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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 298/2001

of 12 February 2001

amending Regulation (EC) No 2450/98 imposing a definitive countervailing duty on imports of stainless steel bars originating in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [1], and in particular Articles 15 and 20 thereof,

Having regard to the proposal submitted by the Commission, after having consulted the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 2450/98 [2], the Council imposed a definitive countervailing duty on imports of stainless steel bars (hereafter referred to as 'the product concerned') falling within CN codes ex 7222 20 11, 7222 20 21, 7222 20 31 and 7222 20 81 originating in India. The measures took the form of *ad valorem* duties between 0 and 25,5 %, with a residual duty of 25,5 %.

B. CURRENT PROCEDURE

Request for review

(2) Subsequent to the imposition of definitive measures, the Commission received a request for initiation of an accelerated review of Regulation (EC) No 2450/98, pursuant to Article 20 of Regulation (EC) No 2026/97 (hereinafter referred to as 'the basic Regulation'), from an Indian exporter, Hindustan Stainless, located in Bombay. The company claimed that it was not related to any other exporters of the product concerned in India, and that it had not exported the product concerned to the Community during the original period of investigation (1 July 1996 to 30 June 1997). The company stated that it intended to begin exporting to the European Union in the near future.

Initiation of an accelerated review

(3) The Commission examined the evidence submitted by the Indian exporting producer concerned and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 20 of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by a notice in the Official Journal [3], an accelerated review of Regulation (EC) No 2450/98 with regard to the company concerned and commenced its investigation.

Product concerned

(4) The product covered by the current review is the same product as that under consideration in Regulation (EC) No 2450/98.

Parties concerned

(5) The Commission officially advised the company concerned and the Government of India of the initiation of the review. Furthermore, it gave other parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(6) The Commission sent a questionnaire to the company concerned and received a full reply within the deadlines. The Commission sought and verified all information it deemed necessary for the purpose of the investigation and carried out a verification visit at the premises of the company concerned.

Investigation period

(7) The investigation of subsidisation covered the period 1 October 1998 to 30 September 1999 (hereinafter referred to as 'the investigation period').

[1] OJ L 288, 21.10.1997, p. 1.
[2] OJ L 304, 14.11.1998, p. 1.
[3] OJ C 311, 29.10.1999, p. 2.

Methodology

(8) The same methodology as that used in the original investigation was applied in the current investigation.

C. SCOPE OF THE REVIEW

(9) As no request for a review of the findings on injury was made in this investigation, this review was limited to subsidisation.

(10) The Commission examined the same subsidy schemes which were analysed in the original investigation, along with the possible usage by Hindustan Stainless of any subsidy schemes established after the end of the original investigation period, together with any ad-hoc subsidies received after this date.

(11) It was also examined whether the company under investigation could be considered as a newcomer for the purpose of Article 20 of the basic Regulation.

D. RESULT OF THE INVESTIGATION

New exporter qualification

(12) The investigation confirmed that Hindustan Stainless had not exported the product concerned during the original period of investigation but had subsequently exported the product to other third countries and had also received requests for prices from companies in the European Union.

(13) A number of family and economic links were established between Hindustan Stainless, Venus Wire Industries Ltd, and Venus Metal Corporation. Venus Wire Industries Ltd participated in the original investigation period and was given a countervailing duty of 16,1 %.

(14) From the documents obtained on-the-spot and on the basis of information from the Venus Wire Industries Ltd questionnaire submitted in the original investigation, the following family links were established. Three directors of Venus Wire Industries Ltd, who are also partners in Venus Metal Corporation, are respectively the father and uncles of the sole owner of Hindustan Stainless.

(15) The warehouse premises used by the company under investigation is rented from Venus Metal Corporation. The rental contract for the warehouse was signed in 1998 for one year and stipulates that payment has to be made quarterly in equal instalments. The contract was signed by the owner for Hindustan Stainless and by his uncle for Venus Metal Corporation.

(16) Hindustan Stainless also rents two offices in Mumbai, which belong respectively to two directors of Venus Wire Industries Ltd and who are also uncles of the owner of the company under investigation. Similarly, rent should also have been paid in four equal instalments.

(17) The investigation established that no payment had been made by Hindustan Stainless either for the warehouse or for the offices. Subsequent to the verification, the company paid rent for the period 1998 to 1999 and provided evidence to the Commission of the same after the on-the-spot investigation

(18) It was also established that a director of Venus Wire Industries Ltd, and the father of the owner of the company under investigation, was the guarantor for banking facilities used by Hindustan Stainless for an import of raw material.

(19) Given the circumstances outlined in recitals 13 to 18, it is concluded that Hindustan Stainless cannot be considered as a new exporter, but rather is related to an exporter which received individual treatment during the original investigation (Venus Wire Industries Ltd), either directly or through Venus Metal Corporation. The request for newcomer status should, therefore, be rejected and Hindustan Stainless, as a related company, should be subject to the same countervailing duty rate as Venus Wire Industries Ltd.

E. DISCLOSURE OF FINDINGS

(20) The company concerned was informed of the facts and considerations on the basis of which it is intended to propose the amendment of Regulation (EC) No 2450/98, and was given the opportunity to comment.

(21) Following disclosure of the essential facts, the company under investigation accepted the family relationships but denied any financial assistance from either Venus Wire Industries Ltd or Venus Metal Corporation. The company pointed out that rent for the year 1998 had now been paid and submitted that the bank guarantee involved no monetary contribution.

(22) It is accepted that the warehouse and office rentals for 1998 have now been paid, albeit a year late and only following the on-the-spot verification visit. However, the argument concerning the bank guarantee should be rejected. Without the guarantor, the interest rate payable may have been higher or the banking facility may not have been granted at all. Therefore the guarantee represents a benefit to Hindustan Stainless.

(23) As there are close family relationships and economic links between Hindustan Stainless and three of the directors of Venus Wire Industries Ltd, the conclusion reached in recital 19 is confirmed.

F. **AMENDMENT AND DURATION OF THE MEASURES BEING REVIEWED**

(24) Based on the findings made during the investigation, it is considered that imports into the Community of stainless steel bars produced and exported by the company concerned should be subject to the same rate of countervailing duty as Venus Wire Industries Ltd, i.e. 16,1 %, since they are related companies.

(25) Regulation (EC) No 2450/98 should therefore be amended accordingly.

(26) The review carried out does not affect the date on which Regulation (EC) No 2450/98 will expire under Article 18(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Council Regulation (EC) No 2450/98 is hereby amended by adding the following to the list of companies subject to measures:

Manufacturer	Rate of duty (%)	TARIC additional code
'Hindustan Stainless, Plot No 165, Road No 1, Kalomboli Warehousing Complex, Kalamboli, Taluka — Panvel, Dist — Raigad, India.	16,1	8407'

Article 2

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

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

Done at Brussels, 12 February 2001.

For the Council

The President

B. RINGHOLM