REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 721/2013

of 22 July 2013

amending Implementing Regulation (EU) No 405/2011 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain stainless steel bars and rods originating in India

THE COUNCIL OF THE EUROPEAN UNION,

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 19 thereof,

Having regard to the proposal submitted by the European Commission after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Previous investigation and existing countervailing measures

(1) In April 2011, by Implementing Regulation (EU) No 405/2011 [2] ('the definitive Regulation'), the Council imposed a definitive countervailing duty on imports of certain stainless steel bars and rods ('SSB') currently falling within CN codes 7222 20 21, 7222 20 29, 7222 20 31, 7222 20 39, 7222 20 81 and 7222 20 89 and originating in India. The investigation, which led to the adoption of the definitive Regulation, is hereinafter referred to as 'the original investigation'.

(2) The definitive measures consisted of *ad valorem* countervailing duties, ranging between 3,3 % and 4,3 % imposed on imports from individually named exporters, a 4,0 % duty rate imposed on non-sampled cooperating companies and a residual duty rate of 4,3 % imposed on all other companies in India.

1.2. Initiation of a partial interim review

(3) A request for a partial interim review was lodged by Viraj Profiles Vpl. Ltd, an exporting producer located in India ('the applicant'). The request was limited in scope to the examination of subsidisation as far as the applicant was concerned. The applicant had provided prima facie evidence that the circumstances with regard to subsidisation on the basis of which measures were imposed had changed significantly and that those changes were of a lasting nature.

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed to justify the initiation of a partial interim review, the Commission announced on 9 August 2012, by a notice published in the *Official Journal of the European Union* [3] ('notice of initiation'), the initiation of a partial interim review, in accordance with Article 19 of the basic Regulation, limited to the examination of subsidisation in respect of the applicant.

1.3. Review investigation period

(5) The review investigation of subsidisation covered the period from 1 July 2011 to 30 June 2012 ('the review investigation period' or 'RIP').

1.4. Parties concerned by the investigation

(6) The Commission officially informed the applicant, the Government of India ('the GOI') and Eurofer as the representative of the Union industry in the original investigation ('the Union industry'), of the initiation of the partial interim review investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(7) The written and oral comments submitted by the parties at the stage of initiation were considered and, where appropriate, taken into account.

(8) In order to obtain the information necessary for its investigation, the Commission sent a questionnaire to the applicant. In addition, a questionnaire was sent to the GOI.

[1] OJ L 188, 18.7.2009, p. 93.
[2] OJ L 108, 28.4.2011, p. 3.
[3] OJ C 239, 9.8.2012, p. 2.

(9) Replies to the questionnaire were received from the applicant and from the GOI.

(10) The Commission sought and verified all information it deemed necessary for the determination of subsidisation. Verification visits were carried out at the premises of the applicant.

2. PRODUCT CONCERNED

(11) The product under review is the same product as the one defined in the original investigation, namely stainless steel bars and rods, not further worked than cold-formed or cold finished, other than bars and rods of circular cross-section of a diameter of 80 mm or more, currently falling within CN codes 7222 20 21, 7222 20 29, 7222 20 31, 7222 20 39, 7222 20 81 and 7222 20 89 and originating in India.

3. SUBSIDISATION

3.1. Introduction

(12) On the basis of the information submitted by the GOI and interested parties and the replies to the Commission's questionnaire, the following schemes allegedly used by applicant were investigated:

(a) Export Promotion Capital Goods Scheme (EPCGS);

(b) Export Oriented Units Scheme (EOU);

(c) Export Credit Scheme (ECS);

(13) Schemes (a) and (b) 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 a document called 'Foreign Trade Policy' documents, issued by the Ministry of Commerce every five years and updated regularly. The Foreign Trade Policy document relevant to the RIP is the 'Foreign Trade Policy 2009-2014' ('FTP 09-14'). In addition, the GOI also sets out the procedures governing the FTP 09-14 in a 'Handbook of Procedures, Volume I' ('HOP I 09-14'), which is updated on a regular basis.

(14) The ECS scheme specified under (c) is based on sections 21 and 35A of the Banking Regulation Act 1949, which allows the Reserve Bank of India to direct commercial banks in the field of export credits.

(15) Furthermore, following the allegation of the Union industry, the Commission investigated whether the applicant:

(a) was benefiting from the Electricity Duty Exemption Scheme (EDES);

(b) was using local subsidy programmes of the State of Maharashtra;

(c) was benefiting from provisions of inputs for less than adequate remuneration;

(d) was benefiting from incentives related to power generation and distribution;

(e) was benefiting from purchases of cheap raw materials from related off-shore companies.

(16) Finally, the Commission verified that the following schemes investigated in the original investigation:

(a) Duty Entitlement Passbook Scheme (DEPBS);

(b) Advanced Authorization Scheme (AAS);

are still not being used by the applicant.

3.2. Findings

3.2.1. *Export Promotion Capital Goods Scheme*

(17) The investigation revealed that the applicant used this scheme during the RIP. However, it was found that the incentives received were insignificant at 0,02 %. Therefore, it was considered that it was not necessary to further evaluate the countervailability of this scheme.

3.2.2. *Export Oriented Unit Scheme*

(18) It was found that the applicant had the status of EOU and received the subsidies under this scheme in the RIP.

(19) With regard to this scheme the company claimed that the Commission should deviate from the method of calculation of the benefit received under EOU used in the original investigation. The company argued that certain benefits under the EOU scheme should be treated as a permissible duty drawback scheme within the meaning of Annexes II and III of the basic Regulation and therefore they should not be countervailable.

(20) However, since it was found that regardless of which method of calculation would be used, the subsidy rate established with respect to this scheme would not exceed 0,22 %, leading to an overall subsidy margin below *de minimis* level, it was decided not to analyse further this claim in the context of this review investigation.

3.2.3. *Export Credits Scheme*

(21) It was found that the applicant was not using this scheme in the RIP.

3.2.4. *Electricity Duty Exemption Scheme*

(22) The investigation revealed that the applicant used this scheme during the RIP. However, it was found that

the incentives received were insignificant. Therefore, it was considered that it was not necessary to further evaluate the countervailability of this scheme.

3.2.5. *Local Subsidy Programs of the State of Maharashtra*

(23) It was found that the applicant was not using this scheme in the RIP.

3.2.6. *Others*

(24) The investigation did not reveal any other benefits for the applicant in the RIP related to the terms of raw materials and energy purchases which would involve a financial contribution of the GOI and could therefore be treated as subsidies within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation. Therefore, the allegations of the Union industry listed in the recital (15) points (c)-(e) were found irrelevant in the context of this review.

4. AMOUNT OF COUNTERVAILABLE SUBSIDIES

(25) It is recalled that the original investigation established the amount of countervailable subsidies for the applicant, expressed *ad valorem*, at 4,3 %.

(26) During the RIP, the amount of countervailable subsidies for the applicant, expressed *ad valorem*, resulting from only one subsidy scheme, was found to be 0,22 %.

(27) Account taken of the above, it is concluded that the level of subsidisation with regard to the applicant exporting producer concerned has decreased.

(28) It was also examined whether the changed circumstances with regard to the examined schemes could be considered to be of a lasting nature.

(29) As mentioned above, the findings with regard to the EPCGS scheme during this interim review confirmed the findings of the original investigation where the subsidy granted under this scheme was found to be insignificant.

(30) Moreover, while in the original investigation the main benefit to the applicant was conferred under the EOU scheme, the benefit under this scheme has dropped during the RIP. Evidence has been obtained that this change is of a lasting nature as it relates to the decreased level of customs tariffs on stainless steel scrap and ferro-nickel, two main raw materials used by the applicant for the production of the product concerned.

5. COUNTERVAILING MEASURES

(31) On the basis of the above there are indications that the applicant will continue to receive subsidies in the future of an amount which is below the *de minimis* level. Hence, it is considered appropriate to amend the countervailing duty rate applicable to the applicant in order to reflect the current level of subsidisation. Such duty rate should be established at 0 % for the applicant.

(32) With regard to the rate of duty currently applicable to imports of the product concerned from exporting producers listed in the Annex to the definitive Regulation, it is noted that the current detailed arrangements of the investigated schemes and their countervailability have not changed with respect to the previous investigation. Thus there is no reason to re-calculate the subsidy and duty rates of these companies. Consequently, the rates of the duty applicable to the companies listed in the Annex to the definitive Regulation remain unchanged.

(33) With regard to all other companies' duty rate, it is noted that in the original investigation its level was set at the level of the highest individual subsidy margin found for the sampled companies. That corresponded to the subsidy margin of the applicant. Given that the margin of the applicant has changed following this interim review, the all-other-companies rate should be revised and set at the next highest subsidy margin. Since the next highest rate is the one applicable to the companies listed in the Annex, the rate of duty for all other companies should be set at that level, i.e. 4 %.

6. DISCLOSURE

(34) The GOI and the other interested parties were informed of the essential facts and considerations upon which it was intended to propose to amend the duty rate applicable to the applicant.

(35) The written and oral comments submitted by the parties were considered and, where appropriate, taken into account.

(36) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing,

HAS ADOPTED THIS REGULATION:

Article 1

Paragraph 2 of Article 1 of Implementing Regulation (EU) No 405/2011 is replaced by the following:

'2. The rate of the definitive countervailing duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and manufactured by the companies below shall be:

Company	Duty (%)	TARIC additional code
Chandan Steel Ltd, Mumbai	3,4	B002

Company	Duty (%)	TARIC additional code
Venus Wire Industries Pvt. Ltd, Mumbai; Precision Metals, Mumbai; Hindustan Inox Ltd, Mumbai; Sieves Manufacturer India Pvt. Ltd, Mumbai	3,3	B003
Viraj Profiles Vpl. Ltd, Thane	0	B004
Companies listed in the Annex	4,0	B005
All other companies	4,0	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, 22 July 2013.

For the Council
The President
C. ASHTON