Commission Implementing Regulation (EU) 2015/1559 of 18 September 2015 imposing a provisional anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India

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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 ('the basic Regulation')[(1)], and in particular Article 7(4) thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 20 December 2014, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India ('the country concerned') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union*[(2)] ('the Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 10 November 2014 by Saint-Gobain PAM Group, ('the complainant') on behalf of producers representing more than 25 % of the total Union production of tubes and pipes of ductile cast iron. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

(3) On 11 March 2015, the Commission initiated an anti-subsidy investigation with regard to imports into the Union of tubes and pipes of ductile cast iron originating in India and commenced a separate investigation. It published a Notice of Initiation in the *Official Journal of the European Union*[(3)]. That investigation is still on-going.

1.2. Interested parties

(4) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In particular, the Commission specifically informed the complainants, other known Union producers, the known

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exporting producers and the Indian authorities, known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(5) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No interested party requested a hearing to comment on the initiation.

1.2.1. *Sampling*

(6) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.
Sampling of Union producers and importers

(7) No sampling of Union producers was necessary. There are only three companies or group of companies manufacturing the product concerned in the Union and two of them, representing around 96 % of the total Union production, cooperated with the investigation.

(8) As regards importers, to decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation. No unrelated importers made themselves known within the time limits set out in the notice of initiation.
Sampling of exporting producers in India

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

(10) Two exporting producers in the country concerned provided the requested information and agreed to be included in the sample. They covered 100 % of the exports from India during the investigation period. Therefore, the Commission decided that sampling was not necessary.

1.2.2. *Replies to the questionnaire*

(11) The Commission sent questionnaires to the two Indian exporting producers that cooperated, to the three Union producers as well as to users that made themselves known within the time limits set out in the Notice of Initiation.

(12) Questionnaire replies were received from the two Indian exporting producers, from two Union producers and several dozen users.

1.2.3. *Verification visits*

(13) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest.

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Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

— SAINT-GOBAIN PAM, Pont-à-Mousson, France; SAINT-GOBAIN PAM ESPANA S.A., Madrid, Spain; SAINT-GOBAIN PAM Deutschland GmbH, Saarbrücken, Germany

— Duktus Rohrsysteme Wetzlar GmbH, Wetzlar, Germany

Related sales companies

— SAINT-GOBAIN PAM PORTUGAL S.A., Lisbon, Portugal

— SAINT-GOBAIN PAM ITALIA S.p.A., Milan, Italy

— SAINT-GOBAIN PAM UK, Stanton-by-Dale, the United Kingdom

— SGPS BELGIUM S.A., Landen, Belgium

Exporting producers in India

— Electrosteel Castings Ltd, Kolkata, India, and its related company Lanco Industries Limited (now known as Srikalahasthi Pipes Limited), Andhra Pradesh, India.

— Jindal Saw Limited, New Delhi, India

Related importers/traders

— Electrosteel Europe S.A., France, which has the following branches:

  — Electrosteel Europe S.A. Sucursal En Espana, Spain

  — Electrosteel Europe S.A. Succursale Italia, Italy

  — Electrosteel Europe S.A. Niederlassung Deutschland, Germany

— Electrosteel Castings (UK) Ltd, UK

— Electrosteel Trading S.A. (Spain)

— Jindal Saw Italia SPA, Italy

— Jindal Saw Pipeline Solutions Limited, UK

1.3. Investigation period and period considered

(14) The investigation of dumping and injury covered the period from 1 October 2013 to 30 September 2014 (‘the investigation period’ or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the investigation period (‘the period considered’).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(15) The product concerned is tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) (‘ductile pipes’) originating in India, currently falling within CN codes ex 7303 00 10 and ex 7303 00 90. These CN codes are given for information only.

(16) Ductile pipes are used for drinking water supply, sewage disposal and irrigation of agricultural land. The transportation of water through ductile pipes may be based on pressure or solely on gravity. The pipes range between 60 mm and 2 000

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mm and are 5,5, 6,7 or 8 meters long. They are normally lined with cement or other materials and externally zinc-coated, painted or tape wrapped. The main final users are public utility companies.

2.2. **Like product**

(17) The investigation showed that the product manufactured and sold in India as well as the product manufactured and sold in the Union have the same basic physical, chemical and technical characteristics.

(18) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

3. **DUMPING**

3.1. **Normal value**

(19) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represents at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each exporting producer of the like product on the domestic market were representative.

(20) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales.

(21) The Commission then examined whether the domestic sales by each cooperating exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. On this basis, the Commission established that the domestic sales of some product types were not representative as they represented less than 5 % of the total volume of export sales of the identical or comparable product type to the Union.

(22) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.

(23) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

(b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.

(24) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the IP.

(25) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the IP, if:

(a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or

(b) the weighted average price of this product type is below the unit cost of production.

(26) The domestic sales used for the normal value of the two cooperating exporting producers were made directly to independent customers. The analysis of domestic sales showed that some of the domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, for the product types that were found to be identical or comparable with product types sold for export to the Union, the normal value was calculated either as a weighted average of the prices of all domestic sales or, where applicable, as a weighted average of profitable sales only.

(27) For the product types for which there were no or insufficient sales of the identical or comparable product type of the like product in the ordinary course of trade, or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.

(28) Normal value was constructed by adding the following to the average cost of manufacturing of the like product of each cooperating exporting producer during the investigation period:

(a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the IP; and

(b) the weighted average profit realised by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the IP.

(29) The complainant claimed that the Indian export tax on iron ore, which amounted to 30 % in the IP, pushed domestic prices of iron ore down and reduced the cost of the main raw material to the exporting producers to 40 % of world market price, the effect on the CIF EU export prices of ductile pipes allegedly being 40-100 EUR/ton