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

COMMISSION IMPLEMENTING REGULATION (EU) 2017/220

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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 Article 11(3) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) By Implementing Regulation (EU) No 861/2013[(2)] the Council imposed a definitive countervailing duty on imports of certain stainless steel wires originating in India.

(2) By Implementing Regulation (EU) No 1106/2013[(3)] the Council imposed a definitive anti-dumping duty on imports of certain stainless steel wires originating in India ('the original investigation').

(3) In September 2015 the anti-dumping measures were amended by Commission Implementing Regulation (EU) 2015/1483[(4)] following an absorption reinvestigation in accordance with Article 12 of Council Regulation (EC) No 1225/2009[(5)].

(4) The anti-dumping duty currently applicable to imports from Venus Wire Industries Pvt. Ltd is 9,4 % (currently applicable dumping margin of 12,4 % minus countervailing duty of 3 %) and to Garg Inox Ltd is 8,4 % (currently applicable dumping margin of 11,8 % minus countervailing duty of 3,4 %). The anti-dumping duty currently applicable to imports from exporting producers in India that did not cooperate in the original investigation is 12,5 % (dumping margin of 16,2 % minus countervailing duty of 3,7 %).

1.2. Request for a partial interim review

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/220. (See end of Document for details)*

(5) The Commission received two requests for a partial interim review of the existing anti-dumping measures, limited in scope to the examination of dumping.

(6) One request for review was lodged by the Venus group ('Venus'), an exporting producer group from India ('the country concerned'). Venus group includes the companies Venus Wire Industries Pvt. Ltd, Precision Metals, Hindustan Inox. Ltd, Sieves Manufacturer India, Pvt. Ltd, and related importer Venus Edelstahl GmbH.

(7) Another request for review was lodged by Garg Inox Ltd ('Garg'), an exporting producer from India. Venus and Garg are referred together as 'the applicants'.

(8) In their requests, the applicants claimed that the circumstances on the basis of which anti-dumping measures were imposed have changed and that these changes are of a lasting nature. The applicants provided *prima facie* evidence that the continued imposition of the measures at the current level was no longer necessary to offset injurious dumping.

1.3. **Initiation of a partial interim review**

(9) Having determined, after informing the Member States, that sufficient evidence existed to justify the initiation of a partial interim review limited to the examination of dumping as far as the applicants are concerned, the Commission announced by a notice published on 11 December 2015 in the *Official Journal of the European Union*[6] the initiation of a partial interim review in accordance with Article 11(3) of Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community, limited in scope to the examination of dumping in respect of the applicants.

1.4. **Investigation**

(10) In order to obtain the information necessary for its investigation, the Commission sent a questionnaire to the investigated exporting producers and received a reply from them within the deadline set for that purpose.

(11) The Commission sought and verified all information it deemed necessary for the determination of dumping. Verification visits according to Article 16 of the basic Regulation were carried out at the premises of the following companies:

— Venus Wire Industries Pvt. Ltd, Mumbai, Maharasthra, India,

— Precision Metals, Mumbai, Maharasthra, India,

— Hindustan Inox. Ltd, Mumbai, Maharasthra, India,

— Venus Edelstahl GmbH, Hagen, Germany,

and

— Garg Inox Ltd, Bahadurgarh, Haryana, India.

(12) At the request of Venus, a hearing with the Hearing Officer in trade proceedings took place on 26 July 2016.

1.5. **Review investigation period**

(13) The investigation of the level of dumping covered the period from 1 October 2014 to 30 September 2015 ('the review investigation period').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(14) The product under investigation is defined as stainless steel wires containing by weight:

— 2,5 % or more of nickel, other than wire containing by weight 28 % or more but not more than 31 % of nickel and 20 % or more but not more than 22 % of chromium,

— less than 2,5 % of nickel, other than wire containing by weight 13 % or more but not more than 25 % of chromium and 3,5 % or more but not more than 6 % of aluminium,

originating in India, currently falling within CN codes 7223 00 19 and 7223 00 99 ('the product concerned').

2.2. Like product

(15) The review investigation confirmed that stainless steel wires as defined in recital (14) above produced by the applicants and sold domestically have the same basic physical, technical and chemical characteristics and basic uses as the product concerned exported to the Union.

(16) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

3. LASTING NATURE OF THE CHANGED CIRCUMSTANCES

(17) In accordance with Article 11(3) of the basic Regulation, the Commission examined whether the alleged by the applicants changed circumstances could be considered to be of a lasting nature.

Venus

(18) It is recalled that in the initial investigation Article 18 of the basic Regulation was applied with regard to Venus for the determination of cost of production and the dumping margin calculation. This was due to the fact that information concerning the steel grades was considered unreliable as exact tracing by individual steel grades in all the stages of the production process was not possible.

(19) In its request for a review, Venus claimed changes in its accounting and inventory management system. Evidence obtained and verified during the investigation showed that Venus has put in place through a new software controls in its inventory management system enabling the company to trace individual steel grades throughout the production process. These controls have eliminated the risk of discrepancies at the level of individual steel grades. Therefore the reported distribution of the basic raw material by steel grade can be considered reliable for the determination of costs and

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sales prices of individual product types, having an impact on the cost of production for the product concerned and on the calculation of the dumping margin. The circumstance here described is unlikely to change in the foreseeable future in a manner that would affect these findings.

(20) On this basis, the Commission concluded that regarding Venus the changed circumstances are of a lasting nature.

Garg

(21) In the initial investigation, Garg had channelled a significant volume of exports through a related importer in the Union. The company claimed that since its subsidiary in the Union had been closed, the relationship between the two entities did not exist anymore and that this entailed a significant change in dumping margin calculations since export prices would no longer need to be constructed under Article 2(9) of the basic Regulation.

(22) The investigation confirmed the closure of the subsidiary in the Union. On this basis, the Commission concluded that the changed circumstances regarding Garg are of significant and lasting nature.

4. DUMPING

(a) Introduction

(23) As set out below, a number of issues emerged with regard to Garg which led the Commission to consider the application of Article 18 of the basic Regulation.

(24) The on-the-spot verification at Garg revealed that the company had payable commissions on export transactions to its former related importer in the Union during the interim review investigation period but had failed to report them in its reply to the questionnaire.

(25) By letter of 30 May 2016, the Commission informed Garg that for the reason set out under recital (24), it intended to apply facts available in accordance with Article 18 of the basic Regulation as far as those commissions were concerned.

(26) The company commented on the intention of the Commission to use facts available on 15 June 2016 and agreed that commissions for some transactions had not been reported and that facts available could on that basis be used for determining the amount of the commissions.

(27) The Commission examined the comments of the company and concluded that the company does not dispute the reason set out under recital (24). Thus, in line with Article 18 of the basic Regulation the Commission used best facts available with regard to the commissions in the calculation of the dumping margin.

(b) Normal value

(28) The Commission first examined whether the total volume of domestic sales for the applicants was representative, in accordance with Article 2(2) of the basic

Regulation. The domestic sales are representative if for each applicant the total domestic sales volume of the like product to independent customers on the domestic market represented at least 5 % of its total export sales volume of the product concerned to the Union during the review investigation period. On this basis, the total sales of the like product on the domestic market were representative for the applicants.

(29) 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 each applicant.

(30) The Commission then examined whether the domestic sales by each of the applicants on the 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 review investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.

(31) The Commission established that most product types were representative for Garg. With regard to Venus only some product types were representative. For the product types that were not representative, the Commission proceeded as set out under recitals (36) and (37).

(32) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the review 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.

(33) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) 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

(b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.

(34) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the review investigation period.

(35) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the review investigation period, if:

(a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or

(b) the weighted average price of this product type is below the unit cost of production.