

DECISIONS

COMMISSION DECISION

of 22 March 2012

terminating the anti-dumping proceeding concerning imports of certain stainless steel fasteners and parts thereof originating in India

(2012/163/EU)

THE EUROPEAN COMMISSION,

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 ⁽¹⁾ (the 'basic Regulation'), and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 13 May 2011, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union* ⁽²⁾ ('notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Union of certain stainless steel fasteners and parts thereof originating in India ('the product concerned').
- (2) On the same day, the Commission announced by a notice published in the *Official Journal of the European Union* ⁽³⁾, the initiation of an anti-subsidy proceeding with regard to imports into the Union of certain stainless steel fasteners and parts thereof originating in India and commenced a separate investigation.
- (3) The anti-dumping proceeding was initiated following a complaint lodged on 31 March 2011 by the European Industrial Fasteners Institute EiFi ('the complainant') on behalf of producers representing more than 25 % of the total Union production of certain stainless steel fasteners and parts thereof. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting thereof, which was considered sufficient to justify the initiation of an investigation.

1.2. Parties concerned by the proceeding

- (4) The Commission officially advised the complainant, other known Union producers, the known exporting

producers, known importers, users known to be concerned, and the Indian authorities of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

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

1.2.1. Sampling for exporting producers in India

- (6) In view of the apparent large number of exporting producers in India, sampling was provided for in the notice of initiation for the determination of dumping, in accordance with Article 17(1) of the basic Regulation.
- (7) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers in India were requested to make themselves known within 15 days from the date of the initiation of the investigation and to provide basic information on their export and domestic sales, their precise activities with regard to the production and sales of the product concerned and the names and activities of all their related companies involved in the production and sales of the product concerned during the period from 1 April 2010 to 31 March 2011 ('investigation period' or 'IP').
- (8) In total, five exporting producers, including a group of related companies in India, provided the requested information and agreed to be included in the sample within the deadline set in the notice of initiation. These cooperating companies reported exports of the product concerned to the Union during the investigation period. The comparison between Eurostat import data and the volume of exports to the Union of the product concerned reported for the investigation period by the five cooperating companies revealed that the cooperation of Indian exporting producers was close to 100 %. Thus, the sample was chosen on the basis of the information submitted by these five exporting producers.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 142, 13.5.2011, p. 30.

⁽³⁾ OJ C 142, 13.5.2011, p. 36.

- (9) In accordance with Article 17(1) of the basic Regulation, a sample was selected based on the largest representative

volume of exports of the product concerned to the Union which could reasonably be investigated within the time available. On the basis of the information received from the exporting producers, the Commission selected a sample of three exporting producers having the largest volume of exports to the Union. Based on the sampling information, the selected companies or groups accounted for 99 % of the total volume of exports to the Union of the product concerned in the IP reported by the cooperating exporting producers. It was therefore considered that such a sample would allow to limiting the investigation to a reasonable number of exporting producers which could be investigated within the time available while ensuring a high level of representativeness.

1.2.2. *Selection of the sample of cooperating exporting producers in India*

- (10) In accordance with Article 17(1) of the basic Regulation, the parties concerned and the Indian authorities were consulted on the selection of the sample. The two non-sampled exporting producers insisted to be also included in the sample. However, in view of the representativity of the proposed sample, as mentioned in recital (8) above, it was concluded that it was not necessary to amend or enlarge the sample.

1.2.3. *Individual examination of companies not selected in the sample*

- (11) Two co-operating exporting producers, which were not included in the sample requested individual examination and replied to the anti-dumping questionnaire within the time limit.
- (12) Given the conclusion that the present anti-dumping proceeding should be terminated for the reasons mentioned further below, the requests for individual examination were not further considered.

1.2.4. *Sampling of Union producers*

- (13) In view of the apparent large number of Union producers, sampling was provided for in the Notice of initiation for the determination of injury, in accordance with Article 17 of the basic Regulation.
- (14) In the Notice of initiation the Commission announced that it had provisionally selected a sample of Union producers. This sample consisted of five companies, out of the 15 Union producers that were known prior to the initiation of the investigation, selected on the basis of their sales volume, size and geographic location in the Union. They represented 37 % of the total estimated Union production during the IP. Interested parties were invited to consult the file and to comment on the appropriateness of this choice within 15 days of the date of publication of the Notice of initiation. No interested party opposed to the proposed sample composed of five companies.

- (15) Subsequently one of the five sampled Union producers withdrew its cooperation. The remaining four sampled companies represented 31 % of the total estimated Union production during the IP. Hence the sample was considered to be representative of the Union industry.

1.2.5. *Sampling of unrelated importers*

- (16) In view of the potentially large number of importers involved in the proceeding, sampling was envisaged for importers in the notice of initiation in accordance with Article 17 of the basic Regulation. Two importers provided the requested information and agreed to be included in the sample within the deadline set in the notice of initiation. Given the low number of importers who made themselves known, it was decided not to apply sampling.

1.3. **Questionnaire replies and verifications**

- (17) The Commission sent questionnaires to all parties known to be concerned and to all other parties that made themselves known within the deadline set out in the notice of initiation. Questionnaires were thus sent to the sampled exporting producers in India, the sampled Union producers, the cooperating importers in the Union and to all users known to be concerned by the investigation.
- (18) Replies were received from the sampled exporting producers and four sampled Union producers. None of the importers or users replied to the questionnaire.
- (19) The Commission sought and verified all the information provided by interested parties and deemed necessary for the determination of dumping, resulting injury and Union interest.
- (20) One party claimed that one of the exporting producers made too many claims for confidentiality and did not provide a sufficiently meaningful public version of its questionnaire response. Hence, the information submitted by this company should not be taken into consideration and it should be treated as a non-cooperative party in the investigation.
- (21) The non-confidential version of the reply of this exporting producer however, consisting of an initial reply and a completed version based on a deficiency letter, has once more been assessed and found to be sufficiently complete to qualify as a meaningful public reply. This claim was therefore rejected.
- (22) Verification visits were carried out at the premises of the following parties:

Producers in the Union:

- Inox Viti di Cattinori Bruno & C.s.n.c., Grumello del Monte, Italy;
- Bontempi Vibo S.p.A., Rodengo Saiano, Italy;
- Ugivis S.A., Belley, France

Exporting producers in India:

- Viraj Profiles Limited, Boisar, Dist. Thane, Maharashtra
- Agarwal Fastners Pvt. Ltd., Vasai (East), Dist. Thane, Maharashtra
- Raajratna Ventures Ltd., Ahmedabad, Gujarat

1.4. Investigation period

- (23) The investigation of dumping and injury covered the period from 1 April 2010 to 31 March 2011. The examination of trends relevant for the assessment of injury covered the period from January 2008 to the end of the IP ('period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (24) The product concerned is stainless steel fasteners and parts thereof ('SSF') originating in India, currently falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61 and 7318 15 70.

2.2. Like product

- (25) The product concerned and the product produced and sold on the domestic market of India as well as the product produced and sold on the Union market by the Union industry were found to have the same basic physical, chemical and technical characteristics as well as the same basic uses. They were therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Normal value

- (26) For the determination of normal value in accordance with Article 2(2) of the basic Regulation, the Commission first established whether the domestic sales of the like product of the sampled Indian exporting producers to independent customers were made in representative volumes, i.e. whether the total volume of such sales represented at least 5 % of their total export sales volume to the Union during the IP.
- (27) In the case of one sampled exporting producer it was found that it had no representative sales of the like product on the domestic market. For this exporting producer, normal value had to be constructed on the basis of Article 2(3) of the basic Regulation.

3.1.1. Sampled cooperating exporting producers with overall representative domestic sales volume

- (28) For the sampled exporting producers with overall representative domestic sales, the Commission subsequently identified those product types sold on the domestic

market by the exporting producers, which were identical or directly comparable to the types sold for export to the Union.

- (29) Domestic sales of a particular product type were considered as sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the IP represented 5 % or more of the total volume of the comparable product type sold for export to the Union.

- (30) The Commission subsequently examined whether the domestic sales of the companies concerned could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the investigation period.

- (31) Where the sales volume of a 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 that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.

- (32) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only.

- (33) For product types not sold in representative quantities on the domestic market, normal value had to be constructed on the basis of Article 2(3) of the basic Regulation. To this end, the selling, general and administrative ('SG&A') expenses and a reasonable profit margin were added to the exporter's own average cost of manufacturing per product type during the IP. In accordance with Article 2(6) of the basic Regulation, the percentage for SG&A and profit margin were based on the weighted average SG&A and profit margin of sales of each product type in the ordinary course of trade of the respective exporting producer.

3.1.2. Sampled cooperating exporting producer without overall representative domestic sales volume

- (34) For the cooperating exporting producer without representative domestic sales, normal value was constructed in accordance with Article 2(3) of the basic Regulation by adding to the company's own manufacturing costs for the like product the SG&A expenses and a reasonable profit margin per product type during the IP. In accordance with Article 2(6) of the basic Regulation, the percentage for SG&A and profit margin were based

on the weighted average SG&A and profit margin of sales of each product type in the ordinary course of trade of the exporting producer.

3.2. Export price

- (35) Export sales prices were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

3.3. Comparison

- (36) The comparison between normal value and export price was made on an ex-works basis.
- (37) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (38) On this basis, allowances for transport, ocean freight and insurance costs, handling loading and ancillary costs, packing costs, credit costs, discounts not mentioned on the invoice and commissions have been made where applicable and justified.

3.4. Dumping margins

3.4.1. For the sampled cooperating exporting producers

- (39) For the sampled companies, the weighted average normal value of each type of the product concerned exported to the Union was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Article 2(11) and (12) of the basic Regulation.
- (40) On this basis of the above methodology the dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are the following:

| Company | Dumping margin |
|-----------------------------|----------------|
| Viraj Profiles Ltd. | 0 % |
| Agarwal Fasteners Pvt. Ltd. | 37,6 % |
| Raajratna Ventures Ltd. | 12,0 % |

- (41) However, it should be noted that the Indian exporting producer, for which no dumping was found, represented 87 % of Indian exports to the Union.
- (42) Based on its analysis of the Commission's disclosure document, the complainant calculated a difference of

25 % between the normal value established for the exporting producers in the sample found to be dumping and the company not found to be dumping. The complainant argued that such a difference cannot exist on a competitive market and is not realistic for the stainless steel fasteners industry. Moreover, the complainant alleged that the exporting producer not found to be dumping procured stainless steel scrap from related companies in the Union and that as a consequence the purchase prices of this raw material were not reliable for the determination of the cost of production.

- (43) The normal value for the cooperating exporter not found to be dumping has been based on its cost of production per product type which is lower than for the other sampled exporting producers. This results mainly from the fact that the former company produces stainless steel itself from stainless steel scrap, and is therefore fully integrated and benefits from economies of scale, while the latter companies purchase stainless steel wire rod, the main raw material for production of stainless steel fasteners, in the open market, including from the cooperating exporter not found to be dumping.
- (44) The normal value for the cooperating exporting producers found to be dumping has been mostly determined based on the domestic sales prices per product type. There is only limited competition on India's domestic market and the cooperating exporter not found to be dumping only sold unrepresentative quantities during the IP domestically.
- (45) With regard to the procurement of stainless steel scrap by the exporting producer not found to be dumping, the investigation showed that this company obtained scrap from both related and unrelated suppliers, the latter representing more than 70 % of the quantities obtained. The purchase price levels for both types of procurement were comparable, also when taking the type of scrap grade into account.

- (46) As a consequence, the normal value determination of the sampled exporting producers is confirmed and the claims made by the complainant have been rejected.

3.4.2. For the other cooperating exporting producers

- (47) The weighted average dumping margin of the cooperating exporting producers not included in the sample was calculated in accordance with the provisions of Article 9(6) of the basic Regulation, on the basis of the margins established for the sampled exporting producers who were found to be dumping. On this basis, the dumping margin calculated for the cooperating companies not included in the sample was set at 24,6 % of the CIF Union frontier price, duty unpaid.

(48) One cooperating Indian exporting producer, after disclosure of the Commission's intention to terminate the proceeding, insisted that its request for individual examination should be accepted, arguing that the dumping margin disclosed for cooperating exporting producers not included in the sample did not reflect its situation.

(49) The request for individual examination has not been assessed by the Commission since in case of termination the margin determination ceases to be an issue.

3.4.3. For the non-cooperating exporting producers

(50) With regard to all other exporters in India, the Commission first established the level of cooperation. A comparison was made between the total export quantities indicated in the sampling replies received from all cooperating exporting producers and the total imports from India as derived from Eurostat statistics. The percentage of cooperation found was 97 %. On this basis, the level of cooperation was deemed to be high. It was considered appropriate to set the dumping margin for the non-cooperating exporting producers at the level corresponding to the average dumping margin established for the sampled cooperating exporting producers. Indeed information available suggests that the average export prices of the non-cooperating Indian exporters in the IP were in line with those found for the cooperating exporting producers. In addition there are no indications available that would point to different normal values for the non-cooperating exporting producers.

(51) On this basis, the country-wide level of dumping was established at 24,6 % of the CIF Union frontier price, duty unpaid.

4. UNION INDUSTRY

4.1. Union production

(52) All available information concerning Union producers, including information provided in the complaint, data collected from Union producers before and after the initiation of the investigation, and the verified questionnaire responses of the sampled Union producers, was used in order to establish the total Union production.

(53) On that basis, the total Union production was estimated to be around 52 000 tonnes during the IP. This figure includes the production of all Union producers that made themselves known and the estimated production volume of producers that did not come forward in the proceeding.

(54) As indicated in recital (13) above, sampling was applied for investigating Union producers. Of the 15 Union producers who provided data prior to the initiation of the proceeding, a sample of five companies was selected.

Subsequently, as explained in recital (15) above, one company decided not to cooperate in the investigation. The remaining cooperating sampled companies represented around 32 % of the total estimated Union production during the IP and were deemed to be representative of the Union industry.

4.2. Union industry

(55) All known Union producers referred to in recital (52) above are deemed to constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the 'Union industry'

5. INJURY

5.1. Preliminary remarks

(56) The relevant Eurostat import statistics, together with data provided in the complaint and data collected from Union producers before and after the initiation of the investigation, including the verified questionnaire responses of the sampled Union producers were used also in the evaluation of the relevant injury factors.

(57) The injury analysis with regard to macroeconomic data, such as production capacity, capacity utilization, sales volume, market share, growth, employment and productivity is based on the data of the Union industry as a whole.

(58) The injury analysis with regard to microeconomic data such as transaction prices, profitability, cash flow, investment and return on investment, ability to raise capital, stocks, and wages, is based on the data of the sampled Union producers.

(59) The four sampled Union producers were also sampled in the expiry review of the anti-dumping measures applicable to imports of SSF originating in China and Taiwan, concluded on 7 January 2012⁽¹⁾. In that review one other company, which was not sampled in the present investigation, was included in the sample. Given that the period considered for the injury analysis overlaps with that of the expiry review, data for the years 2008 and 2009 are identical except for that of one company. By disclosing figures for 2008 and 2009 it would be possible to deduce the figures of the company which was not included in the sample in the present case. Therefore, micro indicators such as stocks, wages, investments, cash flow, return on investments and profitability have been indexed.

5.2. Union consumption

(60) Union consumption was established on the basis of the sales volume of the Union industry in the Union as

⁽¹⁾ OJ L 5, 7.1.2012, p. 1.

provided in the complaint and cross checked by the replies to the sampling questionnaires and the verified data obtained from the sampled producers. In addition, the volume of imports based on data from Eurostat for the period considered was also taken into account.

- (61) On this basis the Union consumption developed as follows:

Table 1

| | 2008 | 2009 | 2010 | IP |
|----------------------------|---------|---------|---------|---------|
| Union consumption (tonnes) | 120 598 | 101 143 | 122 345 | 131 457 |
| Index (2008 = 100) | 100 | 84 | 101 | 109 |

Source: Eurostat, complaint data and questionnaire replies.

- (62) Total consumption on the EU market increased by 9 % during the period considered. Between 2008 and 2009 there was a drastic decrease by 16 %, allegedly due to the global negative effects of the economic crisis on the market, after which consumption recovered again by 21 % between 2009 and 2010 and further by 7 % between 2010 and the IP.

5.3. Imports from the India

- (63) Imports into the Union from India developed as follows during the period considered:

Table 2

| | 2008 | 2009 | 2010 | IP |
|---------------------------------------|--------|--------|--------|--------|
| Volume of imports from India (tonnes) | 14 546 | 18 883 | 21 914 | 24 072 |
| Index (2008 = 100) | 100 | 130 | 151 | 165 |
| Market share | 12,1 % | 18,7 % | 17,9 % | 18,3 % |
| Index (2008 = 100) | 100 | 155 | 149 | 152 |

Source: Eurostat and questionnaire replies from exporting producers.

- (64) Imports from India increased significantly by 65 % over the period considered. This increase was strongest between 2008 and 2009 when imports surged by

30 % and when consumption decreased by 16 %. On a year to year basis, Indian imports continued to increase during 2010 (+16 %) and during the IP (+10 %).

5.4. Prices of imports and price undercutting

Table 3

| | 2008 | 2009 | 2010 | IP |
|-----------------------------------|-------|-------|-------|-------|
| Average import price in EUR/tonne | 3 531 | 2 774 | 2 994 | 3 216 |
| Index (2008 = 100) | 100 | 79 | 85 | 91 |

Source: Eurostat and questionnaire replies from sampled EU producers.

- (65) Average prices of imports from India decreased overall by 9 % during the period considered. This explains the increase in the market share of India from 12,1 % to 18,3 % over the same period. The highest increase occurred between 2008 and 2009, when Indian exporters gained more than 6 percentage points of market share.
- (66) In order to determine price undercutting during the IP, the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports from India to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for the existing customs duties and post-importation costs.

- (67) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison, when expressed as a percentage of the sampled Union producers' turnover during the IP, showed price undercutting ranging between 3 % and 13 %. It should be noted in this respect that the Indian exporting producer not found to be dumping had the highest undercutting margin.

5.5. Economic situation of the Union industry

- (68) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of dumped imports on the Union industry included an evaluation of all economic indicators established for the Union industry over the period analysed.

5.5.1. *Production capacity, production and capacity utilisation*

Table 4

| | 2008 | 2009 | 2010 | IP |
|------------------------------|---------|---------|---------|---------|
| Production volume (tonnes) | 69 514 | 56 396 | 62 213 | 51 800 |
| Index (2008 = 100) | 100 | 81 | 89 | 75 |
| Production capacity (tonnes) | 140 743 | 127 200 | 128 796 | 111 455 |
| Index (2008 = 100) | 100 | 90 | 92 | 79 |
| Capacity utilisation | 49 % | 44 % | 48 % | 46 % |
| Index (2008 = 100) | 100 | 90 | 98 | 94 |

Source: Total Union industry.

- (69) The table above shows that production decreased significantly by 25 % over the period considered. In line with a decrease in demand, production decreased sharply by 19 % in 2009, after which it recovered by around 10 % in 2010. In the IP, although the Union consumption increased by 7 %, Union production decreased again by around 17 % compared to the previous year.
- (70) The production capacity of the Union industry decreased by around 21 % over the period considered. Capacity utilisation also decreased over the period considered, constantly remaining below 50 %.

5.5.2. *Sales volume and, market share*

Table 5

| | 2008 | 2009 | 2010 | IP |
|-----------------------|--------|--------|--------|--------|
| Sales volume (tonnes) | 56 042 | 44 627 | 45 976 | 48 129 |
| Index (2008 = 100) | 100 | 80 | 82 | 86 |
| Market share | 46,5 % | 44,1 % | 37,6 % | 36,6 % |
| Index (2008 = 100) | 100 | 95 | 81 | 79 |

Source: Total Union industry

- (71) In the context of an increasing consumption (+ 9 %), sales volume of the like product when sold to the first independent customer in the Union decreased by 14 %

over the period considered. Consequently market share dropped from 46,5 % in 2008 to 36,6 % in the IP. After a sharp decrease in 2009 (– 20 %), sales volume recovered slightly in 2010 and in the IP.

5.5.3. *Growth*

- (72) Union consumption increased by 9 % between 2008 and the IP. However, sales volume and market share of the Union industry decreased in the same period, by 14 % and 21 % respectively. At the same time imports from India increased significantly by 65 %.

5.5.4. *Employment*

Table 6

| | 2008 | 2009 | 2010 | IP |
|---|-------|------|------|-----|
| Number of employees | 1 007 | 863 | 821 | 761 |
| Index (2008 = 100) | 100 | 86 | 82 | 76 |
| Productivity (unit/employee) Index (2008 = 100) | 100 | 95 | 110 | 99 |

Source: Total Union industry

- (73) Due to the downsizing activities of the Union industry, the number of employees was reduced accordingly during the period considered by 24 %. Between 2008 and the IP labour costs per employee increased by 6 %.
- (74) Productivity of the Union industry workforce, measured as output per person employed per year, decreased slightly by 1 % over the period considered. It reached its lowest level in 2009, after which it started to recover towards the IP.

5.5.5. *Average unit prices in the Union*

Table 7

| | 2008 | 2009 | 2010 | IP |
|--|-------|-------|-------|-------|
| Unit price in EU to unrelated customers (Euro per tonne) | 4 336 | 2 792 | 3 914 | 4 244 |
| Index (2008 = 100) | 100 | 64 | 90 | 98 |

Source: questionnaire replies sampled producers

- (75) Average sales prices decreased by 2 % over the period considered. In 2009 the Union industry was forced to reduce its sales prices by 36 %, in the context of the economic downturn and of a sharp decrease of import prices from India (– 21 %). During 2010 and the IP the Union industry sales prices recovered again.
- (76) The investigation showed that the decrease in sales prices in 2009 reflected the decrease in costs which dropped by 18 % compared to 2008 levels. This decrease in costs was mainly due to the decrease in raw material prices, especially those of nickel, which has an unstable price dynamic. However, the Union industry was forced to decrease its sales prices more than the decrease in costs, in view of the expansion of the low-priced Indian imports in 2009.

5.5.6. Profitability, cash flow, investments, return on investments and ability to raise capital

Table 8

| | 2008 | 2009 | 2010 | IP |
|---|-------|---------|------|-------|
| Profitability of EU sales (% of net sales) Index (2008 = 100) | – 100 | – 442 | – 74 | – 24 |
| Cash Flow Index (2008 = 100) | – 100 | – 1 827 | – 40 | – 171 |
| Investments (EUR) Index (2008 = 100) | 100 | 29 | 59 | 6 |
| Return on Investments Index (2008 = 100) | – 100 | – 284 | – 59 | – 28 |

Source: Questionnaire replies sampled EU producers

- (77) The investigation showed that, even if the decrease in sales prices partly reflected the decrease in costs, the price of the Union industry was under pressure by the imports of SSF from India. The profitability of the Union industry was negative since the beginning of the period concerned. Especially in 2009 the Union industry was forced to decrease its sales prices more than the decrease in costs, in view of the expansion of the low-priced Indian imports. This led to a significant deterioration of profitability in that year. However, in 2010 and the IP profitability improved, but it still remained negative.

- (78) Cash flow, which is the ability of the industry to self-finance its activities, followed a similar trend as profitability. It reached its lowest level in 2009, after which it showed an increasing trend and turned positive in the IP.
- (79) After making investments in 2008 in the production of SSF, investments decreased by about 94 % during the period considered. The return on investment showed a similar negative development in line with the negative results achieved by the Union industry over the period considered and remained always negative.
- (80) The evolution of profitability, the cash flow and the low level of investments points to the fact that the sampled EU producers may have experienced difficulties to raise capital.

5.5.7. Stocks

Table 9

| | 2008 | 2009 | 2010 | IP |
|--|------|------|------|-----|
| Closing stock of Union industry Index (2008 = 100) | 100 | 92 | 100 | 103 |

Source: Questionnaire replies sampled EU producers

- (81) The stock level of the sampled Union industry increased by 3 % during the period considered. In 2009 the level of closing stock decreased by 8 %; afterwards, in 2010 and in the IP it increased by 8 % and 3 % respectively.

5.5.8. Magnitude of the actual margin of dumping and recovery from past dumping

- (82) It is recalled that the largest Indian exporting producer representing 87 % of the Indian exports to the Union in the IP was found not to be dumping. Consequently dumped imports accounted for 13 % of the total volume of SSF exported from India to the Union. Given the volume, market share and prices of the dumped imports from India, the impact on the Union industry of the actual dumping margins may be considered to be negligible.

5.6. Conclusion on injury

- (83) The investigation showed that most injury indicators such as production (– 25 %), capacity utilisation (– 6 %), sales volume (– 14 %), market share (– 21 %), and employment (– 24 %) deteriorated during the period considered. In the context of an increasing consumption, both sales volume and market share dropped. Sales

volume recovered slightly in 2010 and the IP when compared to 2009; however, the Union industry was unable to regain its lost market share in view of the expansion of the Indian imports which increased steadily over the period considered, at prices constantly undercutting those of the Union industry.

- (84) Furthermore, the injury indicators related to the financial performance of the Union industry, such as cash flow and profitability were seriously affected. This means that the ability of the Union industry to raise capital was undermined.
- (85) In the light of the foregoing, it was concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

6. CAUSATION

6.1. Introduction

- (86) In accordance with Article 3(6) and Article 3(7) of the basic Regulation, it was examined whether the dumped imports originating in India have caused injury to the Union industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Union industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.
- (87) It is recalled, that the largest Indian exporting producer, referred to in recitals (40) and (41), accounting for 87 % of Indian exports to the Union in the IP was found not to be dumping. Therefore, a mere 13 % of the Indian exports of the product concerned to the Union during the IP were made at dumped prices. These dumped imports had a market share of 2 % in the IP.

6.2. Effect of the dumped imports

- (88) The investigation showed that the Union consumption increased by 9 % over the period considered, while sales volume of the Union industry decreased by 14 % and market share dropped by 21 %.
- (89) With regard to prices, the average import prices of the dumped imports were found to undercut the average sales prices of the Union industry on the Union market. However, they were around 12 % higher than the prices of the Indian company not found to be dumping.
- (90) Based on the above it is considered that the limited import volume of the dumped imports from India, which had higher prices than the non-dumped imports, may only have played a very limited role, if any, in the deterioration of the situation of the Union industry.

6.3. Effect of other factors

6.3.1. Non- dumped imports from India

- (91) The total volume of imports from India increased dramatically by 65 % over the period considered, increasing their market share from 12,1 % to 18,3 %. However, as explained above, non-dumped imports represented 87 % of the total Indian export volume in the IP, corresponding to a market share of 15 % in the IP, as opposed to the market share of 2 % of the dumped imports from India in the same period.
- (92) Prices of imports from India decreased overall by 9 % in the period considered, remaining always lower than import prices from the rest of the world and sales prices of the Union industry. It is noteworthy, however, that as explained in recital (89), the average prices of the non-dumped imports were found to undercut the prices of the Union industry more than those of the dumped imports.

6.3.2. Imports from other third countries

Table 10

| | 2008 | 2009 | 2010 | IP |
|--|--------|--------|--------|--------|
| Volume of imports from other third countries in tonnes | 50 010 | 37 633 | 54 454 | 59 255 |
| Index (2008 = 100) | 100 | 75 | 109 | 118 |
| Market share of imports from other third countries | 41,5 % | 37,2 % | 44,5 % | 45,1 % |
| Index (2008 = 100) | 100 | 90 | 107 | 109 |
| Average price of imports from other third countries in EUR/tonne | 5 380 | 5 236 | 5 094 | 5 234 |

| | 2008 | 2009 | 2010 | IP |
|---|--------|-------|--------|--------|
| Index (2008 = 100) | 100 | 97 | 95 | 97 |
| Volume of imports from Malaysia (tonnes) | 13 712 | 9 810 | 9 611 | 9 966 |
| Market share of imports from Malaysia | 11,4 % | 9,7 % | 7,9 % | 7,6 % |
| Average price of imports from Malaysia in EUR/ tonne | 4 203 | 2 963 | 3 324 | 3 633 |
| Volume of imports from Philippines (tonnes) | 7 046 | 5 406 | 15 576 | 18 149 |
| Market share of imports from Philippines | 5,8 % | 5,3 % | 12,7 % | 13,8 % |
| Average price of imports from Philippines in EUR/tonne | 4 645 | 3 474 | 3 714 | 3 912 |
| Volume of imports from the People's Republic of China (tonnes) | 2 332 | 2 452 | 3 217 | 3 288 |
| Market share of imports from the People's Republic of China | 1,9 % | 2,4 % | 2,6 % | 2,5 % |
| Average price of imports from the People's Republic of China in EUR/tonne | 4 004 | 4 561 | 5 272 | 5 648 |
| Volume of imports from Taiwan (tonnes) | 4 304 | 3 703 | 6 451 | 6 640 |
| Market share of imports from Taiwan | 3,6 % | 3,7 % | 5,3 % | 5,1 % |
| Average price of imports from Taiwan in EUR/tonne | 5 092 | 4 719 | 4 755 | 4 943 |

Source: Eurostat

- (93) Based on Eurostat data, the volume of imports into the Union of SSF originating in other third countries increased by 18 % during the period considered. At the same time, average import prices decreased by about 3 % during the period considered and their market share increased by about 9 %.
- (94) There have been anti-dumping measures in force on imports of SSF from the People's Republic of China and Taiwan as of 19 November 2005. Despite the measures, imports from these two countries have increased significantly over the period considered, although market shares remained rather modest, at 2,5 % and 5,1 % respectively in the IP. Other main sources of imports are the Philippines and Malaysia. Imports especially from the Philippines increased significantly over the period considered, increasing their market share from 5,8 % in 2008 to 13,8 % in the IP.
- (95) As regards Malaysia, there was a decreasing trend over the period considered, however, imports still had a market share of 7,6 % in the IP. Import volume from the Philippines increased significantly during the period considered. However, as it emerged from the investigation the average import price from the Philippines was much higher, namely, about 20 %, than the average price of the Indian SSF.
- (96) With regard to import prices, the overall average prices of imports from other third countries remained relatively stable over the period considered and were always above the average sales prices of the Union industry and the average import prices from India.
- (97) On the basis of the above, it was concluded that imports from other third countries did not cause the material injury suffered by the Union industry.

6.3.3. Economic crisis

- (98) The economic crisis partially explains the contraction of the Union consumption in 2009. However, it is noteworthy that despite the decrease of 16 % in consumption in 2009, the volume of Indian imports increased by 30 %.

- (99) In 2010 and the IP Union consumption increased in line with the general economic recovery. However, sales volume of the Union industry increased only slightly, by 3 % in 2010 and by 4,7 % in the IP. This compares to an annual increase in Indian imports by 16 % and 10 % respectively.

- (100) Under normal economic conditions and in the absence of strong price pressure and increased import levels from India, the Union industry might have had some difficulty in coping with the decrease in consumption and the increase in fixed costs per unit due to the decreased capacity utilisation it experienced. However, the low-priced Indian imports, majority of which were found not to be dumped, have intensified the effect of the economic downturn and even during the general economic recovery, the Union industry was unable to recover and to regain the market share lost to the Indian imports.

- (101) Therefore, although the economic crisis 2008-2009 may have contributed to the Union industry's poor performance, it cannot be considered to have a material impact on the injurious situation of the Union industry.

6.3.4. Export performance of the sampled Union industry

Table 12

| | 2008 | 2009 | 2010 | IP |
|----------------------------|-------|-------|-------|-------|
| Export sales in tonnes | 967 | 689 | 933 | 884 |
| Index (2008 = 100) | 100 | 71 | 97 | 91 |
| Unit selling price in euro | 4 770 | 3 060 | 4 020 | 4 313 |
| Index (2008 = 100) | 100 | 64 | 84 | 90 |

Source: Questionnaire replies sampled EU producers

- (102) During the period considered the volume of export sales of the sampled Union industry decreased by 9 % while average export prices dropped by 10 %. While it cannot be excluded that the negative trend in the export

performance may have had a further negative impact on the Union industry, it is considered that, given the low volume of exports in relation to sales on the Union market, this impact was not material in respect of the injury found.

6.4. Conclusion on causation

- (103) The above analysis demonstrated that there was a substantial increase over the period considered in the volume and market share of the low-priced imports originating in India. It was also found that these imports were constantly undercutting the prices charged by the Union industry on the Union market.

- (104) However, in view of the finding that the largest Indian exporting producer, which represented 87 % of the Indian exports to the Union in the IP did not export SSF to the Union at dumped prices, it is considered that a causal link between the dumped imports, accounting for a mere 13 % of the total quantity exported from India, and the injury suffered by the Union industry cannot be sufficiently established. Indeed, it cannot be argued that the dumped Indian exports, in view of their limited volume and very limited market share (2 %) and the fact that their prices were on average 12 % higher than those of the non-dumped imports, would be causing the injury suffered by the Union industry.

- (105) The analysis of the other known factors, which could have caused injury to the Union industry, including the non-dumped imports, imports from other third countries, the economic crisis and the export performance of the sampled Union industry showed that the injury suffered by the Union industry appears to be due to the impact of the non-dumped imports from India which represented 87 % of all Indian exports to the Union in the IP and which were made at significantly lower prices than the dumped imports.

7. TERMINATION OF THE ANTI-DUMPING PROCEEDING

- (106) In the absence of a material causal link between the dumped imports and the injury suffered by the Union industry, it is considered that anti-dumping measures are unnecessary and therefore the present anti-dumping proceeding should be terminated in accordance with Article 9(2) of the basic Regulation.

- (107) The complainant and all other interested parties were informed accordingly and were given the opportunity to comment. The comments received did not alter the conclusion that the present anti-dumping proceeding should be terminated,

HAS ADOPTED THIS DECISION:

Article 1

The anti-dumping proceeding concerning imports of certain stainless steel fasteners and parts thereof, currently falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61 and 7318 15 70, originating in India, is hereby terminated.

Article 2

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

Done at Brussels, 22 March 2012.

For the Commission

The President

José Manuel BARROSO
