Commission Implementing Regulation (EU) 2019/1259 of 24 July 2019 imposing a definitive anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, originating in the People's Republic of China and Thailand, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1259

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] (‘the basic Regulation’), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) By Council Implementing Regulation (EU) No 430/2013[(2)], a definitive anti-dumping duty was imposed on imports of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron, excluding bodies of compression fittings using ISO DIN 13 metric thread and malleable iron threaded circular junction boxes without having a lid, currently falling under Combined Nomenclature (‘CN’) code ex 7307 19 10 (TARIC code 7307 19 10 10) and ex 7307 19 90 (TARIC code 7307 19 90 10) originating in the People's Republic of China (the PRC) and Thailand (‘the current measures’). The duty, based on the elimination of dumping level, ranged between 14,9 % and 57,8 %.

(2) On 12 June 2013, Chinese exporting producer Jinan Meide Castings Co., Ltd, lodged an application at the General Court of the European Union seeking the annulment of the Regulation (EU) No 430/2013 in so far as it applies to it. On 30 June 2016, the General Court in its judgement found that the rights of defence of Jinan Meide were breached and annulled the contested Regulation in so far as it imposed an anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron, manufactured by Jinan Meide.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1259. (See end of Document for details)*

(3) Following the above judgement, by notice[3] of 28 October 2016, the European Commission ('the Commission') reopened the anti-dumping investigation concerning threaded tube or pipe cast fittings, of malleable cast iron, manufactured by Jinan Meide.

(4) By Commission Implementing Regulation (EU) 2017/1146[4] on 28 June 2017, the Commission re-imposed a definitive anti-dumping duty of 39,2 % on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the PRC, manufactured by Jinan Meide Castings Co., Ltd

(5) On 25 November 2015, the Commission initiated a partial interim review, following the request of Metpro Limited, concerning certain types of threaded tube or pipe case fitting of malleable cast iron originating in PRC and Thailand in order to determine whether they fell within the scope of applicable anti-dumping measures. The Commission terminated this partial interim review on 18 July 2016, by Implementing Decision (EU) 2016/1176[5], following the applicant's withdrawal of his request.

(6) On 23 May 2017, the Commission initiated a partial interim review, following the request of Hebei Yulong Casting Co., Ltd, concerning certain types of threaded tube or pipe case fitting of malleable cast iron originating in PRC and Thailand in order to determine whether they fall within the scope of applicable anti-dumping measures. The Commission terminated this partial interim review on 11 January 2018, by Implementing Decision (EU) 2018/52[6], following the applicant's withdrawal of his request.

(7) On 12 July 2018, the Court of Justice of the European Union decided that fittings, made of spheroidal graphite cast iron (also known as ductile cast iron) do not correspond to the concept of 'malleable cast iron', as defined within CN subheading 7307 19 10. The Court concluded that fittings made of spheroidal graphite cast iron must be classified under the residual CN subheading 7307 19 90 (as other articles of other iron). On 14 February 2019, the Commission published Regulation (EU) 2019/262[7] amending the references to TARIC codes in order to align them with the court's conclusions. Because anti-dumping measures are imposed according to the product definition irrespective of the tariff classification, this amendment did not have any impact on the product scope of the current measures.

1.2. **Request for an expiry review**

(8) Following the publication of a notice of impending expiry[8] of the anti-dumping measures in force, the Commission received a request for review ('the Request') pursuant to Article 11(2) of the basic Regulation.

(9) The Request was lodged on 13 February 2018 by the Defence Committee of Tube or Pipe Cast Fittings of Malleable Cast Iron of the European Union ('the applicant'). The applicant represent more than 95 % of the total Union production of threaded tube or pipe cast fittings, of malleable cast iron and spheroidal graphite cast iron.

(10) The Request was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and recurrence of injury to the Union industry.

1.3. **Initiation of an expiry review**

(11) Having determined that sufficient evidence existed for the initiation of an expiry review, on 8 May 2018, the Commission published a Notice of Initiation in the *Official Journal of the European Union* ('the Notice of Initiation')[9].

1.4. **Review investigation period and period considered**

(12) The investigation of continuation or recurrence of dumping covered the period from 1 April 2017 to 31 March 2018 ('the review investigation period' or 'RIP').

(13) The examination of trends relevant for the assessment of the likelihood of a recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

1.5. **Interested parties**

(14) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. The Commission specifically informed the applicants, known Union producers, known producers and the authorities of the PRC and Thailand, known importers, suppliers, users and traders concerned about the initiation of the investigation and invited them to cooperate.

(15) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No interested party requested a hearing.

1.6. **Sampling**

(16) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.6.1. *Sampling of Union producers*

(17) The Commission stated in the Notice of Initiation that it had provisionally selected a sample of Union producers.

(18) In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales of the like product in 2017, which could reasonably be investigated within the time available.

(19) This sample consisted of three Union producers. The sampled Union producers accounted for more than 70 % of the total estimated Union sales volume. The Commission invited interested parties to comment on the provisional sample. No comments were received. Therefore, the Commission concluded that the sample was representative of the Union industry.

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1.6.2. *Sampling of importers*

(20) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation. Seven unrelated importers provided the required information.

(21) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample on the basis of the largest representative volume of sales of the product under review in 2017, which could reasonably be investigated within the time available.

(22) This sample consisted of three Union importers. No comments were received on the sample selected. Therefore, the Commission concluded that the sample was representative of the Union importers.

1.6.3. *Sampling of producers in the PRC*

(23) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation.

(24) Two producers in the PRC provided the requested information and agreed to be included in the sample. In view of the low number of cooperating producers, the Commission decided that sampling was not necessary.

1.6.4. *Sampling of producers in Thailand*

(25) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers in Thailand to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Kingdom of Thailand to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation.

(26) One producer in Thailand made itself known but did not send a sampling reply.

(27) Therefore, there was no cooperation by producers in Thailand.

1.7. **Replies to the questionnaire**

(28) The Commission sent questionnaires to the three sampled Union producers, the three sampled unrelated importers, the two producers in the PRC, which made themselves known for the sampling exercise, and the Government of China (‘GOC’). Replies to the questionnaires were received only from the three sampled Union producers.

(29) Therefore, there was no cooperation by producers in the PRC.

1.8. **Verification visits**

(30) The Commission sought and verified with cooperating parties all the information deemed necessary for its investigation. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

— Berg Montana Fittings, EAD, Bulgaria;

— Georg Fischer Fittings GmbH, Austria;

— Odlewnia Zawiercie S.A. (formerly Odlewnia Zeliwa S.A.), Poland.

1.9. **Procedure for the determination of the normal value to be used for the PRC dumping calculation under Article 2(6a) of the basic Regulation**

(31) In view of the sufficient evidence available at the initiation of the investigation tending to show the existence in the PRC of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission considered it appropriate to initiate the investigation on the basis of Article 2(6a) of the basic Regulation.

(32) Consequently, in order to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all known producers in the PRC to provide the information requested in Annex III to the Notice of the Initiation regarding the inputs used for producing the product under review. The two producers that sent sampling replies also submitted the information requested in Annex III.

(33) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission also sent a questionnaire to the GOC. No reply was received from the GOC.

(34) In the Notice of Initiation, the Commission also invited all interested parties to make their views known, submit information and provide supporting evidence regarding the appropriateness of the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

(35) One Chinese producer alleged that the methodology the Commission intend to use was illegal and not in line with the EU's obligations under the WTO Anti-Dumping Agreement. This interested party however failed to substantiate its claim.

(36) In addition, this Chinese producer stated that there were no distortions within the meaning of Article 2(6a)(b) of the basic Regulation, and its prices and costs, including the costs of raw materials and energy, were the result of free market forces. These claims were not further substantiated, and the said party did not cooperate in the investigation.