

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)2740 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 1106/2013¹, the Council imposed a definitive anti-dumping duty on imports of certain stainless steel wires originating in India, ('the product concerned'). 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 861/2013², 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% and the rate of the countervailing duty for all other companies was set at 3.7%.
- (3) By Implementing Regulation (EU) 2015/1483³, the European Commission ('the Commission') amended the anti-dumping measures following an absorption

¹ 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).

² 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).

³ 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 the 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')⁴. 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) 2017/220⁵, the Commission amended the anti-dumping measures following an interim review request lodged *inter alia* by [omissis]⁶, pursuant to Article 11(3) of the basic Regulation. [omissis].

Refund application

- (5) Between 30 October 2017 and 2 November 2017, "[omissis]" ('the applicant'), an Indian exporting producer who also acted as importer, submitted via the Spanish authorities two applications for a refund of anti-dumping duties pursuant to Article 11(8) of the basic Regulation. The applications related to duties paid on imports of certain stainless steel wires originating in India and subject to the duty rate of 9.4% for the anti-dumping measures in force from 3 September 2015 until 9 February 2017 and of 6.9% for the anti-dumping measures in force from 10 February 2017 onwards.
- (6) The total amount of anti-dumping duties for which a refund is claimed is EUR "[omissis]". The relating two transactions, for which a refund was claimed, were invoiced on Delivered Duty Paid commercial term by the applicant, being part of "[omissis]" ('the exporting producer') on 30 March 2017 and on 4 April 2017 respectively.

B. ARGUMENTS OF THE APPLICANT

- (7) The applicant claimed that the dumping margin of the exporting producer, 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) was introduced in conformity with the relevant provisions of the basic Regulation, notably in respect of time limits, and it contained information on the amount of refund of anti-dumping duties claimed.
- (9) However, the two transactions submitted for refund did not meet the conditions established by Article 11(8) of basic Regulation.

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).

⁴ 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).

⁵ 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).

⁶ [omissis]

- (10) In particular, one transaction was not supported by the relating customs document, as delivered by Spanish customs, and, therefore, there is no evidence that the import declaration for which a refund is claimed was presented for customs clearance. In addition, according to the documents supporting the application and as confirmed by the relevant Spanish authority the anti-dumping duties regarding both transactions, for which a refund is claimed, were not paid by the applicant. The application is therefore rejected in its entirety as inadmissible.
- (11) The Commission informed the applicant accordingly and provided it with information on the inadmissibility of the application.

F. DISCLOSURE

- (12) 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 rejecting the application for a refund was sent to the applicant.
- (13) 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.
- (14) On 22 March 2019 an additional disclosure was provided to the applicant. No comments were received to this additional disclosure.

G. CONCLUSION

- (15) It is concluded that, since the application for a refund of anti-dumping duties did not meet the conditions established by Article 11(8) of the basic Regulation, the application is rejected as inadmissible.
- (16) 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.

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

