Commission Implementing Regulation (EU) 2017/141 of 26 January 2017 imposing definitive anti-dumping duties on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan

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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,

Whereas:

1. **PROCEDURE**

1.1. **Initiation**

(1) On 29 October 2015, pursuant to Article 5 of Council Regulation (EC) No 1225/2009[(2)], the Commission announced by a notice ('Notice of Initiation') published in the *Official Journal of the European Union*[(3)] the initiation of an anti-dumping proceeding with regard to imports into the European Union of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China ('PRC') and Taiwan ('the countries concerned').

(2) The proceeding was initiated following a complaint lodged on 14 September 2015 by the Defence Committee of the Stainless Steel Butt-welding Fittings Industry of the European Union ('the complainant') on behalf of producers representing between 37 % and 48 % of the total Union production. One producer expressing its opposition has come forward.

(3) Therefore, the relevant thresholds as set out in the Article 5(4) of the basic Regulation, i.e. 'an investigation shall not be initiated pursuant to paragraph 1 unless it has been determined, on the basis of an examination as to the degree of support for, or opposition to, the complaint expressed by Union producers of the like product, that the complaint has been made by, or on behalf of, the Union industry. The complaint shall be considered to have been made by, or on behalf of, the Union industry if it is supported by those Union producers whose collective output constitutes more than 50 % of the total production of the like product produced by that portion of the Union industry expressing either support for or opposition to the complaint. However, no investigation shall be

initiated where Union producers expressly supporting the complaint account for less than 25 % of total production of the like product produced by the Union industry.', were met at the time of the initiation of the case. Once the investigation is opened, it is not necessary that the conditions for standing are met throughout the entire investigation. The Court has confirmed this for the situation where a company withdraws its support for the complaint[4]; the same reasoning applies by analogy in a situation where the product scope changes.

(4) At initiation stage, one of the interested party claimed that the Commission had wrongly calculated the representativity of the complainant on the total production of the Union industry. They claimed that the current complainant cannot represent 43 %-49 % of the Union production as in the previous case covering a similar product scope eight companies had represented 48 % of the Union production. The Commission noted that while the product scope of the two investigations are indeed similar the exact product scope and the period covered in the current investigation differ from the product scope and the period covered in the previous investigation. Therefore the assessments performed and the results of that assessment were different (i.e. different Union producers came forward in the investigation at hand than in the investigation initiated in 2012; and those Union producers were defined on the basis of the like product of the investigation of 2012). The note to file on standing dated 28 October 2015 establishes the total production of the like product in the Union at 8 600 tonnes for the period 1 April 2014 to 31 March 2015. For the previous investigation initiated in 2012 the note to the file on standing dated on 9 November 2012 established the total production of the like product in the Union at 21 600 tonnes.

(5) The same interested party claimed that the number of companies supporting the complaint is low, 3 out of 16 Union producers, and requested the Commission to investigate why the other Union producers remained silent. In reply to this comment, the Commission noted that the number of producers supporting a complaint does not matter at the time of the initiation of a case, only their part in the production volume of the Union industry as defined in the Article 5(4) of the basic Regulation.

(6) Moreover, the interested party questioned the inclusion of a Union producer in the definition of the Union industry as this Union producer was producing significantly higher added value fittings than the other Union producers. However, the investigation confirmed that this Union producer was also producing and selling the like product and its inclusion in the sample was justified. It only covered those volumes of that producer which fall in the scope of the investigation. Therefore, this claim was rejected.

1.2. **Parties concerned by the proceeding**

(7) The Commission officially advised the complainant, all the Union producers, importers, traders and users known to be concerned and their associations, as well as the exporting producers and the authorities of the countries concerned of the initiation of the investigation.

(8) The Commission also contacted producers in Brazil, India, Malaysia, Korea, Switzerland, Thailand and the United States of America ('the USA') which were listed

in the Notice of Initiation as possible analogue countries for the purpose of establishing a normal value for the PRC.

(9) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

1.3. **Sampling**

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

(a) Sampling of Union producers

(11) In the Notice of Initiation, the Commission stated that, in view of the large number of Union producers involved in the investigation, it would limit its analysis to a reasonable number the Union producers. At the time of the initiation, the producers mentioned in recital 2, i.e. one Union producer and a group of two subsidiaries, located in the Union producing the like product came forward.

(12) Following the publication of the Notice of Initiation, another Union producer requested to be included in the sample. The four cooperating Union producers were therefore included in the sample. The sampled Union producers accounted for around 47 % of the total estimated Union production, and the sample was considered representative of the Union industry.

(13) However, one of the sampled Union producers, i.e. Springer GmbH, subsequently informed the Commission of its decision not to cooperate. This producer was therefore not further investigated. The Commission nevertheless concluded that the three remaining Union producers in the sample, which account for ca. 43 % of the total estimated Union production, were still representative of the Union industry. That Union producer also informed the Commission that it was not only a Union producer, but also had an outward processing arrangement with a Chinese producer.

(14) In addition, the Commission assessed the impact of the exclusion of the flanged and low-roughness fittings (see section 2.2 below) on the representativity of the sample. It found that flanged and low-roughness fittings production was not substantial either regarding the sampled Union producers or regarding the total Union production and, therefore, had no impact on the representativity of the sample already selected.

(15) One interested party stated that the Union producers other than ones supporting the complaint were increasing their sales during the period 2010-2015 and selling at higher prices and volume, based on Eurostat Intra Union trade statistics.

(16) The Commission analysed the potential injury caused by the imports from the countries concerned in relation to the Union industry, including all Union producers through the macro economic data (see recitals 193-207) Furthermore, the Commission noted the party based its analysis on CN codes including not only the product concerned

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/141. (See end of Document for details)*

but also products outside of the scope of this investigation. Moreover, in general the volume reported in the Intra Union trade statistics does not concern only Union production but also re-sales of imported products. Therefore, no conclusion could be drawn concerning the sales prices or the volume of the Union producers. In any event, it remains that the microeconomic data of the sample are deemed representative for the Union industry. That this data does not comprise the non-complaining producers is the consequence of the fact that those did not come forward to be included in the sample.

(b) Sampling of importers

(17) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were requested to make themselves known to the Commission and to provide the information specified in the Notice of Initiation.

(18) Three unrelated importers provided information and agreed to be included in the sample. Together they represented 10 % of the estimated volumes imported from the PRC and Taiwan during the investigation period. Given that the Commission could examine all importers that came forward, no sampling was necessary.

(c) Sampling of exporting producers in Taiwan

(19) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in Taiwan were requested in the Notice of Initiation to make themselves known to the Commission and to provide the information specified in the Notice of Initiation. The information on the initiation of the investigation and the Notice of Initiation (which included a sampling form) were sent to the 10 Taiwanese companies identified in the complaint as exporting producers of the product concerned to the Union. In addition, the Taipei Representative Office in the European Union was requested to identify and/or contact additional exporting producers, if any.

(20) Four exporting producers in Taiwan provided the information requested in the Notice of Initiation and agreed to be included in the sample. Taking into account the number of cooperating Taiwanese exporting producers, sampling was not considered necessary.

(21) During the investigation, two of the four companies did not further cooperate. The Commission informed these companies that, according to Article 18(1) of the basic Regulation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.

(d) Sampling of exporting producers in the PRC, MET claims and requests for individual examination

(22) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC were requested to make themselves known to the Commission and to provide information specified in the Notice of Initiation. In addition, the Mission of the People's Republic

of China to the European Union was requested to identify and/or contact additional exporting producers, if any.

(23) Nine exporting producers in the PRC provided the requested information and requested to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of four companies or groups of companies, representing around 79 % of the exports of the cooperating exporting producers to the Union and an estimated 35 % of the total quantities exported from PRC to the Union during the investigation period. The criterion used to select the four companies included in the sample was the volumes of exports of the product concerned to the Union during the investigation period. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the authorities of the country concerned were consulted on the selection of the sample, and no comments were received.

(24) In the course of the investigation, one of the four sampled companies did not further cooperate. The Commission informed this company that according to Article 18(1) of the basic Regulation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.

(25) None of the cooperating exporting producers in the PRC claimed market economy treatment ('MET'). However, five exporting producers in the PRC which were not included in the sample requested individual examination under Article 17(3) of the basic Regulation. As mentioned in recital 99, these requests were not granted.

1.4. **Questionnaire replies**

(26) Questionnaires were sent to the four companies in Taiwan and the four sampled companies in the PRC, to the four sampled Union producers and to the three sampled importers.

(27) Questionnaire replies were received only from two companies in Taiwan, three in the PRC, three Union producers and three importers.

(28) After provisional disclosure, a questionnaire reply was also received from one of the potential analogue country producers located in Switzerland.

1.5. **Verification visits**

(29) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies/association:

— union producers:
  — OSTP Sweden AB, Sweden,
  — OSTP Finland OY, Finland,
  — Erne Fittings, Austria,
— unrelated importer: