

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**

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

- (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 Edelmetall GmbH.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Implementing Regulation (EU) No 861/2013 of 2 September 2013 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India (OJ L 240, 7.9.2013, p. 1).

⁽³⁾ 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 (OJ L 298, 8.11.2013, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/1483 of 1 September 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 following an absorption reinvestigation pursuant to Article 12 of Council Regulation (EC) No 1225/2009 (OJ L 228, 2.9.2015, p. 1).

⁽⁵⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51). This Regulation has been repealed by the basic Regulation.

- (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* ⁽¹⁾ 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, Maharashtra, India,
 - Precision Metals, Mumbai, Maharashtra, India,
 - Hindustan Inox. Ltd, Mumbai, Maharashtra, India,
 - Venus Edelmetall 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').

⁽¹⁾ OJ C 411, 11.12.2015, p. 4.

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 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.

- (36) As the result of the above tests, the normal value for each of the applicants was calculated as a weighted average of their profitable sales, except where there were no or insufficient sales of a product type of the like product in the ordinary course of trade, or where a product type was not sold in representative quantities on the domestic market, where the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (37) Normal value was constructed by adding the following to the average cost of production of the like product of the applicant concerned during the review investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by each of the applicants on domestic sales of the like product, in the ordinary course of trade, during the review investigation period; and
 - (b) the weighted average profit realised by each of the applicants on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.

The cost of production was adjusted, where necessary.

(c) Export price

- (38) Venus exported to the Union either directly to independent customers or through a related company acting as an importer.
- (39) Where the product concerned was directly exported to independent customers in the Union, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of export prices actually paid or payable.
- (40) Where export sales to the Union were made through the related company acting as an importer, the export price was established in accordance with Article 2(9) of the basic Regulation on the basis of prices at which the imported products were first resold to an independent buyer, adjusted for all costs, incurred between importation and resale, as well as a reasonable margin for SG&A and for profits. The related importer's own SG&A costs were used and, due to unreliability of the related importer's profit margin and in the absence of profit information from an unrelated importer in this investigation, use was made of the profit rate applied in the original investigation, namely 5 %.
- (41) As concerns Garg, all export sales to the Union were made directly to independent customers, and therefore the Commission established the export price on the basis of prices actually paid or payable for sales of the product concerned to the Union, in accordance with Article 2(8) of the basic Regulation.

(d) Comparison

- (42) The Commission compared the normal value and the export price of the applicants on an ex-works basis.
- (43) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation.
- (44) Adjustments were made for transport related costs, handling, loading and ancillary charges, import related charges, credit costs, bank charges, and commissions, Concerning Garg, the Commission made use of best facts available regarding the amount of the commissions on exports to the Union.

(e) Dumping margin

- (45) For the exporting producers the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

- (46) On this basis, the weighted average dumping margin of Venus expressed as a percentage of the CIF Union frontier price, duty unpaid, is 9,9 % and of Garg 19,2 %.
- (47) Given that the revised dumping margin for Garg is higher than the dumping margin for all other non-cooperating companies in the original investigation, the Commission decided to revise also the dumping margin for all other non-cooperating companies in the original investigation at the level of the dumping margin of Garg, which is now the highest amongst all cooperating companies.

5. ANTI-DUMPING MEASURES

- (48) Venus, Garg and the Union industry were informed of the essential facts and considerations on the basis of which it was intended to amend the duty rate applicable to Venus and Garg and were given the opportunity to comment.
- (49) After disclosure, one of the exporting producers questioned the deviation from the calculation method applied in the original investigation. The exporting producer argued that (i) the Commission re-classified some types of the product concerned compared to the original investigation, that (ii) the Commission used a different cost allocation method than in the original investigation, contrary to Article 11(9) of the basic Regulation, and that (iii) the exclusion of certain steel grades from the dumping margin calculation was unjustified.
- (50) The Commission decided to adjust the classification of some types of the product concerned and the like product into groups of product types for the ordinary course of trade test and comparison purposes on the basis of the physical characteristics of these products. The physical characteristics did not justify the classification made by the exporting producer itself. It is an issue of precise classification of the characteristics of the product concerned that allows precise classification within the product types. This adjustment does not concern the 'methodology' referred to in Article 11(9) of the basic Regulation but the correct determination of the normal value on the basis of the facts collected and verified during this investigation. Therefore, this does not constitute a change in methodology. This claim has therefore to be rejected.
- (51) In the original investigation, the Commission used facts available regarding the definitive determination of cost of production and the dumping margin calculation for this exporting producer. The exporting producer claimed that circumstances with regard to constitutive elements of a dumping calculation, i.e. cost of production, have changed and that the change was of a lasting nature. It is recalled that in the original investigation the Commission used facts available to determine the cost of raw materials. The essence of the change in the present investigation is that the Commission decided to use the cost data for raw materials of the exporting producer. This is not a change in methodology. However, even if the current calculation method was to be regarded as change in methodology, the purpose of the current review investigation is to establish new findings because of changed circumstances with regard to constitutive elements in the dumping calculation, i.e. cost of production. The fact that the exporting producer's own claim with regard to changed circumstances has been accepted, would have justified a change in methodology. The exporting producer claimed that the Commission should have followed an allocation method for costs of processing that was used in the original investigation. However, this allocation method has been applied under the specific circumstances of using facts available for the determination of the cost of production. In view of the fact that in the present investigation the Commission uses the exporting producer's own data, the Commission could apply a proper allocation method, something which was not possible in the original investigation because of the use of facts available. In addition, the methodology proposed by the exporting producer was solely established for the purpose of this anti-dumping investigation, did not reflect historically used accounting policies, could not be applied to the whole production of the company and did not properly reflect the cost drivers for the production of the product concerned and the like product. Following Article 2(5) of the basic Regulation the Commission decided to use an allocation based on the value added to the cost of raw materials during the manufacturing process, which is a variation on the allocation on the basis of turnover neutralizing the high impact that the cost of raw materials may have on the turnover of each product type.
- (52) The same exporting producer claimed that the Commission incorrectly disregarded certain quantities of steel purchased in the calculation of the cost of production. The type of raw material used is a criterion in the classification of the product concerned for the ordinary course of trade test and for comparison purposes. In order to calculate the cost of raw material for each product type sold by the company, the Commission retained the cost records which matched the specifications required by the classification of the product concerned and which

could be directly linked to the sales reported by the company under this classification. Grouping raw materials on a different level as proposed by the company was not considered a consistent and reasonable alternative. Therefore the claim has to be rejected.

- (53) The other exporting producer claimed that the anti-absorption reinvestigation is the investigation which led to the current duty and following Article 11(9) of the basic Regulation the Commission should use the same methodology as in the anti-absorption reinvestigation. This particularly related to (i) the calculation of a single cost of production for each type of the product concerned and the like product, irrespective of whether it was sold on the domestic market or on export markets and (ii) the adjustment in classifying different product types in groups with similar characteristics for the ordinary course of trade test and comparison purposes to account for a specific product type and the exclusion of certain company-specific product types groups.
- (54) The investigation that led to the imposition of the duty at its current level is the original investigation. The anti-absorption reinvestigation did not revise the duty rate for this exporting producer. Therefore the claim that the Commission should have used the same methodology as in the anti-absorption reinvestigation has to be rejected.
- (55) In the original investigation the cost of production of this exporting producer was based on the production costs of other cooperating exporting producers, without differentiating the products sold domestically from those sold on the export markets. The claim that the Commission deviated from the methodology applied in the original investigation by calculating a single cost of production for each product type, irrespective of whether it was sold on the domestic market or export markets, is therefore unfounded and the claim has to be rejected.
- (56) Regarding the adjustment in the product types groups used for the ordinary course of trade test and comparison purposes, the Commission decided to define more precisely the scope of one product type based on its physical characteristics. The exporting producer explained during the verification visit that this type was sold in a niche market and had comparable cost of production to other products in the same group of product types but materially higher prices. The Commission concluded that prices and price comparability were affected and an adjustment for physical characteristics according Article 2(10)(a) of the basic Regulation was justified. It is an issue of precise classification of the characteristics of the product concerned that allows precise classification within the product types and precise comparison. This adjustment therefore does not constitute a change in methodology and therefore this claim has to be rejected.
- (57) Following disclosure the exporting producer requested an upward allowance to the export price regarding credits related to the Duty Drawback Scheme and Focus Market Scheme and an allowance for credit costs when constructing normal value. However, according to Article 2(10)(b) of the basic Regulation, an adjustment, if warranted, can only be made regarding import charges to the normal value and not to the export price. As concerns the claim for a credit cost adjustment to the constructed normal value, it is noted that such adjustment is only provided under Article 2(10)(g) of the basic Regulation when the normal value is determined on the basis of prices charged and not when, absent such prices, the normal value is constructed. Consequently, both claims have to be rejected.
- (58) The Commission accepted the claims of this exporting producer concerning the exclusion of certain company-specific product type groups and some clerical errors regarding the double reporting of an allowance, a stock adjustment and the allocation key of processing costs. The acceptance of these claims led to a decrease in the dumping margin of this exporting producer.
- (59) After disclosure, Eurofer claimed to have too limited details in the non-confidential version of the file to provide any meaningful comments on the investigation, nevertheless it supported the conclusions of the Commission.
- (60) According to Article 19(1) of the basic Regulation, information which is by nature confidential or which is provided on a confidential basis by parties to an investigation shall be treated as such. Since the exporting producers have provided non-confidential summaries of any confidential information which permits a reasonable understanding of the substance of the information submitted in confidence, the Commission rejected this claim.
- (61) The revised dumping margin and duty rate were disclosed to the parties concerned. Following the additional final disclosure both exporting producers reiterated their previous comments.

- (62) Following the review investigation, the revised anti-dumping duty rates that would be applicable to imports of the product concerned manufactured by Venus amounts to 6,9 % (i.e. the dumping margin of 9,9 % minus 3 % countervailing duty).
- (63) The revised anti-dumping duty rate that would be applicable to imports of the product concerned manufactured by Garg amounts to 10,3 % (i.e. the dumping margin of 13,7 % minus 3,4 % countervailing duty).
- (64) Since the revised dumping margin for Garg following final disclosure is not anymore higher than the dumping margin for all other non-cooperating companies in the original investigation, the dumping margin and duty rate for all other non-cooperating companies in the original investigation should not be revised as set out in recital (47) above.
- (65) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

The table in Article 1(2) of Implementing Regulation (EU) No 1106/2013, as amended by Implementing Regulation (EU) 2015/1483, shall be replaced by the following table:

Company	Duty (%)	TARIC additional code
Garg Inox, Bahadurgarh, Haryana and Pune, Maharashtra	10,3	B931
KEI Industries Ltd, New Delhi	7,7	B925
Macro Bars and Wires, Mumbai, Maharashtra	0,0	B932
Nevatia Steel & Alloys, Mumbai, Maharashtra	0,7	B933
Raajratna Metal Industries, Ahmedabad, Gujarat	12,5	B775
Venus Wire Industries Pvt. Ltd, Mumbai, Maharashtra	6,9	B776
Precision Metals, Mumbai, Maharashtra	6,9	B777
Hindustan Inox Ltd, Mumbai, Maharashtra	6,9	B778
Sieves Manufacturer India Pvt. Ltd, Mumbai, Maharashtra	6,9	B779
Viraj Profiles Limited, Palghar, Maharashtra and Mumbai, Maharashtra	6,8	B780
Companies listed in the Annex	8,4	See the Annex
All other companies, except the companies included in the sample of the initial investigation and cooperating non-sampled companies	16,2	B999

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 February 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Indian cooperating exporting producers not sampled

Company name	City	TARIC additional code
Amar Precision Wire Products Pvt. Ltd	Satara, Maharashtra	B121
Bekaert Mukand Wire Industries	Lonand, Tal. Khandala, Satara District, Maharashtra	C189
Bhansali Bright Bars Pvt. Ltd	Mumbai, Maharashtra	C190
Bhansali Stainless Wire	Mumbai, Maharashtra	C191
Chandan Steel	Mumbai, Maharashtra	C192
Drawmet Wires	Bhiwadi, Rajasthan	C193
Jyoti Steel Industries Ltd	Mumbai, Maharashtra	C194
Mukand Ltd	Thane	C195
Panchmahal Steel Ltd	Dist. Panchmahals, Gujarat	C196
Superon Schweisstechnik India Ltd	Gurgaon, Haryana	B997