Commission Regulation (EU) No 627/2011 of 27 June 2011 imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China

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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 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 30 September 2010, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding with regard to imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China ('PRC' or the 'country concerned').

(2) The proceeding was initiated as a result of a complaint lodged on 16 August 2010 by the Defence Committee of the Seamless Stainless Steel Tubes Industry of the European Union ('the Defence Committee') on behalf of two groups of Union producers ('the complainants') representing a major proportion, in this case more than 50 %, of the total Union production of seamless pipes and tubes of stainless steel. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, other known Union producers, the known exporting producers and the representatives of the PRC, known importers, suppliers and users, as well as their associations, of the initiation of the proceeding. The Commission also advised producers in the United States ('the USA') as it was envisaged as a possible analogue country. Interested parties were given an

opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(5) In view of the apparent high number of exporting producers, unrelated importers and Union producers, sampling was envisaged in the notice of initiation for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers, importers and Union producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product under investigation during the investigation period from 1 July 2009 to 30 June 2010. The authorities of the PRC were also consulted.

(a) *Sampling of Chinese exporting producers*

(6) Out of the 31 Chinese exporting producers or groups of exporting producers which came forward, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which could reasonably be investigated within the time available. The sample selected consisted of three (groups of) companies, representing 25 % of the total imports recorded in Eurostat during the IP and over 38 % of the total volume of the cooperating exporters in the IP. In accordance with Article 17(2) of the basic Regulation, the parties concerned and the Chinese authorities were consulted but raised no objections to the proposed sample.

(b) *Sampling of Union producers*

(7) Out of the 21 Union producers that the Commission contacted, eleven provided the requested information and agreed to be included in the sample. On the basis of the information received from these cooperating Union producers, the Commission selected a sample of two groups representing five Union producers. The sample was selected on the basis of volumes of sales and production. The sampled Union producers accounted for 48 % of total EU sales of all Union producers, and for 80 % of the producers who came forward.

(8) From the 62 unrelated importers that the Commission contacted, only five companies replied to the sampling questions within the deadline. Therefore it was considered that no sampling was necessary, and questionnaires were sent to all these companies. Eventually, only two importers replied to the questionnaire and cooperated fully in the investigation.

(c) *Questionnaire replies and verifications*

(9) In order to allow sampled exporting producers in the PRC to submit a claim for market economy treatment (‘MET’) or individual treatment (‘IT’), if they so wished, the Commission sent claim forms to the sampled exporting producers. All groups of

exporting producers requested MET pursuant to Article 2 (7) of the basic regulation or IT should the investigation establish that they did not meet the conditions for MET.

(10) Three (groups of) companies requested individual examination. The examination of these claims at provisional stage was unfeasible within the time framework. A decision whether individual examination will be granted to any of these companies will be taken at definitive stage.

(11) The Commission officially disclosed the results of the MET findings to the sampled exporting producers concerned in the PRC as well as to the sampled Union producers.

(12) Questionnaire replies were received from the sampled exporting producers in the PRC, from all sampled Union producers, two unrelated Union importers and one user.

(13) The Commission sought and verified all the information deemed necessary for the purpose of analysing MET or IT and for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies.

Exporting producers in the PRC

— Changshu Walsin Specialty Steel Co., Ltd., Haiyu Town, Changshu City and it's related companies: Shanghai Baihe Walsin Lihwa Specialty Steel Products Co., Ltd., Baihe Town, Qingpu District, Shanghai; Yantai Jin Cheng Precision Wire Rod Co., Ltd., ETDZ Yantai City, Shandong Province; Yantai Dazhong Recycling Resource Co., Ltd., ETDZ Yantai City, Shandong Province;

— Shanghai Jinchang Stainless Steel Tube Manufacturing Co., Ltd., Situan Town, Fengxian District, Shanghai and it's related companies: Shanghai Jinchang International Trade Co., Ltd., Situan Town, Fengxian District, Shanghai; Shanghai Jinchang international trading Chongqing Co., Ltd., Jieshi Town, Banan District, Chongqing;

— Wenzhou Jiangnan Steel Pipe Manufacturing Co., Ltd.,Yongzhong, Longwan district, Wenzhou.

Union producers

— Salzgitter Mannesmann Stainless Tubes Headquarters; Mülheim an der Ruhr, Germany;

— Salzgitter Mannesmann Stainless Tubes Deutschland; Remscheid, Germany;

— Tubacex Tubos Inoxidables, S.A., Llodio, Spain.

Producers in the analogue country

— PEXCO, Scranton, Pennsylvania;

— Salem Tube, Greenville, Pennsylvania;

— Salzgitter Mannesmann Stainless Tubes USA, Houston, Texas;

— Sandvik Materials Technology, Scranton, Pennsylvania.

3. Investigation period

(14) The investigation of dumping and injury covered the period from 1 July 2009 to 30 June 2010 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 2006 to the end of the investigation period ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(15) The product concerned as described in the Notice of initiation is certain seamless pipes and tubes of stainless steel, other than with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling within CN codes 7304 11 00, 7304 22 00, 7304 24 00, ex 7304 41 00, 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 ('the product concerned'). This includes unfinished 'hollows', hot-finished products and cold-finished products.

(16) The production process usually uses cylinders ('billets') of stainless steel as raw material. In the first production step, an unfinished 'hollow' is produced using either an extrusion press or a hot piercing process. Subsequently, the hollow can be first processed by a hot-finishing process resulting in a hot-finished pipe and further processed by a cold-finishing process (cold pilger process) or by a cold drawing process, resulting in a cold-finished pipe. All types of products (hollows, hot-finished and cold-finished pipes) share the same basic physical, chemical and technical characteristics and same basic uses.

(17) Stainless seamless pipes and tubes are mainly used in the following industries: chemical and petrochemical industries, fertiliser production, power generation, civil engineering and construction, pharmacology and medical technologies, biotechnology, water treatment and waste incineration, oil and gas exploration and production, coal and gas processing, food processing.

(18) One Union producer, which further processes stainless steel tubes, claimed that in case measures were to be imposed the CN code 7304 49 10 should be excluded from their scope because it covered unfinished hollows used only for further processing. However, the investigation showed that both the Union and the Chinese suppliers of that Union producer declared the goods sold to this producer as hot finished or cold finished goods.

(19) Indeed the declaration of those products as 'unworked hollows for use solely in the manufacture of tubes and pipes with other cross-sections and wall thicknesses' concerns goods which do not necessarily have different physical characteristics, they merely have a different use. It was provisionally concluded that there were no grounds to exclude 'unworked hollows' from the product definition.

2. Like product

(20) The product concerned and certain seamless pipes and tubes of stainless steel sold on the domestic market in the PRC as well as certain seamless pipes and tubes of stainless steel sold in the Union by the Union industry were found to have the same

basic physical, chemical and technical characteristics and the same basic uses. They are therefore, provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment

(21) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet all the criteria laid down in Article 2(7)(c) of the basic Regulation.

(22) Briefly, and for ease of reference only, these criteria are set out in summarised form below:

1. business decisions and costs are made in response to market conditions and without significant State interference, and costs reflect market values;
2. firms have one clear set of basic accounting records, which are independently audited, in line with international accounting standards and applied for all purposes;
3. there are no significant distortions carried over from the former non-market economy system;
4. legal certainty and stability is provided by bankruptcy and property laws;
5. currency exchanges are carried out at the market rate.

(23) In the present investigation, all three sampled exporting (groups of) producers requested market economy treatment ('MET') pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines.

(24) The investigation established that none of the sampled (groups of) exporting producers in the PRC met the requirements of the criteria set forth in Article 2(7)(c) of the basic Regulation, therefore they cannot be granted MET.

(25) None of the companies fulfils the requirements of Criterion 1 because of State interference in decisions concerning acquisition of the main raw material (notably stainless steel billets, ingots, round bars). Those raw materials represent well above 50 % of the cost of production of the product concerned (seamless stainless steel pipes and tubes). Consequently, these raw materials are by far the major input in the production of the product concerned.

(26) The Chinese State has a primary role in the setting of prices of raw materials for seamless stainless steel pipes and tubes and interferes in the market continuously with the following tools: export tax and no VAT rebate. First, the main raw materials to manufacture seamless stainless steel pipes and tubes, are subject to a 15 % export tax