Commission Regulation (EC) No 289/2009 of 7 April 2009 imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Communities[(1)], (basic Regulation) and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. **PROCEDURE**

1. **Initiation**

(1) On 9 July 2008, 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 into the Community of certain seamless pipes and tubes (SPT) of iron or steel originating in the People's Republic of China (the 'country concerned' or 'the PRC').

(2) The proceeding was initiated as a result of a complaint lodged on 28 May 2008 by the Defence Committee of the Seamless Steel Tubes Industry of the European Union (complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of certain seamless pipes and tubes of iron or steel. The complaint contained evidence of dumping of the said product and of a foreseeable and imminent threat 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 producers in the Community, the exporting producers, importers, suppliers and users known to be concerned, as well as their associations, and the representatives of the exporting country, of the initiation of the proceeding. 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 289/2009. (See end of Document for details)*

(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 order to allow 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 exporting producers known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Ten (groups of) companies 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.

(6) In view of the apparent high number of exporting producers, importers and Community 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 Community 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 concerned during the investigation period (1 July 2007 – 30 June 2008).

(7) After examination of the information submitted, and given the high number of exporting producers and Community producers which indicated their willingness to cooperate, it was decided that sampling was necessary with regard to these producers. Given the limited number of importers that indicated their willingness to cooperate it was decided that sampling was not necessary with regard to unrelated importers.

(8) The Commission sent questionnaires to the sampled exporting producers, sampled Community producers, to importers, and to all known users and user associations. Full questionnaire replies were received from the sampled exporting producers in the PRC, from all sampled Community producers with the exception of one company which only provided partial information, six importers and five users.

(9) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury or threat of injury and Community interest. Verification visits were carried out at the premises of the following companies.

Exporting producers in the PRC

— Yan Link Steel Group (Hubei Xinyegang Steel Co., Ltd and Daye Special Steel Co., Ltd),

— Hengyang Valin Group (Hengyang Valin Steel Tube Co., Ltd and Hengyang Valin MPM Co., Ltd), and,

— Shandong Luxing Steel Pipe Co. Ltd.

Community producers

— Vallourec & Mannesmann France, Boulogne-Billancourt, France,

— Vallourec & Mannesmann Germany GmbH, Düsseldorf, Germany,

— Tenaris-Dalmine SpA, Dalmine, Italy,

— ArcelorMittal Tubular Products Ostrava, Ostrava, Czech Republic,

— ArcelorMittal Tubular Products Roman SA, Roman, Romania,

— Tubos Reunidos SA, Amurrio Spain,

— Productos Tubulares SA, Valle de Trapaga, Spain.

Related traders

— Almacenes Metalurgicos, SA, Barcelona, Spain.

Unrelated importers

— Jan van Meever BV, Meerkerk, the Netherlands,

— Comercial de Tubos SA, Alcalá de Henares, Spain.

Community user

— Erne Fittings GmbH, Schlins, Áustria.

(10) In light of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

— Vallourec & Mannesmann Tubes, Houston, Texas, USA.

3. **Sampling**

(11) With regard to exporting producers the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which can reasonably be investigated within the time available. The sample selected consists of four (groups of) companies, representing 70 % of the export volume of the cooperating parties from the PRC to the Community. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

(12) With regard to Community producers, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of production of the like product in the Community, which could reasonably be investigated within the time available. The sample selected consists of 5 groups of companies (a total of 9 companies), representing 62 % of total production in the Community. In accordance with Article 17(2) of the basic Regulation, the cooperating producers were consulted and raised no objection to the selected sample. Since the number of cooperating Community importers was limited, it was decided that in their case the use of sampling techniques was not necessary.

4. **Investigation period**

(13) The investigation of dumping and injury covered the period from 1 July 2007 to 30 June 2008 (IP). The examination of trends relevant for the assessment of injury covered the period from 2005 to the end of the investigation period (period considered).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 289/2009. (See end of Document for details)*

1. **Product concerned**

(14) The product concerned is certain 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[(3)], originating in the People's Republic of China (the product concerned). The notice of initiation (see recital 1 above) indicated that normally the product concerned is declared within CN codes ex 7304 11 00, ex 7304 19 10, ex 7304 19 30, ex 7304 22 00, ex 7304 23 00, ex 7304 24 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 80, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93 and that these CN codes were only given for information. However, the investigation established that three of these CN codes do not refer to the product concerned, i.e. ex 7304 11 00, ex 7304 22 00 and ex 7304 24 00, and that five other CN codes were missing, i.e. ex 7304 31 20, ex 7304 39 10, ex 7304 39 52, ex 7304 51 81 and ex 7304 59 10.

(15) The product concerned is used in a wide variety of applications, like for mechanical uses (including automotive and engineering), in the construction business for piling, for power generation like boiler tubes, as oil country tubular goods (OCTG) used for drilling, casing and tubing in the oil industry, and as line pipes to transport liquids or gases.

(16) SPT take very different forms at the time of their delivery to the users. They can be e.g. galvanised, threaded, delivered as green tubes (i.e. without any heat treatment), with special ends, cut to size or not. There are many different parameters defining the properties of a tube, which explains why most of the SPT are made upon customers' order. SPT are normally connected by welding. However, in particular cases they can be connected by their thread or be used alone, although they remain weldable.

(17) The investigation has shown that, despite differences in final applications of various types of seamless pipes and tubes, the different types of the product concerned all share the same basic physical, chemical and technical characteristics. They are therefore considered to constitute one single product.

(18) An association of Chinese producers claimed that OCTG pipes and tubes should be excluded from the definition of product concerned because they have different uses, different specifications, and different characteristics and are not interchangeable with other pipes and tubes, and the volumes of export from the PRC to the EU are limited. However, the investigation showed that OCTG pipes and tubes have, *inter alia*, comparable chemical characteristics to other SPT types since they all fall within the 0,86 CEV threshold. Furthermore, they share other basic characteristics with the remaining SPT types, such as outside diameter and wall thickness. As far as the end-uses of the OCTG pipes and tubes are concerned, it was found that certain OCTG pipes and tubes are interchangeable with other non-alloy steel tubes. Given that OCTG pipes and tubes have the same essential characteristics as other seamless pipes and tubes and they are interchangeable to a certain extent, it was provisionally concluded that there were no grounds to exclude this type from the product definition.

2. **Like product**

(19) The product concerned and the seamless pipes and tubes produced and sold on the domestic market of the PRC, and on the domestic market of the USA, which served provisionally as an analogue country, as well as the seamless pipes and tubes produced and sold in the Community by the Community industry were found to have the same basic physical, chemical and technical characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. **DUMPING**

1. **Market economy treatment (MET)**

(20) 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 the criteria laid down in Article 2(7)(c) of the basic Regulation.

(21) 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;

2. accounting records 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.

(22) In the present investigation, three of the sampled exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines:

— Yan Link Steel Group (Hubei Xinyegang Steel Co., Ltd and Daye Special Steel Co., Ltd),

— Hengyang Valin Group (Hengyang Valin Steel Tube Co., Ltd and Hengyang Valin MPM Co., Ltd), and,

— Shandong Luxing Steel Pipe Co. Ltd.

(23) For the abovementioned cooperating exporting producers, the Commission sought all information deemed necessary and verified the information submitted in the MET claim at the premises of the companies in question as deemed necessary.