Commission Implementing Regulation (EU) No 1283/2014 of 2 December 2014 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the Republic of Korea and Malaysia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

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

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) The anti-dumping measures in force on imports of certain tube and pipe fittings ('TPF' or 'the product concerned') originating in the Republic of Korea and Malaysia 'the countries concerned') were originally imposed by Council Regulation (EC) No 1514/2002[(2)] (the 'original measures').

(2) The anti-dumping duties in force for Malaysia are 75 %, except for the companies Anggerik Laksana Sdn Bhd and Pantech Steel Industries Sdn Bhd, which are subject to an anti-dumping duty of 59,2 % and 49,9 % respectively. For the Republic of Korea the duty is 44 % for all companies.

(3) The original measures were maintained by Council Regulation (EC) No 1001/2008[(3)] as last amended by Council Regulation (EU) No 363/2010[(4)] ('the measures in force').

1.2. Measures in force in respect of other third countries

(4) Outside the scope of this proceeding, anti-dumping measures on the product concerned are currently in force on exports from the People's Republic of China and Thailand[(5)]. The measures on the product concerned originating in China were extended to imports of the same product consigned from Taiwan[(6)], Indonesia[(7)], Sri Lanka[(8)], and the Philippines[(9)]. On 3 September 2014, the Commission initiated an expiry review under Article 11(2) of the basic Regulation on imports of TPF from People's Republic of China and extended to Taiwan, Indonesia, Sri Lanka and the Philippines. It published a

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Notice of Initiation in the *Official Journal of the European Union*[10]. The anti-dumping measures on exports from Thailand have expired.

(5) In January 2013, measures were imposed on imports of the product concerned originating in Russia and Turkey[11].

1.3. **Initiation of an expiry review**

(6) On 8 February 2013 the European Commission ('the Commission') published a notice of impending expiry[12] of the anti-dumping measures in force concerning TPF originating in the Republic of Korea and Malaysia.

(7) On 26 June 2013, the Commission received a request for the initiation of an expiry review of those measures under Article 11(2) of Regulation (EC) No 1225/2009 ('the basic Regulation').

(8) The request was lodged by the Defence Committee of the Steel Butt-Welding Fittings Industry of the European Union ('the applicant') on behalf of producers representing more than 40 % of the total Union production of the product concerned.

(9) 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.

(10) On 15 October 2013, the Commission initiated an expiry review under Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union*[13].

1.4. **Interested parties**

(11) 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, other known Union producers, users and importers, exporting producers in the Republic of Korea and Malaysia, and the Korean and Malaysian authorities about the initiation of the expiry review and invited them to cooperate.

(12) 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.

1.4.1. *Sampling*

(13) In the Notice of Initiation, the Commission stated that it might sample the Union producers, importers and Korean exporting producers, in accordance with Article 17 of the basic Regulation.

(a) Sampling of Union producers

(14) 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 production and sales volumes of the like product during the review investigation period ('RIP') in the Union whilst ensuring a

geographical spread and was comprised of four Union producers or groups of Union producers (five individual companies) located in Germany, France, Italy, Romania and Austria. No comments were received and the provisionally selected companies were retained in the final sample.

(15) However, after the initiation of the proceeding the Commission had to exclude from the sample two Union producers due to a lack of cooperation. The two remaining companies/group of companies (three individual companies) represent 49 % of Union production and 45 % of Union sales and have production facilities in three different countries. Therefore, the modified sample was still considered representative of the Union industry.

(b) Sampling of importers

(16) 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. However no importer cooperated with the investigation.

(c) Sampling of exporting producers in the Republic of Korea

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

(18) Two Korean exporting producers provided the requested information, but only one agreed to cooperate and be included in the sample. It was therefore decided that sampling of the Korean exporting producers was not necessary.

(d) Exporting producers in Malaysia

(19) In view of the low number of known Malaysian exporting producers, the Commission did not foresee sampling in the Notice of Initiation.

(20) The Commission invited all exporting producers to make themselves known within 15 days after the publication of the Notice of Initiation. In addition, the Commission requested the Mission of Malaysia to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

1.4.2. *Replies to questionnaire*

(21) The Commission sent questionnaires to all sampled companies in the Union, the cooperating Korean company and all known Malaysian exporting producers.

(22) One Union producer failed to respond to the questionnaire while another Union producer submitted only a partial answer and failed to reply after a deficiency letter had been sent. These two Union producers were subsequently excluded from the sample (see recital 15 above). One Korean exporting producer replied to the

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questionnaire. None of the Malaysian exporting producers submitted a reply to the questionnaire.

1.4.3. *Verification visits*

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

— Erne Fittings GmbH, Schlins Austria and the related company Siekman Fittings, Lohne, Germany,

— Vallourec Fittings SA, France.

Exporting producers in the Republic of Korea:

— TK Corporation, Busan.

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

(24) The investigation of likelihood of recurrence of dumping covered the period from 1 October 2012 to 30 September 2013 (‘the review investigation period’ or ‘RIP’).

(25) The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2010 to the end of the review investigation period (‘the period considered’).

1.6. **Disclosure**

(26) On 12 September 2014, 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 and invited all interested parties to comment. 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**

(27) The product under review is tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, originating in the Republic of Korea and Malaysia, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 (‘the product concerned’ or TPF).

2.2. **Like product**

(28) The review investigation confirmed that, as in the original investigation, the TPF produced in the countries concerned, sold domestically and/or exported to the Union and/or other export markets, have the same basic physical, technical and

chemical characteristics and end uses as the products sold in the Union by the Union industry.

(29) The Commission decided that this product is therefore a like product within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF RECURRENCE OF DUMPING

(30) 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 recurrence of dumping from the countries concerned.

3.1. Republic of Korea

3.1.1. *Preliminary remarks*

(31) One of the largest Korean producers of TPF, TK Corporation, cooperated with the investigation. This cooperating company accounted for 25 %-40 % of Korean exports of TPF (the exact figure is not provided for reasons of confidentiality). TK Corporation provided the Commission with a questionnaire reply including data on domestic and export sales and cost of production. The Commission considered that the analysis of Korean dumping during the RIP and parts of the recurrence analysis could be based on this company's data given its share of Korean exports of TPF. The reply of TK Corporation was verified.

3.1.2. *Dumping of imports during the RIP*

(32) In the RIP only negligible volumes of TPF (less than 50 tonnes) were imported into the Union from Korea. Some of these sales were made by the sole cooperating exporting producer, TK Corporation. It was clear that these quantities were not representative as they represented less than 0,1 % of the production of TK Corporation. In addition, it was unclear whether an anti-dumping duty had been paid on imports from the TK Corporation, which casts doubt on whether they had actually entered the Union customs territory. Moreover, those sales were for three specific projects with their own specifications for fittings (therefore, an unrepresentative sale) and the sales were made as a ‘package’ with other fittings (mainly stainless steel). For the above reasons, no meaningful analysis of dumping based on imports of TPF from TK Corporation to the Union during the RIP could be made.

(33) Following disclosure, TK Corporation submitted that the Commission should have based its dumping analysis on the Union export sales of the company, for the following reasons: (i) its export sales to the Union during the RIP were significant and therefore representative, as they consisted of ‘no less than 26 invoices with 282 individual transactions, despite duties being in place’; (ii) in the absence of clarity as concerns anti-dumping duty payment, some of the sales (destined for an offshore project) would not be subject to the anti-dumping duty, whereas for other sales that occurred during the RIP, anti-dumping duties were not always paid by importers as a result of misclassification of those products due to which the importers did not realise that anti-dumping duties were payable. In the meantime, importers were made aware