Commission Implementing Regulation (EU) 2017/804 of 11 May 2017 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2017/804

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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 9(4) thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE

1. Provisional measures

(1) The European Commission (‘the Commission’) initiated on 13 February 2016 an investigation following a complaint lodged on 4 January 2016 by the Defence Committee of the seamless steel tubes industry of the European Union (‘the complainant’) on behalf of producers representing more than 25 % of the total Union production of the like product. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

(2) It imposed on 12 November 2016 a provisional anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China (‘PRC’, ‘China’ or ‘the country concerned’) by Commission Regulation (EU) 2016/1977[(2)] (‘the provisional Regulation’).

2. Subsequent procedure

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed (‘the provisional

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/804. (See end of Document for details)*

disclosure'), Union producers, Chinese exporting producers, and an association of Chinese exporting producers made written submissions. The parties who so requested were granted an opportunity to be heard.

(4) The Commission considered the comments submitted by the interested parties and, where appropriate, modified the provisional findings accordingly.

(5) The Commission informed all parties of the essential facts and considerations on the basis of which it intends to impose a definitive anti-dumping duty on imports of certain seamless pipes and tubes ('the definitive disclosure'). All parties were granted a period within which they could make comments on the definitive disclosure. The comments submitted by the interested parties were considered and taken into account where appropriate.

3. **Sampling**

(6) In recitals (7) to (9) of the provisional Regulation, the Commission invited comments concerning the representativity of one of the sampled Union producers.

(7) One Chinese exporting producer argued that the one Union producer should be removed from the sample as its data would distort the findings for the whole industry. A second Chinese exporting producer underlined that Vallourec was the largest company in the sample, thus it was unclear whether the sample was representative of the Union industry. The complainant argued that the Chinese producers are increasingly competing also in tailor-made and high-end products. It also pointed out that the oil and gas products are mainly exported outside the Union, so this difference in product ranges has only a small role in the Union market.

(8) The Commission requested additional data and carried out a further verification visit at the premises of the Union producer. The findings showed that the Union producer produces a wider range of product types than the other sampled Union producers, but this wide product range, including pipes for power generation, oil and gas and construction, was within the product scope. Both the Union producers and the Chinese producers are involved in both the commodity products and the high-end products. The specific Union producer represents a large part of the Union production. The Commission therefore concluded that the Union producer is part of the Union industry, and that there are no grounds to exclude it from the sample. Any unwarranted impact of this company's specific situation in the injury picture was addressed by means of cost adjustments and weighting, as explained in recitals (81), (84) and (146).

(9) The association of Chinese exporting producers reiterated its earlier comments against the initiation of the investigation, among which its opposition to the method of establishing a preliminary sample before initiation. It also alleged that the complaint was unsubstantiated, of poor quality and based on assumptions, the product scope was too broad and groups together too different products, and there were too many confidential elements.

(10) The Commission recalled that the preliminary selection of sampled companies was open for comments by the interested parties. The comments of the Chinese

association were received only after the deadline, by which stage the sample had already been confirmed. It was therefore rejected. As regards the other claims, the Commission pointed out that at the stage of the complaint, it was not necessary to already have the same evidence of dumping and injury that would be necessary for the imposition of measures. The claims concerning confidential annexes of the complaint were examined and the justification for the confidentiality was confirmed. In any case, the Chinese association received a detailed reply to its claims against the initiation.

(11) In the absence of other comments concerning the method of sampling, the provisional findings set out in recitals (10) to (13) of the provisional Regulation were confirmed.

4. **Individual examination**

(12) As mentioned in recital (14) of the provisional Regulation, three exporting producers which were not included in the sample requested that an individual margin of dumping be established pursuant to Article 17(3) of the basic Regulation. However, following the publication of the provisional measures, two of them decided to withdraw their request for an individual examination. The sole exporting producer that confirmed its initial request for an individual examination was Zhejiang Gross Seamless Steel Tube Co., Ltd

5. **Market economy treatment claim forms**

(13) No claim forms for market economy treatment were submitted by any of the exporting producers during the investigation. The findings of recital (15) of the provisional Regulation were therefore confirmed.

6. **Questionnaire replies and verification visits**

(14) In addition to the questionnaires and visits described in recitals (16) and (17) of the provisional Regulation, the Commission sent additional questions to the complainant and to one Union producer in order to carry out the verifications concerning injury and causality identified in the provisional Regulation. Furthermore, one Chinese exporting producer received a questionnaire for individual examination.

(15) Verification visits were carried out at the premises of the following parties:

(a) exporting producers in the PRC
- Zhejiang Gross Seamless Steel Tube Co., Ltd (individual examination);

(b) Union producers
- Vallourec Deutschland GmbH, Germany;

(c) unrelated importers
- Edgen Murray GmbH, Austria/United Kingdom,
- Meever & Meever BV, Netherlands,
- Cuñado S.A., Spain.

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7. **Investigation period and period considered**

(16) The association of Chinese exporting producers criticised the starting point of the period considered (2012), arguing that the year 2011 would have been a more appropriate starting point. It argued that the imports from China to the EU of the product concerned decreased from 2011 (46 657 tonnes) to 2012 (39 195 tonnes). As a result, 2012 as a base year shows increase of imports over the period considered (to 42 539 tonnes), whereas 2011 as the base year would show a decrease of imports from China. It requested further explanation on the choice of 2012.

(17) The Commission noted that the period considered has been established in line with the standard practice. As explained in recital (18) of the provisional Regulation, the period considered covers three full calendar years preceding the investigation period. There is no basis to select a different period. The comment was therefore rejected. In any event, the data collected from the interested parties only covered the period considered. The determination of the injury indicators was therefore only possible for the period 2012 to 2015. Hence the data on the import volumes from China since 2011 did not allow the Commission to draw conclusions on the overall development of the situation of the Union industry. Considering the trend of decreasing profitability since 2012, as described in recitals (91) and (92), the inclusion of the year 2011 in the period considered would have shown an even steeper negative development in the situation of the Union industry.

(18) Following definitive disclosure, one Chinese exporting producer and the association of Chinese exporting producers claimed that in recital (59) (corresponding to recital (47) of the General Disclosure Document) the Commission's explanation for the differences in export volumes was not based on any evidence.

(19) The Commission clarified that the recital (59) did not concern the claim of the inclusion of the year 2011 the investigation period, but instead referred to a different comment from another interested party, who had claimed an inconsistency in comparison with an earlier investigation of the same product. The claims of the Chinese association of exporting producers concerning the investigation period were addressed in recital (17).

(20) In the absence of other comments concerning the investigation period, the recital (18) of the provisional Regulation was confirmed.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

(21) One Chinese exporting producer argued that the product scope was overly wide as it includes product types of alloy steel of which the respective costs and prices deviate significantly from the standard product concerned. It requested the exclusion of the product types made of alloy and high alloy steel[(3)] from the product scope.

(22) The association of Chinese exporting producers affirmed that the product scope brings together three different market segments: (a) oil/gas; (b) power plants; and (c) construction, and that injury should have been assessed separately for each of

the segments. It stated that the product destined for one market segment is required to comply with specific industrial standards and therefore cannot be used in another segment. As a proof of the latter, it referred to the practice in Canada and United States, where anti-dumping investigations had separated the pipes and tubes produced for the oil/gas sector from pipes and tubes produced for other sectors.

(23) With respect to the latter claim, one interested party claimed that their exports to the Union were related only to the construction sector.

(24) As regards the first claim concerning alloy and high-alloy steel, the Commission noted that the definition of the product concerned covers a wide variety of product types which share the same or similar basic technical and physical characteristics. 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 Chinese exporting producers and to each one produced and sold by the Union industry. The PCN depended on the main characteristics of the product, in this case, product type, external diameter, wall thickness, quenching & tempering, length, tube extremity, and testing. Therefore, the product types imported from China were compared on a PCN basis with the products produced and sold by the Union industry that have the same or similar characteristics. In particular, the first characteristic (product type) separated non-alloy, alloy, and high-alloy steels. Therefore the differences in costs and prices arising from alloy and high-alloy steel were taken into account in the comparisons. According to case-law[(4)], 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 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.

(25) As regards the second claim concerning market segments, the claim does not substantiate on which basis product types of one or the other market segment should be excluded from the product scope. Nor is it explained why a separate injury assessment should be carried out by segment. The definition of the product concerned, covering seamless pipes and tubes with an external diameter exceeding 406,4 mm, was not contested neither after the Notice of initiation, nor in the questionnaire replies and the verification visits. As explained in recital (24), the PCN is based on basic physical and technical characteristics, not on the potential final use or market segment. In any case, the investigation has shown that both the Chinese exporting producers and the Union producers compete in all of the three segments. Moreover, the duty rates for each individual Chinese exporting producer are calculated on the basis of a weighted average