Commission Implementing Regulation (EU) 2018/330 of 5 March 2018 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China 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) 2018/330

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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)], and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), by Regulation (EU) No 1331/2011[(2)], the Council imposed a definitive anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China ('the PRC' or 'country concerned').

(2) The anti-dumping duties in force range from 48.3 % to 71.9 % for individually named companies, with a residual duty rate of 71.9 %.

1.2. Initiation of an expiry review

(3) Following the publication of a notice of impending expiry[(3)] of the anti-dumping measures in force on the imports of certain seamless pipes and tubes of stainless steel ('SSSPT') originating in the PRC, the Commission received a request for the initiation of an expiry review under Article 11(2) of Regulation (EU) 2016/1036 ('the basic Regulation').

(4) The request was lodged by Seamless Stainless Steel Tubes Industry of the European Union ('ESTA' or 'the applicant') representing more than 50 % of the total Union production of SSSPT.

(5) The request was based on the grounds that the expiry of the measures would likely result in recurrence of dumping and recurrence of injury to the Union industry.

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(6) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 10 December 2016, by notice published in the *Official Journal of the European Union*[(4)], the initiation of the expiry review under Article 11(2) of the basic Regulation.

(7) An anti-circumvention investigation on the product concerned originating in the PRC by imports consigned from India was initiated on 17 February 2017[(5)]. This investigation did not result in the extension of the measures to imports from India[(6)].

1.3. **Interested parties**

(8) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the review investigation. The Commission specifically informed the applicant, known Union producers, users and importers, exporting producers in the People's Republic of China, and the Chinese authorities about the initiation of the expiry review and invited them to cooperate.

(9) The Commission also stated that it envisaged using the United States of America ('the USA') as a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation. Therefore, the Commission informed the producers in the USA about the initiation and invited them to participate.

(10) In addition, the Commission sent letters to all known producers of SSSPT in the Republic of Korea, Ukraine, India, Japan, Norway and Turkey, asking for their cooperation with the review.

(11) All interested parties had the opportunity to comment on the initiation of the review within the time limits set out in the Notice of Initiation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. Hearings in the presence of the Hearing Officer were held on 14 December 2017 and on 19 January 2018 at the request of Zhejiang Jiuli Hi-Tech Metals Co. Ltd. A request for a third hearing was received on 30 January 2018 and was accepted by the Hearing Officer. The hearing took place on 5 February 2018.

1.3.1. *Sampling*

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

(a) *Sampling of Union producers*

(13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers and invited interested parties to comment within the set out time limits. The sample was selected on the basis of production and sales volumes of the like product during the review investigation period in the Union whilst ensuring a geographical spread. It was comprised of the largest companies, located in Sweden, France and Spain, from the three largest groups of Union producers.

(14) One of the complainants, Tubacex Group, advised the Commission to sample its second-largest producer, located in Austria, instead of its largest producer located in Spain. The suggestion was made because some of this producer's product types were not imported from the country concerned during the review investigation period.

(15) However, bearing in mind that in line with Article 17 of the basic Regulation the Commission samples the largest volume of production and sales, and because the product types in question were covered by the definition of the like product, it was decided not to accept this request. Furthermore, the Commission considered that the sample as initially selected was fully representative and provided sufficient coverage in terms of product types as explained in recital (13) above.

(16) No further comments on the provisional sample of Union producers were submitted and the sample was therefore confirmed as final.

(b) *Sampling of importers*

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

(18) During the sampling exercise two unrelated importers came forward with the requested information and therefore sampling of unrelated importers was deemed not necessary.

(c) *Sampling of exporting producers in the People's Republic of China*

(19) Ten exporting producers returned the sampling forms. The Commission first selected a sample of two of them, on the basis of their exports to the Union and production capacity. Following the withdrawal of one of the sampled producers, the Commission established a new sample, replacing the exporting producer that withdrew with the one next in line, so that the sample was again composed of two exporting producers, on the basis of their exports to the Union and production capacity.

1.3.2. *Questionnaires*

(20) The Commission sent questionnaires to the two sampled exporting producers, known producers in potential analogue countries, to the three sampled Union producers and to all known importers and users active on the Union market. Questionnaire replies were received from the two sampled exporting producers, four analogue country producers and the three sampled Union producers. Only one of the unrelated importers mentioned in recital (18) submitted a questionnaire response. However, five additional unrelated importers (four of them also acting as a user) submitted a questionnaire response.

1.3.3. *Verification visits*

(21) The Commission sought and verified all the information it deemed necessary for determining the likelihood of continuation or recurrence of dumping and resulting

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injury and for assessing whether the imposition of measures would be against the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers:

— AB Sandvik Materials Technology, Sandviken, Sweden

— Tubacex Tubos Inoxidables S.A.U., Bilbao, Spain

— Salzgitter Mannesmann Stainless Tubes France SAS, Saint-Florentin, France

Union importers and importer/users:

— Arcus Nederland BV, Dordrecht, The Netherlands

— VRV S.p.A., Ornago, Italy

— Mangiarotti S.p.A., Sedegliano, Italy

Exporting producers in the PRC:

— Zhejiang Jiuli Hi-Tech Metals Co. Ltd, Huzhou

— Shanghai Baoluo Stainless Steel Tube Co. Ltd (BSS), Shanghai

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

(22) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 October 2015 to 30 September 2016 (the 'review investigation period' or 'RIP').

(23) The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period (the 'period considered').

1.5. **Disclosure**

(24) The Commission disclosed to all interested parties the essential facts and considerations on the basis of which it intended to maintain the anti-dumping measures in force. All parties were granted a period within which they could make comments on the disclosure.

(25) The comments made by the interested parties were considered by the Commission and taken into account, where appropriate.

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(26) The product concerned is seamless pipes and tubes of stainless steel (excluding such pipes and tubes with attached fittings suitable for conducting gases or liquids for use in civil aircraft), ('the product concerned'), currently falling within CN codes 7304 11 00, 7304 22 00, 7304 24 00, ex 7304 41 00, 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 (TARIC codes 7304 41 00 90, 7304 49 93 90, 7304 49 95 90, 7304 49 99 90, and 7304 90 00 91), and originating in the People's Republic of China ('the PRC').

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2.2. **Like product**

(27) The investigation showed that the following products have the same basic physical and technical characteristics, as well as the same basic uses:

— the product concerned,

— the product produced and sold by the exporting producers on the domestic market of the PRC,

— the product produced and sold by the selected producer in the analogue country, and

— the product produced and sold in the Union by the Union industry.

(28) The Commission concluded that these products are like products within the meaning of Article 1(4) of the basic Regulation.

(29) One Chinese exporting producer claimed that the product scope wrongly included special products for nuclear and military uses, and that those products should have been excluded from the investigation, or alternatively a product scope review to exclude them should have been launched.

(30) The Commission pointed out that the product scope remained the same as in the original investigation in line with Article 11(9) of the basic Regulation. The product scope included a wide variety of product types which share the same or similar basic technical and physical characteristics. According to case-law[7], when determining whether products are alike so that they form part of the same product, it needs to be assessed whether they share the same technical and physical characteristics, and have the same basic end-uses and the same price-quality ratio. In that regard, the interchangeability of, and competition between, those products should also be assessed. The investigation found that all the product types are made from stainless steel, using manufacturing processes required to produce seamless pipes, thus using similar machines, such that producers can switch between different variants of the product, according to demand. Therefore, although all the different product types are not directly interchangeable, producers are competing for orders covering a broad range of product types. Moreover, these product types are produced and sold by both the Union industry and the Chinese exporting producers using a similar production method. Therefore there was no basis to consider that products for nuclear and military uses were not part of the product scope.

(31) A possible product scope review would constitute a separate investigation and was therefore not within the scope of the present investigation. Moreover, the Chinese exporting producer itself did not undertake any initiative for initiating such a product scope review. The claim was therefore rejected.

3. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

(32) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.