Commission Implementing Regulation (EU) 2015/2272 of 7 December 2015 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/2272

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) Following an anti-dumping investigation ('the original investigation') in accordance with Article 5 of the basic Regulation, the Council imposed a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron and steel ('SPT') originating in the People's Republic of China ('the PRC', by Regulation (EC) No 926/2009[(2)] (the 'original measures'). The original measures were based on a finding of a threat of injury and were annulled by a judgment of the General Court[(3)] as far as the exports of products produced by Hubei Xinyegang Steel Co. Ltd were concerned. The judgment is currently subject to appeal before the Court of Justice[(4)].

(2) The imposed measures took the form of the following ad valorem duty rates: 17,7 % for the company Shandong Luxing Steel Pipe Co. Ltd, 27,2 % (other cooperating companies) and 39,2 % (all other companies).

2. **Measures in force in respect of other third countries**

(3) Anti-dumping measures are currently in force on imports of SPT originating in Russia and Ukraine[(5)]. The anti-dumping measures against Croatia were terminated on 26 June 2012[(6)].

3. **Initiation of an expiry review**

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/2272. (See end of Document for details)*

(4) Following the publication of a notice of impending expiry[7] of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation.

(5) The request was lodged by the Defence Committee of the Seamless Steel Tubes Industry of the European Union ('the applicant') on behalf of producers representing more than 25 % of the total Union production of seamless pipes and tubes.

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

(7) On 3 October 2014, the Commission initiated an expiry review pursuant to Article 11(2) of the basic Regulation. It published a notice in the *Official Journal of the European Union*[8] ('Notice of Initiation').

4. **Parties concerned by the investigation**

(8) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, exporting producers, importers and users in the Union known to be concerned, and the Chinese authorities of the initiation of the expiry review and invited them to participate.

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

(10) All interested parties had the opportunity to comment on the initiation of the review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

4.1. *Sampling*

(11) 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

(12) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers and invited interested parties to comment. The sample was selected on the basis of sales volumes of the like product during the review investigation period in the Union whilst ensuring a geographical spread. The sample consisted of six companies in the Czech Republic, France, Germany, Italy, Romania and Slovakia, representing about 55 % of the total sales to unrelated customers in the Union. No comments were received and thus the provisionally selected companies were retained in the final sample.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/2272. (See end of Document for details)*

(b) Sampling of importers

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

(14) Given that only four unrelated importers came forward by providing the information requested in the Notice of Initiation, sampling was not necessary. However, out of the four unrelated importers only one cooperated in the investigation and submitted a reply to the questionnaire sent.

(c) Sampling of exporting producers in the PRC

(15) In view of the apparent large number of exporting producers in the PRC, sampling was envisaged in the Notice of Initiation.

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

(17) Given that only three exporting producers in the PRC provided the Commission with the information requested, sampling was not considered necessary.

4.2. *Questionnaires and verification visits*

(18) The Commission sought and verified all the information it deemed necessary for the determination of the likelihood of continuation or recurrence of dumping and resulting injury and for the determination of the Union interest.

(19) Questionnaires were sent to the three Chinese exporting producers that came forward in the sampling exercise, to the six sampled Union producers, to the four unrelated importers that came forward in the sampling exercise and to seven users. Twenty-two potential analogue producers in six countries, namely Argentina, Brazil, Japan, Mexico, Ukraine and the USA were identified and received questionnaires.

(20) Questionnaire replies were received from one Chinese exporting producer, three analogue country producers in the USA, the six sampled Union producers, one importer and three users.

(21) Verification visits were carried out at the premises of the following companies:

(a) Exporting producer in the PRC

— Shandong Luxing Steel Pipe Co., Ltd, the PRC

(b) Union producers

— Arcelor Mittal Tubular Products Ostrava AS, Czech Republic

— Benteler Deutschland GmbH, Germany

— Tenaris-Dalmine SpA, Italy

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— TMK-Artrom, Romania
— Vallourec Tubes France, France
— Železiarne Podbrezová, Slovakia

(c) Importer
— Handelsonderneming Jan van Meever BV, the Netherlands

(d) Producers in an analogue country:
— IPSCO Tubulars Inc. DBA TMK IPSCO, USA
— Vallourec Star, L.P., USA
— ArcelorMittal Tubular Products, USA

5. **Review investigation period and period considered**

(22) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 July 2013 to 30 June 2014 (the 'review investigation period'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2011 to the end of the review investigation period (the 'period considered').

6. **Disclosure**

(23) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the definitive anti-dumping measures in force. The parties were also granted a period within which they could make representations subsequent to this disclosure. Only the applicant submitted comments after disclosure.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(24) The product concerned is the same as in the original investigation referred to in recital 1, i.e. seamless pipes and tubes, of iron or steel, of circular cross section, of an external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis[9], originating in the PRC, currently falling within CN codes ex 7304 19 10, ex 7304 19 30, ex 7304 23 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 20, ex 7304 31 80, ex 7304 39 10, ex 7304 39 52, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 81, ex 7304 51 89, ex 7304 59 10, ex 7304 59 92 and ex 7304 59 93.

2. **Like product**

(25) The investigation showed that the following products have the same basic physical and chemical characteristics as well as the same basic uses:
— the product concerned,
— the product produced and sold on the domestic market in the USA, which served as an analogue country, and
— the product produced and sold in the Union by the Union industry.

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

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

1. Preliminary remarks

(27) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was taking place and whether the expiry of existing measures would be likely to lead to a continuation or recurrence of dumping.

(28) As mentioned above three Chinese exporting producers came forward after the initiation and received a questionnaire. However, only one reply was received. The cooperating exporting producer accounted for more than 25 % of the Chinese imports in the Union and its imports were considered to be representative of total imports from the PRC into the Union. Therefore the findings in relation to the likelihood of a continuation or recurrence of dumping set out below were based on data of the cooperating exporting producer.

2. Dumping during the review investigation period

2.1. *Analogue country*

(29) According to Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the price or constructed value in a market economy third country. For this purpose, a market economy third country had to be selected ('the analogue country').

(30) The Commission informed interested parties in the Notice of Initiation that it envisaged the USA, as in the original investigation, as a possible analogue country and invited parties to comment. No comments were received.

(31) The Commission nevertheless contacted a number of other potential analogue countries (Argentina, Brazil, India, Japan, Republic of Korea, Mexico, Russian Federation and Ukraine) to seek their cooperation and to provide information.

(32) Three producers from the USA cooperated and submitted a questionnaire reply.

(33) The level of competition on the US market was found to be high, with a large number of producers selling domestically and with significant import levels (despite the existing anti-dumping duties against the PRC). The quantities sold in the US market were substantial and the latter was comparable to the Chinese market also in terms of product range. In addition, the raw materials used and production process of the cooperating producers in an analogue country were found to be similar to the ones on the Chinese market. Therefore, and in view of the cooperation received, the USA were considered to be an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

2.2. *Normal value*