Commission Implementing Regulation (EU) 2018/1469 of 1 October 2018 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, 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) 2018/1469

of 1 October 2018

imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

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 existing measures

(1) By Regulation (EC) No 2320/1997[(2)] the Council imposed anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel, originating in, inter alia, Russia. By Commission Decision 2000/70/EC[(3)], an undertaking was accepted from an exporter in Russia. By Regulation (EC) No 348/2000[(4)] the Council imposed anti-dumping duties on imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia and Ukraine. By Council Regulation (EC) No 1322/2004[(5)], it was decided to no longer apply the measures in force on imports from, inter alia, Russia as a matter of prudence in connection with an anti-competitive behaviour of certain Union producers in the past (see recital (9) of that Regulation).

(2) Following a review investigation carried out in accordance with Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 258/2005[(6)], amended the definitive measures imposed by Regulation (EC) No 348/2000, repealed the possibility of exemption from the duties provided for in Article 2 of the same Regulation and imposed an anti-dumping duty of 38,8 % on imports from Croatia and an anti-dumping duty of 64,1 % on imports from Ukraine with the exception of imports from Dnepropetrovsk Tube Works, which were subject to an anti-dumping duty of 51,9 %.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1469. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) By Decision 2005/133/EC[7], the Commission partially suspended the definitive measures regarding Croatia and Ukraine for a period of nine months, with effect from 18 February 2005. The partial extension was extended for a further period of one year by Council Regulation (EC) No 1866/2005[8].

(4) By Regulation (EC) No 954/2006[9] the Council imposed definitive anti-dumping duties on imports of certain seamless pipes and tubes originating in, inter alia, Croatia, Russia and Ukraine, repealed Regulations (EC) No 2320/97 and (EC) No 348/2000, terminated the interim and expiry reviews of the anti-dumping duties on imports of certain seamless pipes and tubes or iron or non-alloy steel originating, inter alia, in Russia and terminated the interim reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, inter alia, Croatia, Russia and Ukraine.

(5) By its judgment of 16 February 2012 in Joined Cases C-191/09 and C-200/09 P *Council and Commission v Interpipe Niko Tube and Interpipe NTRP*, the Court of Justice dismissed the Council's appeal[10] of the Court of First Instance's judgment of 10 March 2009, annulling Article 1 of Regulation (EC) No 954/2006 insofar as it concerned the part of the anti-dumping duty fixed for products manufactured by Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT and Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (together the 'Interpipe Group') which exceeded that which would have been applicable had the export price not been adjusted for a commission when sales took place through the intermediary of the affiliated trader, Sepco SA[11]. In accordance with Article 266 of the Treaty on the Functioning of the European Union, the Commission took the measures necessary to comply with the judgments and re-calculated the anti-dumping duty rate for the Interpipe Group in line with the directions of the Court of First Instance and the Court of Justice. Council Implementing Regulation (EU) No 540/2012[12] corrected the aspects of the Regulation (EC) No 954/2006 found to be inconsistent with the basic Regulation, and which thus led to the annulment of parts of that Regulation. That Regulation left all other findings made in Regulation (EC) No 954/2006 remain valid. After re-calculation, the anti-dumping duty currently in force for the Interpipe Group for the product concerned was thus established to be 17,7 %.

(6) By Regulation (EU) No 585/2012[13] the Council, following an expiry review, imposed definitive anti-dumping duties on imports of certain seamless pipes and tubes originating in Russia and Ukraine and terminated on the anti-dumping measures against imports of certain seamless pipes and tubes or iron or non-alloy steel originating in Croatia ('the previous expiry review').

(7) Following partial interim review investigations in accordance with Article 11(3) of the basic Regulation, the Council, by Regulation (EU) No 795/2012[14] and Regulation (EU) No 1269/2012[15] respectively, amended the definitive measures imposed by Regulation (EU) No 585/2012 with regard to a number of Russian and Ukrainian exporting producers.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1469. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(8) The anti-dumping duties currently in force are 35,8 % for imports originating in Russia, with the exception of the Joint Stock Company Chelyabinsk Tube Rolling Plant and Joint Stock Company Pervouralsky Novotrubny Works (24,1 %), OAO Volzhsky Pipe Plant, OAO Taganrog Metallurgical Works, OAO Sinarsky Pipe Plant and OAO Seversky Tube Works (28,7 %), and 25,7 % for imports originating in Ukraine, with the exception of OJSC Dnepropetrovsk Tube Works (12,3 %), LLC Interpipe Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant (13,8 %).

1.2. **Initiation of an expiry review**

(9) On 4 July 2017, the Commission announced the initiation of an expiry review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine pursuant to Article 11(2) of the basic Regulation by a notice published in the *Official Journal of the European Union* ('Notice of initiation')[16].

(10) The review was initiated following a substantiated request lodged on 30 March 2017 by the Defence Committee of the Seamless Steel Tubes Industry of the European Union ('the applicant') on behalf of Union producers representing more than 25 %, of the total Union production of certain seamless pipes and tubes. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping for Ukraine and recurrence of dumping for Russia and recurrence of injury to the Union industry.

1.3. **Parallel partial interim review**

(11) On 7 May 2018, the Commission initiated a partial interim review concerning imports of certain seamless pipes and tubes, of iron or steel, originating, inter alia, in Ukraine pursuant to Article 11(3) of the basic Regulation[17]. That partial interim review was requested by one group of exporting producers in Ukraine, the Interpipe Group, and it is limited in scope to the examination of dumping as far as the applicant is concerned.

1.4. **Investigation**

Review investigation period and period considered

(12) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 July 2016 to 30 June 2017 ('review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2014 up to the end of the RIP ('period considered').

Parties concerned

(13) The Commission officially informed the exporting producers, importers, known users, the representatives of the exporting countries, the applicant and the Union producers mentioned in the request of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set out in the notice of initiation.

Sampling

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1469. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(14) In view of the large number of exporting producers in Russia and Ukraine and the large number of importers, sampling for exporting producers and importers was initially envisaged in the notice of initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be indeed necessary and, if so, to select a sample, the above parties were requested to make themselves known within 15 days of the initiation of the proceeding and to provide the Commission with the information requested in the notice of initiation.

(15) Only two Russian exporting producers (TMK Group and ChTPZ Group, 'the two groups of Russian exporting producers') and one Ukrainian exporting producer ('Interpipe Group') came forward and made themselves known within the deadline. Therefore it was decided not to apply sampling in the case of the exporting producers.

(16) No importer provided the information requested in the notice of initiation and expressed its willingness to cooperate with the Commission. However, four importers sent submissions upon the initiation of the procedure. Therefore, the Commission decided not to apply sampling.

(17) In the Notice of Initiation, the Commission had also stated that it had provisionally selected a sample of Union producers, in accordance with Article 17(1) of the basic Regulation. Prior to the initiation, twelve Union producers had provided the information requested for the selection of the sample and expressed their willingness to cooperate with the Commission. On that basis, the Commission had provisionally selected a sample of three producers, which were found to be representative of the Union industry in terms of volume of production and sales of the like product in the Union.

(18) Following insufficient cooperation of one of the sampled Union producers and application of the provision of Article 18 of the basic Regulation with regard to this company, the Commission replaced the provisionally selected producer in question by two other Union producers. Therefore, the final sample of the Union producers consists of Arcelor Mittal Tubular Products, Benteler Steel Tube GmbH, Dalmine SpA, and Zeleziarne Podbrezova a.s.

Questionnaires

(19) Questionnaires were therefore sent to the five sampled Union producers (total of the original and of final sample), to four importers, to the two groups of Russian exporting producers and to Interpipe Group.

(20) Neither of the two groups of Russian exporting producers replied to the questionnaire. The Russian authorities were informed of the non-cooperation and the intention of the Commission to apply Article 18 of the basic Regulation.

(21) Both producers nevertheless sent comments disputing the accuracy of the request and opposing the continuation of the measures.

(22) Replies to the questionnaires were received from the five Union producers and the sole cooperating Ukrainian exporting producer. No reply to the questionaries was further received from the four Union importers.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1469. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Verification visits

(23) The Commission sought and verified all information it deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping and resulting injury and of the Union interest. Verification visits were carried out at the premises of the following companies:

Union producers

— Arcelor Mittal Tubular Products, Ostrava, Czech Republic,

— Benteler Steel Tube GmbH, Paderborn, Germany

— Dalmine SpA., Bergamo, Italy,

— Zeleziarne Podbrezova a.s., Podbrezova, Slovakia and its related traders Pipex Italia SpA., Arona, Italy and Slavrur Sp. z o.o., Stalowa Wola, Poland,

— Vallourec Deutschland GmbH, Boulogne Billancourt, France.

Exporting producer in Ukraine

— The Interpipe Group (OJSC Interpipe NTRP, Dnepropetrovsk, Ukraine, LLC Interpipe Niko Tube, Nikopol, Ukraine) and their related trading companies LLC Interpipe Ukraine, Dnepropetrovsk, Ukraine, Interpipe Europe SA, Lugano, Switzerland and Interpipe Central Trade GmbH, Frankfurt, Germany).

Subsequent procedure

(24) On 13 July 2018, the Commission disclosed the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or non-alloy steel, originating in Russia and Ukraine.

(25) Comments were received from the two groups of Russian exporting producers, from Interpipe Group, from the Mission of Ukraine before the European Union and from the Permanent Mission of the Russian Federation to the European Union. On 8 August 2018 a hearing took place between the two groups of Russian exporting producers and the Permanent Mission of the Russian Federation to the European Union and the Commission services. On the same day, a hearing took place between Interpipe Group and the Commission services. In view of the comments made by Interpipe Group, the company was provided with two additional disclosures regarding the analysis with regard to Ukraine and certain company specific issues.

(26) The comments submitted by the interested parties were considered and taken into account where appropriate.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(27) The product concerned is the same as that in the last investigation which led to the imposition of measures currently in force, i.e. certain seamless pipes and tubes of iron or steel (‘SPT’), of circular cross-section, of an external diameter not exceeding