Council Regulation (EC) No 258/2005 of 14 February 2005 amending the anti-dumping measures imposed by Regulation (EC) No 348/2000 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine

COUNCIL REGULATION (EC) No 258/2005

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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 11(3) and 11(7) thereof,

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

Whereas:

A. PROCEDURE

1. Previous investigation and existing measures

(1) The measures currently in force on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine are definitive anti-dumping duties imposed by Council Regulation (EC) No 348/2000[(2)] and one undertaking accepted from an exporter in Croatia by Commission Decision 2000/137/EC[(3)]. The rate of duty applicable to imports from Croatia is 23 %, while the duty rate applicable to imports from Ukraine is 38,5 %.

2. Initiation

(2) On 23 November 2002, the Commission announced by a notice of initiation published in the *Official Journal of the European Communities*[(4)], the initiation of an interim review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes, of iron or non-alloy steel originating in Croatia and Ukraine and commenced an investigation.

(3) The investigation was initiated at the request lodged by the Defence Committee of the Seamless Steel Tube Industry of the European Union on behalf of producers representing more than 75 % of the total Community production.

(4) It is to be noted that on the same date, 23 November 2002, another review was initiated concerning the measures in force on imports of the same product, i.e. certain

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 258/2005. (See end of Document for details)*

seamless pipes and tubes of iron or non-alloy steel, originating in Poland, Russia, the Czech Republic, Romania and the Slovak Republic[(5)]. The measures against Poland, the Czech Republic and the Slovak Republic have lapsed as a result of the enlargement of the European Union on 1 May 2004. Further to Regulation (EC) No 1322/2004[(6)], the existing measures on imports of certain seamless pipes and tubes originating in Russia and Romania are temporarily not applied as from 21 July 2004. The review on these measures is still ongoing.

3. Parties concerned by the proceeding

(5) The Commission officially advised the exporting producers in Croatia and Ukraine, the producers, importers, suppliers and users in the Community known to be concerned and the authorities of Croatia and Ukraine of the opening of the investigation. 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.

(6) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from five Community producers, one importer, one exporting producer in Croatia, three exporting producers in Ukraine and three traders related to the Ukrainian producers.

(7) The Commission sought and verified all the information deemed necessary for a determination of dumping and resulting injury and carried out verifications at the premises of the following companies:

(a) Community producers:
- Dalmine Spa, Italy,
- Productos Tubulares SA, Spain,
- Tubos Reunidos SA, Spain,
- Vallourec & Mannesmann, Germany,
- Vallourec & Mannesmann, France;

(b) Unrelated importers in the Community:
- Comercial de Tubos SA, Spain;

(c) Exporting producer in Croatia:
- Mechel Željezara Ltd, Sisak;

(d) Exporting producers in Ukraine:
- CJSC Nikopolsky seamless tubes plant Nikotube, Nikopol,
- Dnipropetrovsk Tube Works (DTW), Dnipropetrovsk,
- OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnipropetrovsk;

(e) Related traders in Ukraine:
- Time Ltd, Dnipropetrovsk,

— SGIP Interpipe, Dnipropetrovsk;

(f) Related trader in Switzerland:

— SEPCO, Lugano.

4. Investigation period

(8) The investigation of dumping and injury covered the period from 1 October 2001 to 30 September 2002 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 1999 to the end of the investigation period (the period considered).

5. Product concerned and like product

5.1. Product concerned

(9) The products under review are:

(a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm;

(b) seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes;

(c) other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm, originating in Croatia and Ukraine (the product concerned), falling within CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93.

(10) The investigation has shown that all these categories were sufficiently similar for them to constitute a single product, as in the original investigation. Therefore, and for the purpose of the present anti-dumping investigation, all types of the product concerned are regarded as one product.

5.2. Like product

(11) As in the previous investigation, no differences were found between the product concerned and the seamless pipes and tubes produced and sold on the domestic market in Croatia.

(12) Likewise, no differences were found between the product concerned and the seamless pipes and tubes produced by the Community producers and sold on the Community market. They both share the same physical and chemical characteristics and uses. Furthermore, they both conform to industry standards such as DIN, API or ASTM. Therefore, they are considered as like products within the meaning of Article 1(4) of the basic Regulation.

B. DUMPING

1. Croatia

1.1. Cooperation

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(13) As concerns Croatia, one exporting producer, Mechel Željezara Ltd, accounted for all exports of the product concerned to the Community. Mechel Željezara Ltd is the new name of the company which cooperated with the original investigation under the name Željezara Sisak d.d., but which had officially changed its name twice since the imposition of the existing measures, due to subsequent changes in ownership[7].

(14) During the original investigation, an undertaking had been accepted from Mechel Željezara Ltd under its original name[8]. As the investigation was initiated to review the level and form of the measures, the undertaking was also subject to this review investigation (see recitals 135 to 137).

1.2. Normal value

(15) It was first established whether Mechel Željezara Ltd's total domestic sales of the like product were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative since the total domestic sales volume represented at least 5 % of its total export sales volume to the Community.

(16) Subsequently, by defining the product types in accordance with the CN codes under which the product is classified, it was examined whether the domestic sales of each product type were representative. Domestic sales of a particular product type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable product type exported to the Community. It was found that all product types sold by the company for export to the Community had representative domestic sales.

(17) An examination was also made as to whether the domestic sales of each product type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of a product type, sold at a net sales price equal to or above the unit cost, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the unit cost, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that product type made during the IP, irrespective of whether these sales were profitable or not. This was the case for two product types.

(18) In the case where the volume of profitable sales of a product type represented 80 % or less but at least 10 % of the total sales volume of that type, or where the weighted average price of such sales was below the unit cost, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of those types only. This was the case for one product type.

(19) For the fourth product type, less than 10 % of the domestic sales volume was profitable during the IP. It was therefore considered that this particular product type was sold in insufficient quantities for the domestic prices to provide an appropriate basis

for the establishment of the normal value and another method had to be applied. In this case, constructed normal value was used, in accordance with Article 2(3) of the basic Regulation. Normal value was constructed by adding to the manufacturing cost of the exported type, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit, on the basis of actual data pertaining to production and sales, in the ordinary course of trade, of the like product, by the exporting producer under investigation in accordance with the first sentence of Article 2(6) of the basic Regulation.

1.3. Export price

(20) The investigation showed that the export sales of Mechel Željezara Ltd were solely made directly to unrelated customers in the Community.

(21) Therefore, the export price was established on the basis of export prices actually paid or payable for the product concerned when sold to the first independent customer in the Community, in accordance with Article 2(8) of the basic Regulation.

1.4. Comparison

(22) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.

(23) Accordingly, allowances claimed for differences in transport costs, handling, loading and ancillary costs, credit costs and commissions were granted where applicable and supported by verified evidence.

1.5. Dumping margin

(24) In accordance with Article 2(11) of the basic Regulation, the adjusted weighted average normal value by product type was compared with the adjusted weighted average export price of each corresponding type of the product concerned.

(25) This comparison showed the existence of dumping. The dumping margin expressed as a percentage to the cif Community frontier price, duty unpaid, is as follows:

Mechel Željezara Ltd.	38,9 %.

(26) This dumping margin is below the dumping margin found during the original investigation. Since the level of cooperation was high (all exports of the product concerned from Croatia to the Community), the residual dumping margin was set at the same level as the one established for Mechel Željezara Ltd, namely 38,9 %.

2. Ukraine

2.1. Market economy treatment (MET)