Commission Regulation (EU) No 419/2013 of 3 May 2013 imposing a provisional countervailing duty on imports of certain stainless steel wires originating in India

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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 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 12 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 10 August 2012, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union*[(2)] ('the notice of initiation'), the initiation of an anti-subsidy proceeding ('the anti-subsidy proceeding' or 'the present proceeding') with regard to imports into the Union of certain stainless steel wires originating in India ('the country concerned').

(2) On the same day, the Commission announced by a notice published in the *Official Journal of the European Union*[(3)], the initiation of an anti-dumping proceeding with regard to imports into the Union of certain stainless steel wires originating in India and commenced a separate investigation ('the anti-dumping proceeding').

(3) The anti-subsidy proceeding was initiated following a complaint lodged on 28 June 2012 by the European Confederation of Iron and Steel Industries (Eurofer) ('the complainant') on behalf of producers representing more than 50 %, of the total Union production of certain stainless steel wires. The complaint contained prima facie evidence of subsidisation of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

(4) Prior to the initiation of the proceeding and in accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of India ('the GOI') that it had received a properly documented complaint alleging that subsidised imports of certain stainless steel wires originating in India were causing material injury to the Union industry. The GOI was invited for consultations with the aim of clarifying the

situation as regards the contents of the complaint and arriving at a mutually agreed solution. In this case, no mutually agreed solution was found.

1.2. **Parties concerned by the investigation**

(5) The Commission officially advised the complainant, other known Union producers, the known exporting producers, known importers and users, and the Indian authorities of the initiation of the investigation.

(6) Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(7) In view of the large number of exporting producers in the country concerned, unrelated importers and Union producers involved in the investigation and in order to complete the investigation within the statutory time limits, the Commission announced in the notice of initiation that it had decided to limit to a reasonable number the exporting producers in the country concerned, unrelated importers and Union producers that would be investigated by selecting a sample in accordance with Article 27 of the basic Regulation (the process is also referred to as 'sampling').

1.2.1. *Sampling of exporting producers*

(8) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the country concerned were requested to make themselves known to the Commission and to provide information specified in the notice of initiation.

(9) In total, 18 exporting producers, some belonging to the same group, provided the requested information within the deadline set in the notice of initiation, agreed to be included in the sample and 7 of them asked for individual examination in case they would not be included in the sample. Fifteen of these cooperating companies reported exports of stainless steel wires to the Union during the investigation period. Therefore, the sample was chosen on the basis of the information submitted by these 15 exporting producers.

(10) In accordance with Article 27 of the basic Regulation, the Commission selected a sample based on the largest representative volume of exports of the product concerned to the Union which could reasonably be investigated within the time available. The sample selected consisted of two individual companies and one group of companies consisting of four related companies, together representing more than 63 % of the total volume of exports to the Union of the product concerned.

(11) In accordance with Article 27(2) of the basic Regulation all known exporting producers concerned and the relevant Indian authorities were also consulted on the selection of a representative sample. No comments to the selection of the sample were made.

(12) As mentioned in recital (10) above the sample was limited to a reasonable number of companies which could be investigated within the time available. The companies investigated for the purpose of the investigation of subsidisation are listed in recital (19) below.

(13) Moreover, as mentioned in recital (9), initially 7 requests for individual examination were received. Hence, it was considered that at this stage the individual examination would be unduly burdensome and would prevent the timely completion of the investigation. However, the requests made by the exporters that submitted the necessary information within the time limits will be examined in the remainder of the investigation.

1.2.2. *Sampling of Union producers*

(14) The Commission announced in the notice of initiation that it had provisionally selected a sample of Union producers. This sample initially consisted of five producers that were known to the Commission prior to the initiation of the investigation to produce stainless steel wires in the Union. The Commission selected the sample on the basis of the sales, production volume and geographical location. Interested parties were also invited by the notice of the initiation to make their views known on the provisional sample. The analysis of the questionnaire replies revealed that one selected Union producer had a related company in the Union also involved in the manufacturing and sales of stainless steel wires. Thus, the six sampled Union producers accounted for 46,5 % of the estimated total Union production. The sample is considered representative of the Union industry.

1.2.3. *Sampling of importers*

(15) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were requested to make themselves known to the Commission and to provide information specified in the notice of initiation.

(16) A total of nine unrelated importers provided the requested information and agreed to be included in the sample. The Commission selected a sample of three companies accounting for 23,8 % of Indian imports into the Union during the IP on the basis of the largest volume of imports in to the Union. However, two of the importers selected in the sample did not submit the questionnaire replies. Therefore, sampling at this stage of the investigation could not be applied and cooperation will be sought from the other importers in the remainder of the investigation.

1.2.4. *Questionnaire replies and verification visits*

(17) Questionnaires were sent to the GOI, the three sampled (groups of) exporting producers in India and to the exporting producers which had requested individual examination, to the six sampled Union producers, to the three sampled unrelated importers and to nine known users.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 419/2013. (See end of Document for details)*

(18) Questionnaire replies were received from the GOI, the three sampled (groups of) exporting producers, one of those exporting producers which requested individual examination, the six sampled producers in the Union, one unrelated importer and three users.

(19) The Commission sought and verified all the information provided by interested parties and deemed necessary for a provisional determination of subsidisation, resulting injury and Union interest. Verification visits were carried out at the premises of GOI in Delhi, and the following parties:

Producers in the Union:

- Hagener Feinstahl GmbH, Hagen, Germany
- Inoxfil S.A., Igualada, Spain
- Rodacciai SPA, Milano, Italy
- Trafilerie Brambilla SPA, Calziocorte, Italy
- Ugitech Group:
  - Ugitech France S.A., Bourg en Bresse, France
  - Sprint Metal Edelstahl, Hemer, Germany

Exporting producers in India:

- Raajratna Metal Industries, Ahmedabad, Gujarat
- Viraj Profiles Vpl. Ltd., Thane, Maharashtra
- Venus group:
  - Venus Wire Industries Pvt. Ltd, Mumbai, Maharashtra
  - Precision Metals, Mumbai, Maharashtra
  - Hindustan Inox Ltd., Mumbai, Maharashtra
  - Sieves Manufacturer India Pvt. Ltd., Mumbai, Maharashtra

1.3. Investigation period and period considered

(20) The investigation of subsidisation and injury covered the period from 1 April 2011 to 31 March 2012 ('investigation period' or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from 1 January 2009 to the end of the investigation period (‘period considered’).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(21) The product concerned is 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,

— originating in India, currently falling within CN codes 7223 00 19 and 7223 00 99.

(22) One party claimed that so called "highly technical" product types exist, which are different from the other types of the product concerned produced in India and also in the Union. They further alleged that unlike most types exported from India to the Union, the technical types are not commodities, but specific product types produced for specific uses in certain steel grades and certain diameters, and should not be covered by the investigation.

(23) At this stage, it appears that the technical types were part of the product definition and they have similar basic physical, chemical, and technical characteristics compared to other types of the product concerned. Moreover, it appears that these types are also produced by Union industry, hence the technical types are covered by the scope of the investigation.

2.2. **Like product**

(24) The investigation has shown that the product concerned and the product produced and sold on the domestic market of India as well as the product produced by the Union industry and sold on the Union market have the same basic physical, chemical and technical characteristics and uses. They are therefore provisionally considered to be alike within the meaning of Article 2(c) of the basic Regulation.

3. **SUBSIDISATION**

3.1. **Introduction**

(25) On the basis of the information contained in the complaint and the replies to the Commission's questionnaire, the following schemes, which allegedly involve the granting of subsidies, were investigated:

(a) Duty Entitlement Passbook Scheme ('DEPBS');

(b) Duty Drawback Scheme ('DDS');

(c) Advance Authorisation Scheme ('AAS');

(d) Export Promotion Capital Goods Scheme ('EPCGS');

(e) Export Credit Scheme ('ECS');

(f) Focus Market Scheme ('FMS')

(g) Special Economic Zones/Export Oriented Units ('SEZ/EOU')

(26) The schemes (a), (c - d) and (f – g) specified above are based on the Foreign Trade (Development and Regulation) Act 1992 (No 22 of 1992) which entered into force on 7 August 1992 ('Foreign Trade Act'). The Foreign Trade Act authorises the GOI to issue notifications regarding the export and import policy. These are summarised in 'Foreign Trade Policy' documents, which are issued by the Ministry of Commerce every five years and updated regularly. The Foreign Trade Policy document relevant to the IP