2015 amending Council Implementing Regulation (EU) No 1106/2013 imposing a definitive anti-dumping duty and collecting

reinvestigation pursuant to Article 12 of 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 ('the basic Regulation')<sup>4</sup>. The rates of the anti-dumping duty for individual Indian exporting producers were adjusted in the range between 0% and 12.5% and the rate of the anti-dumping duty for all other companies was kept at 12.5%.

- (4) By Implementing Regulation (EU) 2017/220<sup>5</sup>, the Commission amended the anti-dumping measures following an interim review request lodged *inter alia* by [omissis]<sup>6</sup>, pursuant to Article 11(3) of the basic Regulation. [omissis].

### **Refund application**

- (5) On 20 July 2016, "[omissis]" ('the applicant'), an Indian exporting producer that also acted as an importer, submitted via the Spanish authorities an application for a refund of anti-dumping duties pursuant to Article 11(8) of the basic Regulation. The application related to duties paid on imports of the product concerned and subject to the duty rate of 9.4% for the anti-dumping measures in force until 9 February 2017.
- (6) The total amount of anti-dumping duties for which a refund is claimed is EUR "[omissis]". The transaction, for which a refund was claimed, were invoiced on Delivered Duty Paid commercial term by the same company "[omissis]" but in its capacity of an exporting producer, being part of "[omissis]" ('the exporting producer'), on 27 January 2016.

### **B. ARGUMENTS OF THE APPLICANT**

- (7) The applicant claimed that its 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**

- (8) The application relating to the request referred to in recital (5) did not meet the conditions established by Article 11(8) of basic Regulation and, therefore, is rejected as inadmissible. In particular, the transaction for which a refund was claimed was not supported by the relating customs document as delivered by Spanish customs. Therefore, there is no evidence that the import declaration for which a refund is claimed has been presented for customs clearance and that the anti-dumping duties were paid.
- (9) The Commission informed the applicant accordingly and provided it with information on the inadmissibility of the application.

### **F. DISCLOSURE**

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definitively the provisional duty imposed on imports of certain stainless steel wires originating in India following and absorption reinvestigation pursuant to Article 12 of Council Regulation (EC) No 1225/2009 (OJ L 228, 2.9.2015, p. 1).

<sup>4</sup> Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 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>5</sup> Commission Implementing Regulation (EU) 2017/220 of 8 February 2017 amending Council Implementing Regulation (EU) No 1106/2013 imposing a definitive anti-dumping duty on imports of certain stainless steel wires originating in India following a partial interim review under Article 11(3) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 34, 9.2.2017, p. 21).

<sup>6</sup> [omissis]

- (10) On 21 January 2019 a disclosure of the above findings on the basis of which it was intended to propose to adopt a Commission Decision concluding on the inadmissibility of a request for refund was sent to the applicant.
- (11) Following this disclosure, the applicant provided comments on the calculation of the SG&A of the exporting producer. These comments were duly taken into account, however did not change the conclusion in the decision.
- (12) On 22 March 2019 an additional disclosure was provided to the applicant. No comments were received to this additional disclosure.

#### **G. CONCLUSION**

- (13) On the basis of the findings of the present investigation, it is concluded that the application for a refund is rejected as inadmissible.
- (14) 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 its imports of certain stainless steel wires originating in India is rejected as inadmissible.

#### *Article 2*

This Decision is addressed to "[omissis]", and to the Kingdom of Spain.

Done at Brussels, 11.4.2019

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

