Council Regulation (EC) No 954/2006 of 27 June 2006 imposing definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel originating in Croatia, Romania, Russia and Ukraine, repealing Council Regulations (EC) No 2320/97 and (EC) No 348/2000, terminating the interim and expiry reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, inter alia, in Russia and Romania and terminating the interim reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, inter alia, in Russia and Romania and in Croatia and Ukraine

COUNCIL REGULATION (EC) No 954/2006

of 27 June 2006

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THE COUNCIL OF THE EUROPEAN UNION,

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 Community[(1)] ('the basic Regulation'), and in particular Articles 8, 9, 11(2) and (3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 31 March 2005, the Commission announced by a notice ('notice of initiation'), published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding concerning imports into the Community of certain seamless pipes and tubes ('SPT'), of iron or steel ('extended product scope') originating in Croatia, Romania, Russia and Ukraine and the initiation of two interim reviews of the anti-dumping duties on imports of SPT of iron or non-alloy steel ('original product scope') originating, *inter alia*, in Russia and Romania and in Croatia and Ukraine.

(2) The anti-dumping proceeding was initiated following a complaint lodged on 14 February 2005 by the Defence Committee of the Seamless Steel Tube Industry of

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the European Union ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of the extended product scope. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

(3) The interim reviews were initiated by the Commission on its own initiative, pursuant to Article 11(3) of the basic Regulation, in order to allow for any amendment or repeal necessary for the definitive anti-dumping measures imposed by Council Regulation (EC) No 2320/97[(3)] and Council Regulation (EC) No 348/2000[(4)] on imports of the original product scope from, *inter alia*, Croatia, Romania, Russia and Ukraine ('the definitive measures'). The necessary amendment or repeal may arise, should it be determined that measures are to be imposed on the extended product scope, due to the fact that the products upon which measures have been imposed by Regulation (EC) No 2320/97 and Regulation (EC) No 348/2000, fall within the extended product scope.

1.2. Measures in force on the original product scope

(4) Regulation (EC) No 2320/97 imposed anti-dumping duties on imports of the original product scope originating, *inter alia*, in Romania and Russia. By Commission Decisions 97/790/EC[(5)] and 2000/70/EC[(6)], undertakings were accepted from exporters in, *inter alia*, Romania and Russia. By Council Regulation (EC) No 1322/2004[(7)], it was decided to no longer apply the measures in force on imports of the original product scope from Romania and Russia as a matter of prudence in connection with an anti-competitive behaviour of certain Community producers in the past (see recital (9) et seq. of that Regulation). Recital (20) of the same Regulation confirmed the interim and expiry reviews, initiated by a Notice of initiation in November 2002[(8)], to be still ongoing until new findings would be available to permit an assessment for the future on the basis of new data that could in any event not be affected by the anti-competitive conduct.

(5) Following a review investigation carried out in accordance with Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 258/2005[(9)], amended the definitive measures imposed by Regulation (EC) No 348/2000, repealed the possibility of exemption from the duties provided for in Article 2 of the same Regulation and imposed an anti-dumping duty of 38,8 % on imports of the original product scope from Croatia and an anti-dumping duty of 64,1 % on imports of the original product scope from Ukraine with the exception of imports from Dnepropetrovsk Tube Works ('DTW') which are subject to an anti-dumping duty of 51,9 %.

(6) By Decision 2005/133/EC[(10)], the Commission partially suspended the definitive measures for a period of nine months, with effect from 18 February 2005. The partial suspension was extended for a further period of one year by Council Regulation (EC) No 1866/2005[(11)]. Therefore, the duties in force are those established by Regulation (EC) No 348/2000, i.e. 23 % for Croatia and 38,5 % for Ukraine.

1.3. Provisional measures

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(7) Given the need to further examine certain aspects of the investigation and also because of the interrelation with the interim and expiry reviews, referred to in section 1.2 above, it was decided to continue the investigation without the imposition of provisional measures.

1.4. Parties concerned by the proceeding

(8) The Commission officially advised the exporting producers in Croatia, Romania, Russia and Ukraine, the importers/traders, users, suppliers and associations known to be concerned, the representatives of the exporting countries concerned and the complainant Community producers and other Community producers known to be concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit-set in the notice of initiation.

(9) In view of the large number of Russian and Ukrainian exporting producers listed in the complaint, the large number of Community importers of the product concerned and the large number of Community producers supporting the complaint, the notice of initiation envisaged the use of sampling for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation.

(10) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all Russian and Ukrainian exporting producers, Community 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 January 2004 to 31 December 2004).

1.4.1. Sampling of exporters/producers

(11) After examination of the information submitted by the Russian and Ukrainian exporting producers and due to the fact that in both countries the majority of companies belong to large producer groups, it was decided that sampling was not necessary with regard to Russia and Ukraine.

1.4.2. Sampling of Community industry and importers

(12) With regard to Community producers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of production and sales of Community producers, which can reasonably be investigated within the time available. On the basis of the information received from Community producers, the Commission selected five companies located in four different Member States. One of the originally sampled Community producers did subsequently not cooperate and was replaced by another Community producer. In terms of production volume the five sampled companies represented 49 % of the total Community production. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. In addition, the remaining Community producers were requested to provide certain general data for the injury

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analysis. In view of the small number of responses received by importers, it was decided that sampling of importers was not necessary.

1.5. Market economy treatment/Individual treatment claim forms

(13) In order to allow exporting producers in Ukraine to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Ukrainian exporting producers known to be concerned. Claims for MET, or for IT in case the investigation establishes that they do not meet the conditions for MET, were received from three groups of exporting producers and their related companies.

1.6. Questionnaires

(14) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three Romanian exporting producers together with their two related companies, two groups of Russian exporting producers together with five related companies, three of them located in the Community, and three groups of Ukrainian exporting producers and their related companies. Questionnaire replies were also received from five Community producers. Although six importers replied to the sampling form, only three cooperated by submitting a full questionnaire reply. Another importer agreed to have a verification visit carried out at its premises, despite the fact that it did not submit a questionnaire reply.

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

Community producers

— Dalmine S.p.A., Bergamo, Italy

— Rohrwerk Maxhütte GmbH, Sulzbach-Rosenberg, Germany

— Tubos Reunidos S.A., Amurrio, Spain

— Vallourec & Mannesmann France S.A., Boulogne Billancourt, France

— V & M Deutschland GmbH, Düsseldorf, Germany

Exporting producers in Romania

— S.C. T.M.K. — Artrom S.A., Slatina

— S.C. Silcotub S.A., Zalau

— S.C. Mittal Steel Roman S.A., Roman

Exporting producers in Russia

— Volzhsky Pipe Works Open Joint Stock Company ('Volzhsky'), Volzhsky

— Joint Stock Company Taganrog Metallurgical Works ('Tagmet'), Taganrog

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— Joint Stock Company Pervouralsky Novotrubny Works ('Pervouralsky'), Pervouralsk

— Joint Stock Company Chelyabinsk Tube Rolling Plant ('Chelyabinsk'), Chelyabinsk

Related company in Russia

— CJSC Trade House TMK, Moscow

Exporting producers in Ukraine

— CJSC Nikopolsky Seamless Tubes Plant Niko Tube, Nikopol

— CJSC Nikopol Steel Pipe Plant Yutist (Yutist), Nikopol

— OJSC Dnepropetrovsk Tube Works (DTW), Dnepropetrovsk

— OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnepropetrovsk

Related trader in Ukraine

— SPIG Interpipe, Dnepropetrovsk, related to NTRP and Niko Tube

Related trader in Switzerland

— SEPCO S.A., Lugano, related to NTRP and Niko Tube

Related importer

— Sinara Handel GmbH, Köln, related to Artrom

Unrelated importers

— Thyssen Krupp Energostal S.A., Torun, Poland

— Assotubi S.P.A., Cesena, Italy

— Bandini Sider S.R.L., Imola, Italy

1.7. Investigation period

(16) The investigation of dumping and injury covered the period from 1 January 2004 to 31 December 2004 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2001 to the end of the IP ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(17) The product concerned is certain seamless pipes and tubes ('SPT'), 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. The product concerned is currently classified under CN codes ex 7304 10 10, ex 7304 10 30, ex 7304 21 00, ex 7304 29 11, 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[12] (TARIC codes 7304 10 10 20, 7304 10 30 20, 7304 21 00 20, 7304 29 11 20, 7304 31 80 30, 7304 39 58 30, 7304 39 92 30, 7304 39 93 20, 7304 51 89 30, 7304 59 92 30 and 7304 59 93 20).