



Brussels, 27.5.2020

C(2020) 3258 final	This Decision is addressed to [omissis] and to the Kingdom of Spain.
C(2020) 3261 final	This Decision is addressed to [omissis] and to the Italian Republic.
C(2020) 3262 final	This Decision is addressed to [omissis] and to the Republic of Malta.
C(2020) 3263 final	This Decision is addressed to [omissis] and to the Republic of Poland.
C(2020) 3264 final	This Decision is addressed to [omissis] and to the French Republic.
C(2020) 3265 final	This Decision is addressed to [omissis] and to the Republic of Poland.
C(2020) 3266 final	This Decision is addressed to [omissis] and to the Republic of Poland.
C(2020) 3273 final	This Decision is addressed to [omissis] and to the Italian Republic.
C(2020) 3274 final	This Decision is addressed to [omissis] and to the United Kingdom of Great Britain and Northern Ireland
C(2020) 3275 final	This Decision is addressed to [omissis] and to the Republic of Poland.
C(2020) 3280 final	This Decision is addressed to [omissis] and to the Republic of Poland.
C(2020) 3281 final	This Decision is addressed to [omissis] and to the Republic of Croatia.
C(2020) 3283 final	This Decision is addressed to [omissis] and to the French Republic.

"This is the non-confidential version of the Commission Implementing Decision C(2020) 3258 final C(2020) 3261 final C(2020) 3262 final C(2020) 3263 final C(2020) 3264 final C(2020) 3265 final C(2020) 3266 final C(2020) 3273 final C(2020) 3274 final C(2020) 3275 final C(2020) 3280 final C(2020) 3281 final C(2020) 3283 final of 27 May 2020. 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 27.5.2020

concerning applications for refund of countervailing duties paid on imports of tubes and pipes of ductile cast iron originating in India (only the English text is authentic)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union¹, and in particular Article 21(3) thereof, in conjunction with Article 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community,

After having informed the Member States, Whereas:

PROCEDURE

1. Measures in force

- (1) By Commission Implementing Regulation (EU) 2016/387 of 17 March 2016 ('the original Regulation')², the European Commission ('the Commission') imposed a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) ('DCIT'), originating in India ('the product concerned').
- (2) The individual rate of the definitive countervailing duty of *[omissis]*.

2. Refund applications

- (3) In the period between September 2016 and September 2018, *[omissis]* ('the applicant'), *[omissis]*, submitted information and applied for a refund of countervailing duties via the authorities of *[omissis]* ('the applications') pursuant to Article 21 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('the basic Regulation'). The applications related to duties paid on imports of ductile cast iron pipes originating in India, sold by *[omissis]*.
- (4) The total amount of countervailing duties for which a refund is claimed is *[omissis]* covering around *[omissis]* transactions released for free circulation into the Union, for the period between 1 January 2016 to 31 March 2018.

3. Refund investigation periods

- (5) Two refund periods were set ('refund investigation periods'):
 - from 1 January 2016 to 31 March 2017 ('RIP1') and

¹ OJ L 176, 30.6.2016, p. 55.

² Commission Implementing Regulation (EU) 2016/387 of 17 March 2016 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India (OJ L 73, 18.3.2016, p. 1).

- from 1 April 2017 to 31 March 2018 ('RIP2'). This period coincides with the period of parallel interim review investigations on the level of dumping and subsidies for *[omissis]*.

ARGUMENTS OF THE APPLICANT

- (6) The applicant claimed that the amount of subsidisation based on which countervailing duties were paid was eliminated or reduced below the level of the duty in force at the time and therefore requested the countervailing duties paid to be reimbursed accordingly.

ADMISSIBILITY

- (7) The request for refund contained the precise information on the amount of refund of countervailing duties claimed and all customs documentation relating to the calculation and payment of such amount, as mentioned in recital (4). However, the request did not contain the necessary evidence, for a representative period, of the amount of countervailable subsidies for the exporter or producer to which the duty applies, as required pursuant to Article 21(3), second sentence, of the basic Regulation.
- (8) In order to obtain the information deemed necessary for the refund investigation periods, the Commission sent questionnaires to the concerned exporting producer (namely *[omissis]*) and the Government of India ('GoI') and received replies within the deadlines set for that purpose. *[omissis]*.
- (9) However, as further explained in detail in the sections below, *[omissis]* failed to provide all the necessary information the Commission requested within a reasonable period of time.
- (10) Therefore, in accordance with Article 21(3) fourth sentence of the basic Regulation and the notion of "duly supported evidence" in the Commission Notice concerning the reimbursement of anti-dumping duties³, and contrary to the inaccurate statement made in the disclosure dated 24 September 2019⁴ (as raised by the applicant in its comments on the disclosure and further clarified with the applicant at the hearing on 8 November 2019), the Commission concluded that the applications for refund relating to the request referred to in recital (4) should be rejected since it was not duly supported by sufficient evidence submitted by the exporting producer within a reasonable period of time.

1. Background

- (11) In order to obtain the information deemed necessary for the refund investigation periods, the Commission sent questionnaires to the concerned exporting producer (namely *[omissis]*) and the Government of India and received replies within the deadlines set for that purpose.

³ Commission Notice concerning the reimbursement of anti-dumping duties (OJ C 164, 29.5.2014, p. 9), and in particular p. 13 ("The application will only be considered duly supported by evidence when all requested information and the completed questionnaires (including replies to any material deficiencies which may have been identified) have been received by the Commission").

⁴ Such disclosure stated in recital (8) that "the application was also duly supported by sufficient evidence as of 9 February 2018, the date on which full evidence on subsidisation was submitted". This statement was clearly incorrect in view of the conclusions contained in the disclosure that the request for refunds should be rejected pursuant to Article 21(3), fourth sentence.

- (12) [omissis].
 (13) [omissis]⁵⁶⁷⁸⁹¹⁰.
 (14) [omissis].

2. Proceedings

- (15) [omissis].
 (16) [omissis]¹¹¹²¹³.
 (17) [omissis].
 (18) [omissis].
 (19) [omissis].
 (20) [omissis].
 (21) [omissis].
 (22) [omissis].

Annual Reports / Expressed in lakhs*	2014-2015 ¹⁴	2015-2016 ¹⁵	2016-2017 ¹⁶	2017-2018 ¹⁷
Exports sales	[omissis]	[omissis]	[omissis]	[omissis]
Incentives on exports	[omissis]	[omissis]	[omissis]	[omissis]
*1lakh = 100 000 INR				

- (23) [omissis].

⁵ Source : [omissis].

⁶ Source: [omissis]. File case number t20.003181.

⁷ Source: [omissis]. File case number t20.003181.

⁸ Source: [omissis]. File case number t20.003181.

⁹ Source : [omissis].

¹⁰ [omissis]. The submission t19.001373 dated on 1 March 2019, p. 3.

¹¹ File case number t19.000642.

¹² File case number t19.000643.

¹³ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558), In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

¹⁴ Source: [omissis]. File case number t20.003181.

¹⁵ Source: [omissis]. File case number t20.003181.

¹⁶ Source: [omissis]. File case number t20.003181.

¹⁷ Source: [omissis]. File case number t20.003181.

(24) *[omissis]*¹⁸¹⁹.

(25) *[omissis]*.

(26) *[omissis]*.

3. Comments received after disclosure on “Proceedings” point

(27) *[omissis]*.

(28) *[omissis]*²⁰.

(29) *[omissis]*²¹²²²³²⁴²⁵.

(30) *[omissis]*.

(31) *[omissis]*.

(32) *[omissis]*²⁶.

(33) *[omissis]*:

(34) *[omissis]*.

(35) *[omissis]*²⁷.

(36) *[omissis]*²⁸²⁹.

(37) *[omissis]*.

(38) *[omissis]*³⁰³¹.

(39) *[omissis]*³²³³³⁴.

(40) *[omissis]*³⁵.

(41) *[omissis]*³⁶³⁷³⁸.

¹⁸ *[omissis]*. File case number t20.003181.

¹⁹ Source: *[omissis]*. File case number t20.003181.

²⁰ See judgment in Case C-226/18 *Krohn & Schroeder*, paras. 33 and 34.

²¹ *[omissis]*.

²² *[omissis]*.

²³ File case number t18.007909.

²⁴ *[omissis]*.

²⁵ 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 (OJ L 176, 30.6.2016, p. 21).

²⁶ Panel Report, *Korea – Paper*, para. 7.162. See also Panel Report, *EC – Fasteners*, para. 7.92; Case C-250/85 *Brother Industries V Council*, para. 16 ; Joined Cases C-191/09 P and C-200/09 P, *Council v Interpipe Nikopolsky*, para. 52.

²⁷ *[omissis]*. File case number t20.003181.

²⁸ *[omissis]*. File case number t20.003181.

²⁹ *[omissis]*. File case number t20.003181.

³⁰ *[omissis]*. File case number t20.003181.

³¹ *[omissis]*. File case number t20.003181.

³² *[omissis]*. File case number t20.003181.

³³ *[omissis]*. File case number t20.003181.

³⁴ *[omissis]*. File case number t20.003181.

³⁵ File case number t20.003181. Source: *[omissis]*.

³⁶ *[omissis]*

³⁷ *[omissis]*

- (42) *[omissis]*.
- (43) *[omissis]*.
- (44) *[omissis]*³⁹⁴⁰.
- (45) *[omissis]*⁴¹⁴².
- (46) *[omissis]*⁴³⁴⁴.
- (47) *[omissis]*⁴⁵.
- (48) *[omissis]*⁴⁶.
- (49) *[omissis]*.
- (50) *[omissis]*.
- (51) *[omissis]*⁴⁷.
- (52) *[omissis]*.
- (53) *[omissis]*.
- (54) *[omissis]*.
- (55) *[omissis]*⁴⁸.
- (56) In light of the above, the Commission concluded that the applicant failed to duly substantiate its applications for a refund in accordance with Article 21(3) of the basic Regulation. In particular, the applicant failed to provide the necessary evidence concerning the amount of countervailable subsidies within a reasonable period of time. For the sake of completeness, the Commission will address in sections 4 and 5 the evidence available showing that *[omissis]* benefited from subsidies also during the RIPs, which again justified the need for the Commission to receive the replies from *[omissis]*.
4. Export Promotion of Capital Goods Scheme ('EPCGS')
- (57) On the basis of *[omissis]*'s annual reports, the Commission established that *[omissis]* imported equipment's under the Export Promotion Capital Goods Scheme for

³⁸ *[omissis]*. File case number t20.003181.

³⁹ Source: *[omissis]*.

⁴⁰ Exhibit 42 of the mission report. File case number t20.003181.

⁴¹ *[omissis]*.

⁴² Please refer to point 3.2 of the Response to the General Disclosure Document dated on 21 October 2019.

⁴³ *[omissis]*.

⁴⁴ Please refer to point 3.2 of the Response to the General Disclosure Document dated on 21 October 2019.

⁴⁵ *[omissis]*.

⁴⁶ File case number t18.011500.

⁴⁷ Similarly, as stated in the Commission Notice concerning the reimbursement of anti-dumping duties, point 2.5 thereof, an exporting producer cannot partially cooperate by submitting selective data. Such approach would lead the Commission to the conclusion that it was not cooperating and to the rejection of the application.

⁴⁸ *[omissis]*.

[omissis] and therefore the company did not pay duties on the equipment imported in accordance with the conditions of application of EPCGS⁴⁹.

4.1. Legal basis

(58) The detailed description of EPCGS benefits and obligations is contained in chapter 5 of the FTP 2009-2014 as well as in chapter 5 Handbook of Procedures ('HOP') 2009-2014 and in chapter 5 of FTP 2015-2020 as well as in chapter 5 HOP 2015-2020.

4.2. Eligibility

(59) Manufacturing-exporters, merchant-exporters 'tied to' supporting manufacturers and service providers are eligible for this measure.

4.3. Practical implementation

(60) Under the condition of an export obligation, a company is allowed to import capital goods (new and second-hand capital goods up to 10 years old) at a reduced duty rate. To this end, the GoI issues, upon application and payment of a fee, an EPCGS licence. The scheme provides for a reduced import duty rate applicable to all capital goods imported under the scheme. In order to meet the export obligation, the imported capital goods must be used to produce a certain amount of goods deemed for export during a certain period.

(61) Under the FTP 2015-2020 the capital goods can be imported with a 0 % duty rate under EPCGS. The export obligation which amounts to six times the duty saved must be fulfilled within a period of maximum six years.

(62) The EPCGS licence holder can also source the capital goods indigenously. In that case, the indigenous manufacturer of capital goods may avail itself of the benefit for duty free import of components required to manufacture such capital goods. Alternatively, the indigenous manufacturer can claim the benefit of deemed export in respect of supply of capital goods to an EPCGS licence holder.

4.4. Conclusion on EPCGS

(63) The EPCGS provides subsidies within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation. The duty reduction constitutes a financial contribution by the GoI since this concession decreases the GoI's duty revenue which would be otherwise due. In addition, it confers a benefit upon the exporter equal to the amount of the duty reduction.

(64) Furthermore, the EPCGS is contingent in law upon export performance, since those licences cannot be obtained without a commitment to export. Therefore, it is deemed to be specific and countervailable under Article 4(4), first subparagraph, point (a) of the basic Regulation.

(65) The EPCGS cannot be considered a permissible duty drawback system or substitution drawback system within the meaning of Article 3(1)(a)(ii) of the basic Regulation. Capital goods are not covered by the scope of such permissible systems, as set out in Annex I point (i), of the basic Regulation, because they are not consumed in the production of the exported products.

4.5. Calculation of the subsidy amount

⁴⁹ Source: [omissis]. File case number t20.003181.

- (66) *[omissis]*.⁵⁰ Therefore, the Commission had to use the facts available in order to estimate the benefits obtained by *[omissis]*.
- (67) As from 2013-2014, *[omissis]*'s the annual reports provide the export obligations commitments. The table below provides the export obligation amounts.

Closing balance at (expressed in lakhs INR)*	31/03/2013 ⁵¹	31/03/2014 ⁵²	31/03/2015 ⁵³	31/03/2016 ⁵⁴	31/03/2017 ⁵⁵	31/03/2018 ⁵⁶
Export obligation commitments under EPCGS	<i>[omissis]</i>	<i>[omissis]</i>	<i>[omissis]</i>	<i>[omissis]</i>	<i>[omissis]</i>	<i>[omissis]</i>
*Source: <i>[omissis]</i>						

- (68) The advantages can be estimated on the basis of the export obligation commitments. For the period 2009-2014, *[omissis]* had to export 8 times the amount of duties saved and for the period 2015-2020, it was 6 times.
- (69) On the basis of the table above, the amount of duties saved was estimated at approximately *[omissis]* lakhs INR⁵⁷.
- (70) In the absence of *[omissis]* information on EPCGS (in particular the authorization date and the duties saved for each authorization), the Commission can only make an estimation of the amount of duties saved by *[omissis]*. The annual reports do not provide the variation inside each accounting period. An increase or a decrease in the commitments show only that the exports were higher or lower compared with new additional authorizations.
- (71) For the period between 1 April 2009 to 31 March 2014, some export obligations may have been fulfilled by a related party as FTP 2009-2014 prevailed that up to 50 % of the export obligation may also be fulfilled by exporting other goods(s) manufactured or service(s) provided by the same *[omissis]*. Evidence collected during the verification visit in *[omissis]*'s premises show that some *[omissis]*'s customs export document mentions *[omissis]* that the amount exported should be considered for *[omissis]*'s EPCGS.
- (72) Therefore, on the basis of the above, the Commission considered that the amount of *[omissis]* lakhs INR is a conservative estimation of the benefit received *[omissis]*.
- (73) In order to calculate the benefit, the Commission needs to apply appropriate depreciation rules for each asset covered by EPCGS. The annual reports provide this information for different categories of plants and machinery. For example, the continuous process plant is depreciated in 15 years, while the value of the power plant

⁵⁰ Source: *[omissis]*. File case number t20.003181.
⁵¹ Source: *[omissis]*. File case number t20.003181.
⁵² Source: *[omissis]*. File case number t20.003181.
⁵³ Source: *[omissis]*. File case number t20.003181.
⁵⁴ Source: *[omissis]*. File case number t20.003181.
⁵⁵ Source: *[omissis]*. File case number t20.003181.
⁵⁶ Source: *[omissis]*. File case number t20.003181.
⁵⁷ Source: *[omissis]*. File case number t20.003181

depreciates in 40 years. In the absence of questionnaire reply, the Commission decided to use an average of 20 years for estimating the relevant depreciation of the relevant equipment.

- (74) The Commission allocated the benefit in proportion of the assets used in the production of DCIT by the [omissis]. Regarding [omissis], in the absence of questionnaire reply and detailed allocation of EPCGS benefit per assets (i.e. assets used directly or indirectly in the production of the product concerned), the Commission had to rely on the facts available to estimate DCIT EPCGS amount. Therefore, the Commission decided to allocate the estimation of DCIT EPCGS amount on the basis of the production capacity of finished products as contained in [omissis]'s 2017-2018 annual report.⁵⁸ In view of the facts that the calculations already showed benefit and that the amount of subsidisation is in any case only an estimate because of the non-cooperation, in this case the Commission refrained from adding interests in order to reflect the full value of benefit over time.

Annual report period / Expressed in lakhs INR	01/04/2016	01/04/2017
	31/03/2017	31/03/2018
[omissis]total DCIT export turnover	[omissis]	[omissis]
[omissis] Depreciation duties saved	[omissis]	[omissis]
In %	[omissis] %	[omissis] %

- (75) The Commission estimated the advantage obtained on the basis of the information available at a minimum of [omissis] % for RIP1 and [omissis] % for RIP2.
- (76) Moreover, the [omissis] received additional support, because the export commitments linked to the benefits from this scheme (and in particular, the export commitments agreed by [omissis]) were not enforced as originally foreseen.
- (77) From the issuing date of the authorisation, the applicant had 8 years to fulfil the obligation for the authorization issued under the FTP 2009-2014 and 6 years for the authorization issued under the FTP 2015-2020. Failing that deadline, it would have pay the duty, plus an interest rate of 15 % per annum and face a tax penalty for all the EPCGS authorization expired.
- (78) EPCGS authorization issued under FTP rules 2009-2014, before 3 March 2008 and 2 April 2009 have expired during RIP1 and before 3 April 2009 and 2 April 2010 during RIP2.
- (79) [omissis]⁵⁹⁶⁰⁶¹.
- (80) [omissis]
- 6263 .
 - 6465 .

⁵⁸ Source: [omissis]. File case number t20.003181.

⁵⁹ Source: [omissis]. File case number t20.003181.

⁶⁰ Source: [omissis]. File case number t20.003181.

⁶¹ Source: [omissis]. File case number t20.003181.

⁶² [omissis]. Source: [omissis]. File case number t20.003181.

⁶³ Source: [omissis]. File case number t20.003181.

- (81) *[omissis]*.
- (82) *[omissis]*⁶⁶.
- (83) *[omissis]*⁶⁷.
- (84) *[omissis]*⁷¹. On that basis, the Commission estimated the advantage obtained on the basis of the information available at a minimum of *[omissis]*.
- (85) Thus, on the basis of facts available, and contrary to *[omissis]*'s claims, the Commission concluded that *[omissis]* appeared to have benefited from subsidies from the EPCG scheme during the refund periods.

4.6. Comments received after disclosure on EPCGS

- (86) The applicant claimed that *[omissis]* did not obtain any benefit and financial contribution. Furthermore, the applicant claimed that there is no evidence from publicly available document that the imported equipment under EPCGS was used to produce DCIT.
- (87) As correctly noted by the applicant, in the absence of *[omissis]*, the Commission had to use facts available to estimate as much as possible the benefit obtained by *[omissis]* through EPCGS since the initiation of the project. The main source was *[omissis]*. However, during the investigation the Commission collected information showing that *[omissis]* imported equipment for *[omissis]* under EPCGS⁶⁸⁶⁹. *[omissis]*. Therefore, in the absence of *[omissis]*'s questionnaire reply, the Commission considered that the methodology used to estimate EPCGS benefit was reasonable. The claim was therefore rejected.

5. Other potential subsidies received by *[omissis]* during the refund periods

5.1. Provision of iron ore for less than adequate remuneration (Article 3(1)(a)(iii) of the basic Regulation)⁷⁰

5.1.1. Practical implementation

- (88) The original investigation established that the GoI entrusted the iron ore mining companies to provide iron ore at less than adequate remuneration by imposing a system of export restraints. The Commission considered that this provision of goods constitutes a financial benefit for the recipient and is specific, thus countervailable.

5.1.1.1. Calculation of the subsidy amount

- (89) In order to establish the *[omissis]* subsidy rate for this scheme, it is necessary to obtain from *[omissis]* detailed information regarding its purchase price of iron ore, the volume, the purity and the moisture content (information which is not publicly available). Since the Commission did not obtain such information, it could not calculate the amount of subsidisation conferred upon *[omissis]*. Since DCIT is an

⁶⁴ Source: *[omissis]*. File case number t20.003181.

⁶⁵ Source: *[omissis]*. File case number t20.003181.

⁶⁶ Source: *[omissis]*.

⁶⁷ Source: *[omissis]*. File case number t20.003181.

⁶⁸ Source: *[omissis]*. File case number t20.003181.

⁶⁹ Export shipping bill *[omissis]*.

⁷⁰ Please refer to point 3.2.4 of Commission Implementing Regulation (EU) 2016/387 of 17 March 2016 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India (“the original Regulation”) OJ L 73, 18.3.2016, p.

important product for *[omissis]*, the subsidy amount of this scheme may be significantly affected by benefit received by *[omissis]*.

- (90) Therefore, the Commission considered that *[omissis]*'s data was necessary to calculate the subsidy amount for this scheme. Without such information the Commission could not calculate a possible refund amount. Moreover, no evidence was provided by *[omissis]* that the price paid by the companies within the *[omissis]* of iron ore was above the FOB Australian price of iron ore used as a benchmark in the original investigation.

5.1.1.2. Comments received after disclosure on provision of iron ore

- (91) The applicant claimed that, by applying to the purchase of iron ore the same calculation methodology and approach used during the original investigation on the full data submitted and verified by the Commission Services, there should not be a benefit on account of iron ores purchases for *[omissis]*. Therefore, the applicant considers that the Commission has no basis to assume that *[omissis]* would have received any subsidy on account of iron ore purchases and violated Articles 3(1) and (2) and 21(3) of the basic Regulation.
- (92) As correctly noted by the applicant, in the absence of *[omissis]*, the Commission could not draw any conclusion on the provision of iron ore to *[omissis]*. Therefore, the Commission considered that *[omissis]*'s data was necessary to calculate the subsidy amount for this scheme. The claim was rejected.

5.2. Direct transfer of funds and potential direct transfer of funds (Article 3(1)(a)(i) of the basic Regulation)

- (93) *[omissis]*.
- (94) *[omissis]*.
- (95) *[omissis]*⁷¹⁷².
- (96) *[omissis]*. Without such information the Commission cannot calculate a possible refund amount.
- (97) After the disclosure the applicant claimed that the Commission's reasoning is based on assumptions and thus breach fundamental legal rights.
- (98) The Commission noted that the applicant did not provide any supporting evidence on that issue. The claim was therefore rejected.

6. Conclusion on subsidisation

- (99) The fact that *[omissis]* failed to provide a reply to *[omissis]* prevented the Commission from determining a precise amount of subsidisation received *[omissis]*.
- (100) In this context, the Commission had indications that *[omissis]* may have at least benefitted from subsidisation from the EPCG scheme, the provision of iron ore for less than adequate remuneration and potentially from a refinancing in the context of a restructuring. However, the Commission was unable to determine the precise amount of subsidisation received *[omissis]* during the two refund investigation periods.

⁷¹ Source: *[omissis]*. File case number t20.003181.

⁷² Source: *[omissis]*. File case number t20.003181.

- (101) *[omissis]*, the missing information was essential for the Commission in order to be able to calculate the amount of countervailing subsidies received by the exporting producer as a group.
- (102) Consequently, the Commission decided to reject the refund applications in accordance with Article 21(3), fourth sentence of the basic Regulation.

DISCLOSURE

- (103) On 24 September 2019, a disclosure of the essential facts and considerations on the basis of which it was intended to reject the applications was sent to the exporting producer and to the applicant. A hearing took place on the 8 November 2019.
- (104) The comments submitted by the applicant were duly considered and, where appropriate, the findings have been modified accordingly.

CONCLUSION

- (105) On the basis of the findings of this refund procedure, the Commission concluded that the applications should be rejected pursuant to Article 21(3), fourth sentence.
- (106) The applicant is hereby informed of their rights under Article 263(4) of the Treaty on 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 applications submitted by *[omissis]* in respect of countervailing duties paid on imports on imports of tubes and pipes of ductile cast iron originating in India are hereby rejected.

Article 2

This Decision is addressed to *[omissis]* and to *[omissis]*.

Done at Brussels, 27.5.2020

For the Commission
Phil HOGAN
Member of the Commission

