Commission Implementing Regulation (EU) 2019/99 of 22 January 2019 terminating the absorption reinvestigation concerning imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India without amending the measures in force

COMMISSION IMPLEMENTING REGULATION (EU) 2019/99

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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[(1)] ('the basic Regulation'), and in particular Articles 9(2) and 12 thereof,

Whereas:

1. **PROCEDURE**

1.1. **Measures in force**

(1) The measures currently in force are a definitive anti-dumping duty imposed by Commission Implementing Regulation (EU) 2016/388[(2)] imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India, as amended by Implementing Regulation (EU) 2016/1369[(3)].

(2) The product concerned is also subject to a definitive countervailing duty imposed by Commission Implementing Regulation (EU) 2016/387[(4)]. However, the countervailing duty is not subject to this reinvestigation.

1.2. **Request for an absorption reinvestigation**

(3) The Commission received a request for an absorption reinvestigation of the anti-dumping measures in force pursuant to Article 12 of the basic Regulation.

(4) The request was lodged on 16 March 2018 by Saint-Gobain PAM, Saint-Gobain PAM Deutschland GmbH, Saint-Gobain PAM España S.A. and Duktus (Production) GmbH ('the Applicant'), four Union producers representing more than 90 % of the total Union production of tubes and pipes of ductile cast iron.

(5) The Applicant had submitted sufficient evidence justifying a reopening of the anti-dumping investigation. The Applicant claimed that resale prices to non-related customers in the Union had decreased after the original investigation period and

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following the imposition of the anti-dumping duty and that this has impeded the intended remedial effects of the measures in force. The evidence contained in the request indicated that the decrease in resale prices could not be explained by other factors such as changes in raw material prices.

1.3. **Reopening of the anti-dumping investigation**

(6) On 30 April 2018, the Commission announced the reopening of the anti-dumping investigation by a notice published in the *Official Journal of the European Union* ('the Notice of Reopening')[5].

(7) The reinvestigation concerned the current anti-dumping duty of 14,1 % imposed on Jindal Saw Limited ('Jindal'), and its related companies, and on 'All other companies' as set out in Article 1 of Implementing Regulation (EU) 2016/388.

1.4. **Interested parties**

(8) In the Notice of Reopening, the Commission invited interested parties to contact it in order to participate in the reinvestigation. In addition, the Commission specifically informed the Applicant, exporting producers and importers known to be concerned and the authorities of the country concerned about the absorption reinvestigation and invited them to participate.

(9) Interested parties were given the opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. Jindal requested and was granted a hearing with the Commission.

1.5. **Reinvestigating exporting producers**

(10) The Commission sent a questionnaire to Jindal and its related companies and invited other exporting producers to make themselves known within 15 days from the publication of the Notice of Reopening.

(11) One Indian exporting producer, Electrosteel Castings Limited, came forward within the deadline but was not concerned by the reinvestigation, as it is not subject to a definitive anti-dumping duty based on Article 1 of Implementing Regulation (EU) 2016/388.

(12) Two other Indian exporting producers, Electrotherm (India) Ltd and Tata Metaliks Limited, came forward after the deadline. These companies are subject to the rate applicable to 'All other companies' in Article 1 of Implementing Regulation (EU) 2016/388, which was set at the level of the individual anti-dumping duty for Jindal of 14,1 % in the original investigation. Both companies had negligible Union sales in the absorption reinvestigation period. In view of the fact that these companies came forward too late, the Commission did not send them a questionnaire.

1.6. **Sampling of unrelated importers**

(13) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Reopening. None came forward.

1.7. **Replies to the questionnaire**

(14) The Commission sent a questionnaire to Jindal to which it replied.

1.8. **Verification visits**

(15) The Commission sought and verified all the information deemed necessary for the purpose of this reinvestigation. A verification visit pursuant to Article 16 of the basic Regulation was carried out at the premises of the following company: Jindal Saw Italia SpA, Trieste, Italy ('Jindal Italy'). Jindal Italy is the only related company of Jindal in the Union (see section 3.1).

1.9. **Disclosure**

(16) On 24 October 2018, the Commission sent all interested parties a disclosure document which contained the essential facts and considerations on the basis of which the Commission proposed to terminate the reinvestigation. Interested parties were informed of the deadline within which they could comment on the disclosure. Two entities, the Applicant and Jindal, reacted to the disclosure. The Applicant requested and was granted a hearing with the Commission. The comments submitted by interested parties were considered and taken into account where warranted.

1.10. **Periods covered by the absorption reinvestigation**

(17) The absorption reinvestigation period ('RIP') was 1 April 2017 to 31 March 2018. The period concerned was 1 April 2016 to 31 March 2018. The original investigation period ('OIP') was 1 October 2013 to 30 September 2014.

2. **PRODUCT CONCERNED**

(18) The product concerned is defined as tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), currently falling within CN codes ex 7303 00 10 and ex 7303 00 90 (TARIC codes 7303 00 10 10, 7303 00 90 10), originating in India ('the product concerned').

3. **FINDINGS**

(19) An absorption reinvestigation pursuant to Article 12 of the basic Regulation aims at establishing whether or not export prices have decreased or whether there has been no movement, or insufficient movement, in resale prices or subsequent selling prices in the Union of the product concerned since the imposition of the original measures. As a second step, if it is concluded that the measure should have led to movements in such prices, then, in order to remove the injury previously established in accordance with Article 3 of the basic Regulation, export prices shall be reassessed

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in accordance with Article 2 of the basic Regulation and dumping margins shall be recalculated to take account of the reassessed export prices.

3.1. Changes to Jindal's business model and Union sales

(20) Following the imposition of the measures, sales of Jindal to the Union have dropped by around 90 % by comparison with the OIP. Jindal's Union sales, at [less than 2 000 metric tonnes], now account for [less than 0,5 %] of Union consumption.

(21) Furthermore, changes took place in Jindal's sales structure since the OIP. In the OIP Jindal had three related sales companies in the UK, Spain and Italy respectively, while in the RIP only the Italian related company remains. Jindal Italy accounts for the large majority of Jindal's sales to the Union, with only limited direct exports.

(22) Furthermore, in the RIP Jindal sold to significantly fewer clients ([less than half by comparison with the OIP]) in fewer Member States ([less than half by comparison with the OIP]) than in the original investigation. Jindal also sold a much lower number of product types (PCNs): [less than half by comparison with the OIP].

3.2. Analysis of price developments

(23) When establishing whether there was a decrease in export prices the Commission normally establishes for each examined exporting producer its export prices during the RIP and compares these prices to the corresponding export prices determined in the OIP. However, given very low volumes of direct export sales as described in recital (21), the direct export price from Jindal to the Union to independent customers could not be meaningfully compared. As the analysis of prices should be based on the price to the first independent customer, and given that Jindal's related companies in Spain and the UK no longer exist, the Commission based its analysis only on the resale price of Jindal Italy to the first unrelated customer.

(24) In view of the very limited volumes considered and of the changes in product types highlighted in section 3.1, any comparison on a PCN to PCN basis was unrepresentative and could thus not lead to a meaningful analysis.

(25) For an indicative analysis, the Commission conducted a comparison on an overall weighted average price per kilogram for all product types for sales made by Jindal Italy to the first unrelated customer. It found that Jindal's resale price on average increased by [more than 10 %] between the RIP and the OIP, thus reflecting [more than 80 %] of the 14,1 % anti-dumping duty.

(26) In addition, part of Jindal's sales in the RIP took place based on prices fixed in tenders before the imposition of the measures. It cannot be expected that the sales price for such sales would have changed, and therefore a price comparison is of limited relevance.

(27) Following disclosure, the Applicant submitted various claims. First, the Applicant argued that the Commission should take into account three external factors: