Commission Implementing Regulation (EU) 2015/1019 of 29 June 2015 amending Council Implementing Regulation (EU) No 1106/2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India, amending Council Implementing Regulation (EU) No 861/2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India and repealing Commission Implementing Regulation (EU) 2015/49

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1019

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] (the 'basic Regulation'),

Having regard to 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[(2)] and in particular Article 2 thereof,

Whereas:

A. **MEASURES IN FORCE**

(1) By Implementing Regulation (EU) No 1106/2013, the Council imposed a definitive anti-dumping duty on imports into the Union of wire of stainless steel 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,

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1019. (See end of Document for details)*

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

(2) In the investigation which led to the imposition of a definitive anti-dumping duty a large number of exporting producers from India cooperated. As a result, the European Commission ('the Commission') selected a sample of Indian exporting producers to be investigated.

(3) The Council imposed individual duty rates on imports of the product concerned ranging from 0 % to 12,5 % for the sampled companies and the weighted average duty of 5 % for the cooperating non-sampled companies.

(4) The Council also imposed a countrywide duty of 12,5 % on all other companies which either did not make themselves known or did not cooperate with the investigation.

(5) Article 2 of Implementing Regulation (EU) No 1106/2013 states that where any new exporting producer from India provides sufficient evidence to the Commission that:

(a) it did not export the product concerned to the Union during the period on which the measures are based, that is from 1 April 2011 to 31 March 2012 ('the investigation period');

(b) it is not related to an exporter or producer subject to the anti-dumping measures imposed by that Regulation; and

(c) it has either actually exported the product concerned to the Union after the investigation period or has entered into an irrevocable contractual obligation to export a significant quantity of the product concerned to the Union after the investigation period,

then Article 1(2) of that Regulation may be amended by granting the new exporting producer the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty of 5 %.

B. NEW EXPORTING PRODUCER'S REQUEST

(6) The Indian companies Superon Schweisstechnik India Ltd ('the first applicant') and Anand ARC Ltd ('the second applicant') requested to be granted the duty rate applicable to the cooperating companies not included in the sample ('new exporting producer treatment' or 'NEPT').

(7) An examination has been carried out in order to determine whether the applicants fulfil the criteria for being granted NEPT as set out in Article 2 of Implementing Regulation (EU) No 1106/2013.

(8) A questionnaire was sent to the applicants asking them to supply evidence that they met all of the criteria set out above in Article 2 of Implementing Regulation (EU) No 1106/2013.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1019. (See end of Document for details)*

(9) The Commission sought and verified all information it deemed necessary for the purpose of determining whether the applicants meet the three criteria to be granted NEPT. Verification visits were carried out at the premises of:

— Superon Schweisstechnik India Ltd, Gurgaon,

— Anand ARC Ltd, Mumbai.

(10) The first applicant has provided sufficient evidence to prove that it meets the three criteria mentioned in Article 2 of Implementing Regulation (EU) No 1106/2013. The first applicant in fact could prove that:

(i) it did not export the product concerned to the Union during the period from 1 April 2011 to 31 March 2012;

(ii) it is not related to any of the exporters of producers in India which are subject to the anti-dumping measures imposed by Implementing Regulation (EU) No 1106/2013; and

(iii) it actually exported a significant quantity of 30 tonnes of the product concerned to the Union starting in October 2012;

and therefore can be granted the duty rate applicable to the cooperating companies not included in the sample, i.e. 5 %, in accordance with Article 2 of Implementing Regulation (EU) No 1106/2013, and should be added to the list of Indian cooperating exporting producers not included in the sample.

(11) The second applicant, however, failed to meet the first criterion because it exported the product concerned to the Union during the investigation period. Its request for NEPT was therefore rejected.

(12) The Commission informed the applicants and the Union industry of the above findings and gave them the opportunity to comment. One exporting producer requested retroactive application of the decision. However, such possibility is not foreseen in the current procedure and the exporting producer was informed accordingly. No other comments were received.

(13) A new TARIC additional code (B997) needs to be attributed to the first applicant. Purely for technical integration reasons in TARIC, this Regulation should amend Council Implementing Regulation (EU) No 861/2013[(3)] by attributing the same TARIC additional code (B997) to the first applicant.

(14) Commission Implementing Regulation (EU) 2015/49[(4)] has been adopted without obtaining the opinion of the Committee established by Article 15(1) of the basic Regulation. In order to ensure legal certainty and protect legitimate expectations, Implementing Regulation (EU) 2015/49 should therefore be repealed and its content readopted with effects as from the entry into force of Implementing Regulation (EU) 2015/49.

(15) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,