

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

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

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 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation')<sup>(1)</sup>, and in particular Article 9 thereof,

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

Whereas:

A. **PROCEDURE**

1. **Provisional Measures**

- (1) On 3 May 2013, the European Commission ('the Commission') imposed, by means of Regulation (EU) No 418/2013<sup>(2)</sup> ('the provisional Regulation'), a provisional anti-dumping duty on imports into the European Union ('the Union') of certain stainless steel wires originating in India ('the country concerned').
- (2) The investigation 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 Union producers representing more than 50 % of the total Union production of certain stainless steel wires.
- (3) In the parallel anti-subsidy investigation, the Commission imposed a provisional countervailing duty on imports of certain stainless steel wires originating in the country concerned by means of Regulation (EU) No 419/2013<sup>(3)</sup> and a definitive countervailing duty by means of Regulation (EU) No 861/2013<sup>(4)</sup>.

2. **Parties concerned by the investigation**

- (4) At the provisional stage of the investigation, sampling was applied for the Indian exporting producers and the Union producers. At the provisional stage, sampling was envisaged also regarding unrelated importers. However, as two

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out of three importers chosen for the sample did not submit questionnaire replies, sampling for importers could not be applied. Therefore, all available information pertaining to all cooperating importers was used to reach definitive findings; in particular as far the Union interest is concerned.

- (5) One exporting producer alleged that since no sales from non-complainants were used for the determination of the injury suffered by the Union industry, the selected sample of Union producers could not be considered representative. That claim was rejected because the sample was selected on the basis of the replies received from all cooperating Union producers regardless their support for the complaint at the stage of determination of standing, and was made on the basis of production volumes.
- (6) One exporting producer, related to a Union producer, opposed the complaint, and requested individual examination, because it was not included in the sample of exporting producers, as a result of its low export volumes. The Union producer itself was also not included in the Union industry sample because of its low production volumes. The individual examination was granted by the Commission, but the exporting producer withdrew its request.
- (7) Seven Indian exporting producers outside the sample requested individual examination. Two of them replied to the questionnaires and five did not. Out of the two which replied to the questionnaire, one withdrew its individual examination request. As a result, the Commission has examined the request of one Indian exporting producer outside the sample, namely:
  - KEI Industries Limited, New Delhi (KEI).
- (8) At the provisional stage, none of the initially sampled exporting producers was found to have submitted sufficiently reliable information. Therefore Article 18 of the basic Regulation was applied. The Commission decided to extend the sample with three companies, based on their export volumes and their willingness to cooperate, as expressed following the initiation of the proceeding. As a result, the Commission has examined the questionnaire replies and carried out verification visits at the premises of the following Indian exporting producers:
  - Garg Inox, Bahadurgarh, Haryana
  - Macro Bars and Wires, Mumbai, Maharashtra
  - Nevatia Steel & Alloys, Mumbai, Maharashtra
- (9) Apart from the above, recitals 4 to 7 and 14 of the provisional Regulation are confirmed.

### 3. Investigation period and the period considered

- (10) As set out in recital 20 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 April 2011 to 31 March 2012 ('investigation period' or 'IP'). The examination of the trends relevant for the

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assessment of injury covered the period from 1 January 2009 to 31 March 2012 ('period considered').

#### 4. **Subsequent procedure**

- (11) Following the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('provisional disclosure'), several interested parties, namely the 3 sampled exporting producers, the one exporting producer which withdrew its individual examination request, the complainant, and 11 users submitted comments. The parties who so requested were granted a hearing. The Commission continued to seek information which it deemed necessary for the definitive findings. All comments received were considered and taken into account, where appropriate.
- (12) The Commission informed the interested parties of the essential facts and considerations on the basis of which it intended to recommend the imposition of definitive anti-dumping duty on imports of certain stainless steel wires originating in the country concerned and the definitive collection of the amounts secured by way of the provisional duty ('final disclosure'). The parties were also granted a period within which they could comment on the final disclosure. All comments received were considered and taken into account, where appropriate.
- (13) Following the comments received on the final disclosure, the Commission informed the interested parties of changes in the findings concerning the level of dumping of certain exporting producers. The parties were again granted a period within which they could comment on the additional disclosure. All comments received were considered and taken into account, where appropriate. One interested party, the complainant, criticised the fact that the findings concerning the level of dumping of certain exporting producers were altered on the basis of new data and comments received after the provisional disclosure and at the definitive stage of the investigation. It also alleged that its procedural rights were infringed.
- (14) The Commission, however, considered that it was to take into account the submissions received from the interested parties and, if necessary, alter the findings when the comments were justified. In none of these instances, new unverified data was used for the dumping determination. Moreover, the procedural rights of all interested parties were respected as they were duly and timely informed and given the same deadlines within which to submit comments.

#### B. **PRODUCT CONCERNED AND LIKE PRODUCT**

- (15) As stated in recital 21 of the provisional Regulation, the product concerned is defined as stainless steel wires containing by weight:

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- 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,

currently falling within CN codes 7223 00 19 and 7223 00 99, originating in the country concerned.

(16) Some users expressed concerns about the apparent lack of distinction between the various types of the product concerned and the like product because a wide product mix exists among all the product types. There was a particular concern as to how a fair comparison among all types could be ensured in the investigation. As is the case in most investigations, the definition of the product concerned covers a wide variety of product types which share the same or similar basic physical, technical and chemical characteristics. The fact that these characteristics can vary from product type to product type may indeed lead to cover a wide range of types. This is the case in the current investigation. The Commission took account of the differences among the product types and ensured a fair comparison. A unique product control number (PCN) was allocated to each product type, produced and sold by the Indian exporting producers and to each one produced and sold by the Union industry. The number depended on the main characteristics of the product — in this case: the steel grade, the tensile strength, the coating, the surface, diameter, and shape. Therefore, the types of wires exported to the Union were compared on a PCN basis with the products produced and sold by the Union industry that have the same or similar characteristics. All these types fell within the definition of the product concerned and the like product in the notice of initiation<sup>(5)</sup> and in the provisional Regulation.

(17) One party reiterated its claim that the so-called ‘highly technical’ product types are different and not interchangeable with other types of the product concerned. Hence, they should be excluded from the product definition. According to the case-law of the Court of Justice of the European Union<sup>(6)</sup>, when determining whether products are alike so that they form part of the same product, an assessment as to whether they share the same technical and physical characteristics, and have the same basic end-uses and the same price-quality ratio, has to be carried out. In that regard, the interchangeability of, and competition between, those products should also be assessed. The investigation found that the ‘highly technical’ product types referred to by the party have the basic physical, chemical, and technical characteristics as the other products subject to the investigation. They are made from stainless steel and they are wires, and the production process is similar, using similar machines, such that producers can switch between different variants of the product according to demand. Therefore, although different

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types of wires are not directly interchangeable and do not directly compete, producers are competing for contracts covering a broad range of stainless steel wires. Moreover, these product types are produced and sold by both the Union industry and the Indian exporting producers using a similar production method. Therefore, the claim cannot be accepted.

- (18) In response to final disclosure, one party claimed that the analysis carried out by the Commission in terms of establishing whether the so-called highly technical product types should be included in the investigation was insufficient. This argument is rejected. The investigation established that the highly technical product types fall within the product definition as stated in recital 17. The party wrongly assumes that all the criteria referred to in the case-law have to be met at the same time.. According to the case-law of the Court of Justice of the European Union<sup>(7)</sup>, the Commission enjoys a wide discretion when defining the product scope, and has to base this assessment on the set of criteria developed by the Court. Often, as in the present case, some criteria may point in one and some in the other direction; in such a situation, the Commission needs to carry out a global assessment, as it has done in the present case. It is therefore wrongly assumed by this interested party that product types need to share all characteristics in order to fall in the same product definition.
- (19) Some users claimed that the so-called stainless steel ‘series 200’ wires should be excluded from the product scope. In particular, they alleged this type was hardly produced by the Union industry. However, this claim is unfounded. First, the fact that a certain product type is not produced by the Union industry is not a sufficient reason to exclude it from the scope of the investigation, where the production process is such that Union producers could start producing the product type in question. Second, as for highly technical wires, it was found that these types of the product concerned have basic physical, chemical, and technical characteristics identical or similar to other types of the like product produced and sold by the Union industry. Therefore, the claim cannot be accepted.
- (20) Alternatively, they claimed that wire rod should be included in the definition of the product concerned. However, wire rod is the raw material used for the production of the product concerned but can also be used for the production of different products such as fasteners and nails. Therefore, contrary to the product concerned, it does not constitute a finished steel product. Through the cold forming production process, the wire rod, amongst other products, can be transformed into the product concerned or the like product. On that basis, wire rod cannot be included in the product scope within the meaning of the basic Regulation.
- (21) On the basis of the above, the definition of the product concerned and the like product in recitals 21 to 24 of the provisional Regulation are hereby confirmed.

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## C. DUMPING

### 1. Introduction

- (22) During the verification visits at the premises of the three originally sampled Indian exporting producers and the subsequent analysis of the collected information, it was found that these companies had submitted some information which could not be considered reliable. The Commission continued its investigation, analysing all information submitted in reaction to the provisional disclosure and in subsequent hearings.
- (23) As indicated in recital 26 of the provisional Regulation, in the case of one exporting producer, the Commission had found that the costs reported in the questionnaire reply could not be reconciled with the company's internal cost reporting system. The company had argued that the lack of reconciliation was caused by registration errors and a valuation method of stocks that differed between the internal cost reporting system and the data published in the annual accounts.
- (24) As explained in recital 28 of the provisional Regulation, although the data contained in the internal cost reporting system were consistent with the audited financial statements at company-wide level, it was not possible to reconcile the data generated by the internal cost reporting system for the wire division to the cost tables specifically prepared by the company in reply to the investigation's questionnaire. Hence, in accordance with Article 18 of the basic Regulation, it was considered that the information found in the internal cost reporting system should be used for the purpose of the anti-dumping investigation.
- (25) For that reason, the Commission provisionally adjusted the cost data provided by the exporting producer in its questionnaire reply by using the facts available in the internal cost reporting system.
- (26) As noted in recital 27 of the provisional Regulation, the exporting producer argued that the data in the internal cost reporting system were not reliable and should not be used for the purpose of the investigation. The company pointed to several errors and conceptual problems regarding the internally reported figures on which the Commission had based its adjustment of the costs. The company claimed that the Commission should have based its analysis on the costs reported in the questionnaire reply. Additionally, at a later stage following the provisional measures, the company provided a reconciliation between the internally reported divisional cost figures and the questionnaire reply. On that basis, and having regard to the evidence collected during the on-spot visit, certain manufacturing costs originally reported by that company in its questionnaire reply could then be accepted.
- (27) However, on the basis of the evidence at hand, the allocation of certain costs such as overheads and finance costs reported by the company in its

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questionnaire reply could not be considered as reliable for the purpose of the investigation. The Commission considered that these costs should be allocated based on the total company turnover and cost of goods sold in accordance with Article 2(5) of the basic Regulation. Based on the above, most of the costs reported in the questionnaire reply could be accepted and the turnover allocation was agreed by the company at the definitive stage of the investigation. The level of the dumping margin decreased following a revision of packing costs and certain overheads. It is thus considered that Article 18 of the basic Regulation should no longer apply to establish the dumping margin of this exporting producer.

- (28) As set out in recital 30 of the provisional Regulation, in the case of a second exporting producer, the Commission found that the purchases and the consumption of raw materials reported in the company's questionnaire reply were not supported by the data found in the producer's inventory management system. In particular, it appeared that the distribution of steel grades was different in each of the sources. The Commission established that the steel grade is a key factor in the determination of the cost of the final product and that unreliable information concerning the steel grade could seriously distort the determination of costs and sales prices of individual product types and could therefore be misleading, and made the exporting producer aware of this essential consideration at various occasions.
- (29) As set out in recital 31 of the provisional Regulation, the exporting producer claimed, however, that the computer files containing the purchases of raw material collected by the Commission during the verification visit were incomplete, because additional purchases of raw material had been made by other units in the company, but had not been reported and were not included in the computer files collected during the verification visit and examined by the Commission. Furthermore, the exporting producer claimed that the observed discrepancies in the quantities of steel grades were due to the fact that some steel grades were partly overlapping with each other and that some parts of the production process were not traceable at the level of individual steel grades.
- (30) In recital 32 of the provisional Regulation, the Commission, however, noted that the above claims made by the company relating to the additional purchases of raw material had not been substantiated and in any event were not sufficient to explain the observed discrepancies at the level of individual steel grades. The Commission also noted that the company had alleged that it was not possible to make an exact tracing by individual steel grades in all the stages of the production process. This acknowledgment further undermined the reliability of the reporting system of steel grades as a whole. The information provided concerning steel grades was therefore provisionally considered misleading.
- (31) In recital 33 of the provisional Regulation, the Commission considered that the reported distribution of raw material by steel grade was not reliable and should

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be provisionally disregarded and that the determinations should be made on the basis of facts available pursuant to Article 18 of the basic Regulation. Due to the unreliability of the reporting system as a whole, it was not possible to make the determinations on the basis of any of the reported steel grades. Therefore the total consumption of all raw materials taken as a whole, without considering the distribution by steel grade, was used in calculating an overall dumping margin for all products.

- (32) Following the publication of the provisional findings, the company contested this provisional approach in general terms but continued being unable to offer a one-to-one matching at PCN level. However, later in the investigation the company offered a sufficient degree of reconciliation when the raw material is grouped in the main series of stainless steel grades according to their chemical composition (the 200-, 300- and 400-series in the AISI classification). The company also offered an alternative way of grouping in which the final end-use was included as an additional grouping factor. However, as the final end-use cannot be verified, the Commission recalculated the dumping margin on the basis of the steel grades grouped by their chemical composition, as expressed in the series of steel grades (the 200-, 300- and 400-series in the AISI classification). The series of steel grades are a generally used, objective and verifiable criterion whereas, for this company, the use of the PCN did not allow for full reconciliation and therefore would not ensure a fair comparison on the basis of reliable data within the meaning of the basic Regulation.
- (33) Since the additional information submitted by the company did not allow for the data to be reconciled in the sufficiently detailed manner required for the investigation, the provisional conclusion that the company's tracing systems were not sufficiently reliable is maintained and Article 18 of the basic Regulation is applied for the definitive determination of cost of production and the dumping margin calculation, which is therefore based on the approach referred to in the previous recital.
- (34) As indicated in recital 34 of the provisional Regulation, in the case of the third exporting producer, during the verification visit the Commission found that the flows of raw materials reported in the questionnaire reply were not consistent with the data contained in the producer's accounting system. It appeared that the distribution per steel grades was different in each of the two sources.
- (35) As indicated in recital 35 of the provisional Regulation, the exporting producer, while admitting some errors in its questionnaire reply, alleged that the differences in the overall quantities of raw material could be reconciled by taking into account the changes in inventories. However, the company also alleged that partly overlapping steel grades made it impossible to make an exact reconciliation as per each individual steel grade. In its comments following the provisional findings, it also stated that, occasionally, the steel grade indicated on the sales invoice did not correspond to the actual steel grade



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being exported. Furthermore, the company argued that steel grades were not used in a precise manner in the stainless steel industry, and that there were variations between the published chemical compositions of steel grades and the actual products. The company argued that when taking into account these explanations, the discrepancies identified by the Commission would concern only an insignificant proportion of its exports.

- (36) The Commission considered that the volume of the detected discrepancies could not be explained by occasional imprecisions. On the contrary, the arguments being put forward contributed to undermining the reliability of the company's reporting system of steel grades as a whole, especially in light of the decisive nature of steel grades in the determination of the cost of the final product.
- (37) However, later in the investigation, the company claimed that if the Commission did not accept the company's initial reporting of steel grades, a more accurate result could be obtained if, instead of merging all PCNs together as had been done at the provisional stage, the Commission would group together only those specific steel grades between which discrepancies had been identified, or alternatively would group together the steel grades according to their chemical composition expressed in the series of steel grades (the 200-, 300- and 400-series in the AISI classification). The company also offered yet another method of further grouping the steel grades in the 300-series into smaller subgroups.
- (38) The Commission consequently recalculated the dumping margin on the basis of the stainless steel groups based on the chemical composition as expressed in the series of steel grades (the 200-, 300- and 400-series in the AISI classification) so as to follow the same method as described in recital 30. The series of steel grades are a generally used, objective and verifiable criterion whereas, for this company, the use of the PCN did not allow for full reconciliation and therefore would not ensure a fair comparison on the basis of reliable data within the meaning of the basic Regulation.
- (39) Since the additional information submitted by the company did not allow for the data to be reconciled in the sufficiently detailed manner required for the investigation, the provisional conclusion that the company's tracing systems were not sufficiently reliable is maintained and Article 18 of the basic Regulation is applied for the definitive determination of cost of production and the dumping margin calculation, which is therefore based on the approach referred to in the previous recital.
- (40) The complainant submitted that the grouping of the product concerned into steel grades prevented the Commission from performing a correct profitability test in order to determine the normal values per PCN.
- (41) The Commission performs its analysis at a level that is consistent with the internal accounting systems of the exporting and Union producers, which

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allow for the reported figures to be substantiated. The claim is therefore rejected.

- (42) In the absence of other comments, recitals 37 and 38 of the provisional Regulation are confirmed.

2. **Normal value**

- (43) For one exporting producer for which Article 18 of the basic Regulation is applied, the determination of the normal value has been reviewed following the reassessment of its cost of production. In the definitive stage, the cost of production was determined based on the reported manufacturing costs to which selling, general and administrative costs, inclusive of finance costs, were added using an allocation method permitted by Article 2(5) of the basic Regulation.

- (44) For the three newly sampled exporting producers, and the exporting producer granted individual examination, domestic sales volumes were found to be representative overall, representing at least 5 % of the total company's export sales volume of the product concerned to the Union. The same representativity test was also performed for each product type sold by the newly sampled producers on their domestic markets and found to be comparable with the product types sold for export to the Union, in accordance with Article 2(2) of the basic Regulation.

- (45) By establishing the proportion of profitable sales to independent customers in the domestic market during the IP, the Commission further examined whether the domestic sales of each newly sampled exporting producer and the exporting producer granted individual examination, could be considered as having been sold in the ordinary course of trade, in accordance with Article 2(4) of the basic Regulation.

- (46) In the case of one of the newly sampled exporting producers, the cost allocation initially submitted by the company was found to be inadequate since it disregarded the thickness of the wire which is a significant cost driver. With the agreement of the company, the cost allocation method was adjusted.

- (47) In the case of a second newly sampled exporting producer, a clerical error in the determination of the dumping margin was corrected. Furthermore the producer requested that the Commission make additional adjustments in the profitability test and price allowances. These claims were not found to be warranted.

- (48) In the case of the exporting producer granted individual examination, a clerical error in the calculations was corrected. The same exporting producer made further claims on the Commission's determination of the level of the selling, general and administrative costs and the domestic transport costs and requested an adjustment for physical differences of the product concerned between the domestic and export markets. These claims were rejected because

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the calculations were based on the cost data submitted by the company that had been verified during the verification visit and because the claim regarding physical differences was not substantiated.

- (49) As a consequence, the methodology for determining normal value as described in recitals 39 to 48 of the provisional Regulation is confirmed and was applied to the three newly sampled exporting producers and the exporting producer granted individual examination.

### 3. **Export price**

- (50) For one exporting producer, following its claims, certain clerical errors, relating to the occasional use of a wrong exchange rate and the erroneous inclusion of certain intragroup sales in the dumping calculation were rectified.
- (51) For a second exporting producer, sales via a related company in the Union were included in the dumping calculation.
- (52) One newly sampled exporting producer claimed that the benefits it had received under the DEPB and DDS subsidy schemes needed to be added to the export prices.
- (53) Another newly sampled exporting producer reported the benefits it received under the DDS subsidy scheme as negative price allowances, artificially increasing the export prices.
- (54) The Commission analysed the price behaviour of both companies on the Union market and arrived at its findings, which result from the application of Article 2(8) of the basic Regulation and therefore do not require further adjustment. The former company's claim was therefore rejected and the latter company's reported allowance disregarded.
- (55) One newly sampled exporting producer claimed that its export prices should be corrected upward in order to bring them in line with its domestic prices because the domestic sales were made under an own brand name, attracting higher prices. The company could not, however, substantiate that the invoices for which it made the claim were indeed referring to branded sales and, consequently, the claim was rejected.
- (56) In the absence of other comments, recitals 50 to 52 of the provisional Regulation are confirmed.

### 4. **Comparison**

- (57) One exporting producer claimed that, since all PCNs were collapsed for the determination of its cost of production, export prices should be treated in the same way and a single export price should have been used for the comparison to the normal value.

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(58) The Commission in its investigation aimed at obtaining cost and export price data on a PCN basis, but did not obtain from the company concerned the necessary reconciliations that would have allowed the identification of reliable costs of production on a PCN basis. The investigation found, however, no deficiency with the export price levels reported by PCN, and it would therefore not have been appropriate to apply Article 18 of the basic Regulation to the determination of the actual export prices. Since the Commission did not consider it appropriate to reduce the level of detail of reported prices compared to the standards of the investigation in order to make a fair comparison, the claim was rejected.

(59) In the absence of other comments, recitals 53 to 55 of the provisional Regulation are confirmed.

#### 5. **Dumping margin**

(60) As provided for by Article 2(11) and (12) of the basic Regulation, for each sampled company the weighted average normal value established for the like product was compared with the weighted average export price of the product concerned.

(61) In line with Article 9(6) of the basic Regulation, due to the application of Article 18 of the basic Regulation to two of the three initially sampled exporting producers, the dumping margin of the cooperating exporting producers not included in the sample is established on the basis of the average dumping margin of the one originally sampled exporting producer for which Article 18 of the basic Regulation is no longer applied and the two newly sampled companies with dumping margins that are not *de minimis*. On this basis, the dumping margin calculated for the cooperating companies not included in the sample was established at 8,4 %.

(62) With regard to all other exporting producers in the country concerned, the Commission first established the level of cooperation. To this end, a comparison was made between the total export quantities indicated in the sampling replies and the total imports from the country concerned as derived from the Eurostat import statistics. Since the level of cooperation was high, the residual dumping margin was set at the level of the highest dumping margin established for the sampled exporting producers. On this basis, the country-wide level of dumping was established at 16,2 %.

(63) On this basis, the weighted average dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

<b>Company</b>	<b>Definitive dumping margin</b>
GARG Inox	11,8 %
KEI Industries	7,7 %

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Macro Bars and Wires	0,0 %
Nevatia Steel & Alloys	4,1 %
Raajratna Metal Industries	16,2 %
Venus Group	11,6 %
Viraj Profiles	6,8 %
Cooperating non-sampled companies	8,4 %
All other companies	16,2 %

#### D. UNION INDUSTRY

##### 1. Union industry

(64) Some users questioned the number of Union producers in recital 63 of the provisional Regulation. They claimed that the number of producers was wrongly assessed and in reality there were fewer producers present on the Union market.

(65) The Commission points out that the above claim was not substantiated by any evidence. The Commission has verified the number of Union producers stated in the complaint when verifying standing and also during the investigation. The Commission contacted all 27 known Union producers in this respect. The investigation confirmed that 27 Union producers were manufacturing the like product in the Union during the IP. The claim is therefore rejected and recital 63 of the provisional Regulation is confirmed.

##### 2. Union production and Sampling of Union producers

(66) In the absence of comments, recitals 64 to 67 of the provisional Regulation are confirmed.

#### E. INJURY

##### 1. Union consumption

(67) Some users claimed that the injury analysis should have disregarded the data relating to 2009 because the financial crisis which occurred that year had distorting effects, in particular on Union consumption. However, even if 2009 was excluded from the analysis, there would still be a growing trend for consumption (+ 5 %) which is an indication of an improving market. Moreover, the negative effects of the financial crisis are recognised in recital 68 of the provisional Regulation. In absence of other comments, recital 68 of the provisional Regulation is confirmed.

##### 2. Imports into the Union from the country concerned

(68) The dumping margin established for the exporting producer, Macro Bars and Wires, is below the *de minimis* threshold provided for in Article 9(3) of the

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basic Regulation. Therefore, it is deemed that this exporting producer has not dumped within the meaning of Article 1(2) of the basic Regulation during the investigation period. As a result, its import volumes were excluded from the volume of provisionally established dumped imports from the country concerned. Another exporting producer, namely the Venus group, submitted that certain transactions were mistakenly double-counted. The Commission agreed with the exporting producer, and adjusted the total volume of dumped imports by eliminating these transactions.

(69) Accordingly the volume, market share and average price of the dumped imports were revised.

(70) Volume and market share of the dumped imports:

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>IP</b>
<b>Volume</b>	15 826	27 291	34 494	33 252
<b>Index (2009 = 100)</b>	100	172	218	210
<b>Market share</b>	12,0 %	14,6 %	17,6 %	16,9 %
<b>Index (2009 = 100)</b>	100	121	146	140

Source: Eurostat and questionnaire replies

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(71) Macro Bars and Wires exported limited quantities of the product concerned during the IP and the transactions of the Venus group mentioned above also constituted limited quantities. Therefore the deduction of these import volumes from the total volume of dumped imports from the country concerned does not result in significant changes concerning the trends described in recitals 69 and 71 of the provisional Regulation. Thus these recitals to the provisional Regulation are confirmed.

(72) Average price of the dumped imports:

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>IP</b>
<b>Average price</b>	2 380	2 811	3 259	3 207
<b>Index (2009 = 100)</b>	100	118	137	135

Source: Eurostat and questionnaire replies

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(73) The adjustment of the volume of dumped imports does not result in any significant change of the average prices of the dumped Indian imports or the

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undercutting margin calculations. The weighted average undercutting margin is 15 %, which confirms the finding in the provisional Regulation.

- (74) An Indian exporting producer claimed that the Union sales prices seemed highly implausible and likely to be distorted. It is, however, underlined that the prices used in the undercutting calculations were the result of information collected and verified during on-the-spot investigations at the premises of the sampled Union producers.
- (75) The conclusions drawn from the findings described in recitals 75 to 77 of the provisional Regulation are confirmed.

### 3. **Economic Situation of the Union industry**

- (76) Some parties claimed that the results obtained by the Union industry should be considered as reasonably positive in the context of the global economic crisis and that, with the exception of one injury indicator, namely market share, all other indicators did not point toward the existence of injury.
- (77) One party claimed that the average selling prices of the Union industry increased by around 34 % far more than its cost of production which increased by 13 % over the same period. In this respect it needs to be noted that at the beginning of the period considered, namely in 2009, the Union industry was selling below cost of production, and only managed to sell above cost of production from 2011 onwards.
- (78) The investigation showed that although some injury indicators such as production volumes and capacity utilisation followed a positive trend, or remained stable such as employment, a number of other indicators relating to the financial situation of the Union industry, namely profitability, cash flow, investment and return on investment did not follow a satisfactory trend during the period considered. While the indicator relating to investments improved in 2010, it dropped below 2009 figures in 2011 and the IP. Although it is true that return on investments improved from 2009 until 2011 reaching 6,7 %, it dropped again to 0,8 % in the IP. Similarly indicators relating to profitability and cash flow improved until 2011 and they started again to deteriorate in the IP. Therefore, it can be concluded that the Union industry started to improve after 2009, but its recovery was slowed down by the dumped imports from the country concerned subsequently.
- (79) On a request by an interested party it is confirmed that the stock levels established in recital 100 of the provisional Regulation concerned the activity of the sampled Union companies.
- (80) The Union industry argued that the target profit margin of 5 % set at the provisional stage was too low. The party did not substantiate its claim sufficiently. Recital 95 of the provisional Regulation explains the reasons behind the choice of this profit margin and the investigation did not reveal any

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other reasons to change it. Therefore, the target profit of 5 % is maintained for the purpose of the definitive findings.

- (81) One exporting producer argued that the Union industry's difficulties are largely due to structural problems and that, therefore, the target profit margin of 5 % was unrealistic.
- (82) It is recalled that according to the case law<sup>(8)</sup>, the Institutions need to establish the profit margin which the Union industry could reasonably count on under normal conditions of competition, in the absence of the dumped imports. In 2007, the profit margin was 3,7 %; as of 2008, due to the financial and economic crisis, it became negative. The complaint argued, and the investigation established, that dumped imports started to arrive on the Union market as of 2007, when the volume of imports increased from 17 727 tonnes in 2006 to 24 811 tonnes. Therefore, it was not possible to establish the target profit margin based on the profit which could reasonably be counted on by the Union producers of the like product. Consequently, as explained in recital 95 of the provisional Regulation, the Commission considered it appropriate using the profit margin of 5 % on the basis of the real profits observed in other parts of the steel industry, which have not suffered from dumped and subsidized imports, as has been done in other recent investigations into similar product in the same sector.<sup>(9)</sup> Additionally, it should be noted that the 3,7 % profit margin observed in 2007 is considered in any case too low because of the presence and increase of dumped imports. Therefore, the target profit of 5 % is maintained for the purpose of the definitive findings.

#### 4. **Conclusion on injury**

- (83) The Commission therefore concludes that the Union industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation. In the absence of other comments, recitals 78 to 105 of the provisional Regulation are confirmed.

### F. **CAUSATION**

#### 1. **Effect of dumped imports**

- (84) One exporting producer claimed that the provisional Regulation ignored that the Union industry was able to benefit from the increase in consumption since 2009 and that the Commission cannot assume that the Union industry will be able to maintain its market share indefinitely.
- (85) In response to these arguments it needs to be noted that the investigation revealed the market share of the dumped Indian imports grew with a higher pace than the consumption in the Union market. The volume of Indian dumped imports increased by 110 % while the consumption increased by 50 % over the same period. Furthermore the investigation also showed that the average Indian price was constantly below the average price of the Union industry during the same period and undercut the Union industry average price by 15 %



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during the IP. As a result, while the Union industry indeed benefited from the increased consumption to a certain extent and it also could increase its sales volumes by 40 %, it could not maintain its market share as it could be expected under improving market conditions and given the Union industry's free production capacity.

## 2. **Effect of other factors**

### 2.1. *Non-dumped imports*

(86) Over the period considered, the development of non-dumped imports and prices is comparable to the evolution of dumped imports and prices. Moreover, prices of dumped imports were fundamentally at the same level as the prices of the non-dumped imports, in that average non-dumped import prices were lower by 0,4 %. In addition, the volume of non-dumped imports is less than six per cent of total imports from the country concerned and slightly more than one percent of market share. Therefore, the Commission considers that the injury caused by non-dumped imports from the country concerned does not break the causal link between the dumped imports from the country concerned and the material injury suffered by the Union industry during the IP.

### 2.2. *Imports from third countries*

(87) Two Indian exporting producers and the Government of India reiterated the claim that imports of stainless steel wire originating in the People's Republic of China ('China') should have been included in the investigation and that the impact the imports from China had on the Union market and the Union industry was underestimated.

(88) As mentioned in recital 115 of the provisional Regulation, since the initiation stage, no evidence of dumping causing injury to the Union industry, which may have justified the initiation of an anti-dumping investigation on imports originating in China, has been presented. The claim that China should have been included in the scope of the investigation is therefore rejected as unfounded.

(89) However, the imports from China showed an increasing trend during the period considered and reached a market share of 8,3 % in the IP as stated in recital 113 of the provisional Regulation. In addition, the Chinese import prices were lower than the prices of the Union industry and those of the Indian exporting producers in the Union market. It was, therefore, further investigated whether the imports from People's Republic of China could have contributed to the injury suffered by the Union industry and broken the causal link between that injury and the Indian dumped imports.

(90) The information available at provisional stage suggested that the product mix represented by the Chinese imports was different and that the ranges where the Chinese products were present were different compared to the products

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sold by the Union industry or even those of Indian origin products sold in the Union market.

- (91) After publication of the provisional measure the Commission received several claims pointing to the possibility that Chinese low-priced imports during the IP would break the causal link between dumped Indian imports and material injury suffered by the Union industry.
- (92) Analysis made on the basis of the import statistics concerning the two CN codes under investigation showed that 29 % of Chinese imports were made on the lower end of the market (under CN code 7223 00 99). This partly explains why Chinese prices on average are lower than those of the Union industry and the Indian exporting producers'. The statistics for CN code 7223 00 99 also showed that the customers of the Chinese producers were concentrated in the United Kingdom where the Union industry was basically not producing.

Average price (EUR/MT)	2009	2010	2011	IP
72 230 019	2 974	3 286	3 436	2 995
72 230 099	765	1 458	1 472	1 320

Source: Eurostat

- (93) As concern CN code 7223 00 19 the analyses carried out on PCN basis showed that both the Union industry and Indian producers were mainly competing in the higher end of the market where prices could be up to four times higher than prices in the lower end within the same CN<sup>(10)</sup>. The investigation also showed that in general price variations are linked to the product type and the nickel content.
- (94) As concerns the price level of imports from the People's Republic of China, it needs to be pointed out that from 2009 until the IP the average price of Chinese imports remained above the price of the dumped exports of the product concerned from India, as can be seen from the following table showing the average price of Chinese exports falling under CN code 7223 00 19.

Average price (EUR/MT)	2009	2010	2011	IP	IP + 1
72 230 019	2 974	3 286	3 436	2 995	3 093

Source: Eurostat

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- (95) In the IP for the first time the average Chinese import price dropped below that of the Indian import price of dumped imports. However, this observation was found to be of a temporary nature since the Chinese price level in the year after the IP increased and was again higher than the Indian prices.
- (96) Furthermore, the comparison between the import volumes from the country concerned and People's Republic of China showed that at any point during the period considered and particularly in the IP, imports from People's Republic of China were at much lower levels than the imports from India. The import volumes for People's Republic of China amounted to basically less than half of the total imports from India.
- (97) Therefore, even if the imports from the People's Republic of China contributed to the injury suffered by the Union industry they could not have affected the situation of the Union industry to the extent to break the causal link between the dumped imports from the country concerned and the injury suffered by the Union industry. Therefore, recital 113 of the provisional Regulation is confirmed.

### 2.3. *Competition from other producers in the Union*

- (98) One party argued that the Union producers' poor financial performance might have been caused by competition from other Union producers which were not complainants or did not express their support to the investigation at the initiation of the case.
- (99) The market share of other producers in the Union developed as follows:

	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>IP</b>
<b>Union sales of other producers in the Union (MT)</b>	34 926	55 740	55 124	55 124
<b>Index (2009 = 100)</b>	100	160	158	158
<b>Market share of other producers in the Union</b>	26,6 %	29,8 %	28,1 %	27,9 %

*Source:* complaint and standing replies

- (100) The Union producers which were not complainants and which did not specifically express support to the investigation accounted for 44 % of total

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Union sales reported in recital 86 of the provisional Regulation. Their sales volume increased by 58 % from an estimated 34 926 tonnes in 2009 to 55 124 tonnes during the period considered. However, such growth is relatively modest if compared to the growth of the dumped imports from the country concerned in the same period (+ 110 %). Furthermore, the market share of those Union producers remained relatively stable during the period considered and no indication was found that their prices were lower than those of the sampled Union producers. It is therefore concluded that their sales on the Union market did not contribute to the injury suffered by the Union industry.

3. **Conclusion on causation**

(101) In the absence of comments, recitals 121 to 124 of the provisional Regulation are confirmed.

G. **UNION INTEREST**

1. **General considerations**

(102) In the absence of comments, recital 125 of the provisional Regulation is confirmed.

2. **Interest of the Union industry**

(103) In the absence of comments, recitals 126 to 133 of the provisional Regulation are confirmed.

3. **Interest of unrelated importers**

(104) In the absence of comments, recitals 142 to 144 of the provisional Regulation are confirmed.

4. **Interest of users**

(105) Following the imposition of the provisional measures, seven users and one users' association contacted the Commission and showed interest to cooperate in the investigation. Following their request, questionnaires were sent to them in April 2013. However, only two users submitted a full questionnaire reply and overall the cooperating users represented 12 % of total imports from the country concerned during the IP and 2,5 % of the total Union consumption, while employing 32 persons involved in manufacturing finished products incorporating the product concerned. The economic impact of the measures on users was reassessed on the basis of the new data available in the questionnaire replies and two users were visited to verify the information provided.

(106) Users claimed that the level of profitability of 9 %, stated in recital 136 of the provisional Regulation was too high and was not representative for the users' industry. Following the receipt of the additional questionnaire replies the average profitability of all cooperating users was recalculated and established at 2 % on turnover.

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- (107) It was also found that on average concerning the cooperating users, purchases from the country concerned constituted 44 % of the total purchases of the product concerned, and that the country concerned represented the exclusive source of supply for two cooperating users. During the IP, the turnover of the product incorporating the product concerned represented on average 14 % of total turnover of the cooperating users.
- (108) Assuming the worst case scenario for the Union market, i.e. that no potential price increase could be passed on to the distribution chain and that the users would continue purchasing from the country concerned in previous volumes, the impact of the duty on the users' profitability achieved from activities using or incorporating the product concerned would mean a decrease to the point where users would become loss making, reaching a (negative) profitability of -0,6 %.
- (109) The Commission acknowledges that the impact in the short and medium term will be more important, on an individual level, for those users which source their entire imports from India. However, these are relatively few in numbers (two of the cooperating users). Furthermore, they have the possibility, provided that their Indian producer cooperates, to request the refund of the duties pursuant to Article 11 of the Basic Regulation, if all conditions for such a refund are met.
- (110) Some users reiterated the concern that measures would hit certain type of wires not produced in Europe, namely types included in the so-called series 200 as described in recital 139 of the provisional Regulation. According to the users, the absence of production in the Union is due to the limited demand and to the specificity of the production process.
- (111) However, the investigation showed that such type of stainless steel wires are produced by the Union industry and that they represent a limited share of the Union market. For users, there are also alternative sources of supply available from countries not subject to anti-dumping or anti-subsidy measures. Furthermore, other product types of stainless steel wires can be used for the same purposes. Therefore, the imposition of the measures cannot have a significant impact on the Union market and on these users. This claim is therefore rejected.
- (112) Some users pointed out the longer delivery time for the like product by the Union producers compared to the delivery time of the product concerned from India. However, the possibility of merchants and traders of stocking the products and of having them swiftly available does not undermine the factual evidence of the negative effects of the dumped imports. Therefore, this argument has to be rejected.
- (113) Taking the above into consideration, even if some users are likely to be negatively affected by the measures on imports from the country concerned

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more than others, it is considered that in balance the Union market will benefit from the imposition of the measures. In particular, it is considered that restoring fair trade conditions on the Union market would allow the Union industry to align its prices with cost of production; to keep production and employment; to regain the market share previously lost and to benefit from increased economies of scale. This should allow the industry to reach reasonable profit margins that will permit it to operate efficiently in the medium and long term. In parallel the industry will improve its overall financial situation. In addition, the investigation established that the measures will have an overall limited impact on the users and on unrelated importers. Therefore it is concluded that the overall benefit of the measures appears to outweigh the impact on the users of the product concerned in the Union market.

5. **Conclusion on Union interest**

(114) In view of the above, the assessment in recitals 145 and 146 of the provisional Regulation is confirmed.

H. **DEFINITIVE ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(115) For one exporting producer the injury elimination calculation was adjusted downward following its claim that clerical errors had been made by confusing the exchange rate on certain transactions and the inclusion of intra-group transactions in the calculation. In the absence of any other comments, recitals 148 to 151 of the provisional Regulation are confirmed.

(116) The same exporting producer claimed that the Indian exports to the Union are made to wholesalers and that sales by the Union industry on the Union market are made to end-users and that therefore the Commission did not compare at the appropriate level of trade. However, the investigation showed that the Indian exporting producers are selling to both categories of customers and that they are competing with the Union producers for the same categories of clients.

2. **Conclusion on injury elimination level**

(117) No individual injury margin was calculated for Macro Bars and Wires since this company's definitive anti-dumping margin was at *de minimis* level as stated in recital 51.

(118) The methodology used in the provisional Regulation is hereby confirmed.

3. **Definitive measures**

(119) In the light of the above and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at a level sufficient to eliminate the injury caused by the dumped imports taking

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into account the subsidy margin imposed Commission Regulation (EU) No 419/2013.

- (120) Therefore, the dumping duty rates were established by comparing the injury margins to the dumping margins, while taking the subsidy margins into account by fully deducting them from the relevant dumping margin. Consequently, the definitive anti-dumping duty rates are as follows:

<b>Company</b>	<b>Dumping margin</b>	<b>Countervailing duty</b>	<b>Injury margin</b>	<b>Definitive anti-dumping duty rate</b>
GARG Inox	11,8 %	3,4 %	22,6 %	8,4 %
KEI Industries	7,0 %	0,0 %	41,9 %	7,7 %
Macro Bars and Wires	0,0 %	3,4 %	30,3 %	0,0 %
Nevatia Steel & Alloys	4,1 %	3,4 %	23,8 %	0,7 %
Raajratna Metal Industries	16,2 %	3,7 %	17,2 %	12,5 %
Venus group	11,6 %	3,0 %	23,4 %	8,6 %
Viraj Profiles Vpl. Ltd	6,8 %	0,0 %	32,1 %	6,8 %
Cooperating non-sampled companies	8,4 %	3,4 %	23,7 %	5,0 %
All other companies	16,2 %	3,7 %	41,9 %	12,5 %

- (121) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to ‘all other companies’) are exclusively applicable to imports of products originating in India and produced by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to ‘all other companies’.

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- (122) One exporting producer in the country concerned offered a price undertaking in accordance with Article 8(1) of the basic Regulation.
- (123) In recent years, the product concerned has shown a considerable volatility in prices and therefore it is not suitable for a fixed price undertaking. In order to overcome this problem, the Indian exporting producer offered an indexation clause based on raw material costs. In this respect it is noted that no direct and precise link between the fluctuation of prices and that of the index could be established and, thus, indexation is not considered appropriate. In addition, the investigation established that there are different types of the product concerned which are not easily distinguishable and have considerable differences in prices.
- (124) Furthermore, the exporting producer produces a range of stainless steel products and may sell these products to the same customers in the Union via related trading companies. This would create a serious risk of cross-compensation and would render extremely difficult to monitor effectively the undertaking.
- (125) On the basis of the above, the Commission concluded that the undertaking offer cannot be accepted.
- (126) Any claim requesting the application of an individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission<sup>(11)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation imposing the definitive anti-dumping duties will be amended accordingly by updating the list of companies benefiting from individual duty rates.
4. **Definitive collection of provisional anti-dumping duties**
- (127) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation be definitively collected to the extent of the amount of the definitive duties imposed,

HAS ADOPTED THIS REGULATION:



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- (1) [OJ L 343, 22.12.2009, p. 51.](#)
- (2) [OJ L 126, 8.5.2013, p. 1.](#)
- (3) [OJ L 126, 8.5.2013, p. 19.](#)
- (4) [OJ L 240, 7.9.2013, p. 1.](#)
- (5) [OJ C 240, 10.8.2012, p. 6.](#)
- (6) See Case C-595/11, *Steinel Vertrieb GmbH v Hauptzollamt Bielefeld* (Judgment of the Court (Second Chamber) of 18 April 2013). Not yet published.
- (7) See Case T- 170/94, 1997 ECR II-1383, at paragraph 64.
- (8) Case T-210/95, 1999 ECR II-3291, at paragraph 60.
- (9) Council Regulation (EC) No 383/2009 of 5 May 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pre- and post-stressing wires and wire strands of non-alloy steel (PSC wires and strands) originating in the People's Republic of China ([OJ L 118, 13.5.2009, p. 1](#)); Commission Regulation (EU) No 1071/2012 of 14 November 2012 imposing a provisional anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the People's Republic of China and Thailand ([OJ L 318, 15.11.2012, p. 10](#)); Commission Regulation (EU) No 845/2012 of 18 September 2012 imposing provisional anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China ([OJ L 252, 19.9.2012, p. 33](#)).
- (10) However, it is noted that both the Union industry and the Indian exporting producers are also present in the lower end of the market even if to a lesser extent.
- (11) European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

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