

**COMMISSION IMPLEMENTING REGULATION (EU) 2018/1469****of 1 October 2018****imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

**1. PROCEDURE****1.1. Previous investigations and existing measures**

- (1) By Regulation (EC) No 2320/1997 <sup>(2)</sup> the Council imposed anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel, originating in, inter alia, Russia. By Commission Decision 2000/70/EC <sup>(3)</sup>, an undertaking was accepted from an exporter in Russia. By Regulation (EC) No 348/2000 <sup>(4)</sup> the Council imposed anti-dumping duties on imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia and Ukraine. By Council Regulation (EC) No 1322/2004 <sup>(5)</sup>, it was decided to no longer apply the measures in force on imports from, inter alia, Russia as a matter of prudence in connection with an anti-competitive behaviour of certain Union producers in the past (see recital (9) of that Regulation).
- (2) Following a review investigation carried out in accordance with Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 258/2005 <sup>(6)</sup>, amended the definitive measures imposed by Regulation (EC) No 348/2000, repealed the possibility of exemption from the duties provided for in Article 2 of the same Regulation and imposed an anti-dumping duty of 38,8 % on imports from Croatia and an anti-dumping duty of 64,1 % on imports from Ukraine with the exception of imports from Dnepropetrovsk Tube Works, which were subject to an anti-dumping duty of 51,9 %.
- (3) By Decision 2005/133/EC <sup>(7)</sup>, the Commission partially suspended the definitive measures regarding Croatia and Ukraine for a period of nine months, with effect from 18 February 2005. The partial extension was extended for a further period of one year by Council Regulation (EC) No 1866/2005 <sup>(8)</sup>.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Council Regulation (EC) No 2320/97 of 17 November 1997 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Hungary, Poland, Russia, the Czech Republic, Romania and the Slovak Republic, repealing Regulation (EEC) No 1189/93 and terminating the proceeding in respect of such imports originating in the Republic of Croatia (OJ L 322, 25.11.1997, p. 1).

<sup>(3)</sup> Commission Decision of 22 December 1999 accepting an undertaking offered in connection with the interim review of the anti-dumping duty applicable to imports of certain seamless pipes and tubes of iron or non-alloy steel originating, inter alia, in Russia (OJ L 23, 28.1.2000, p. 78).

<sup>(4)</sup> Council Regulation (EC) No 348/2000 of 14 February 2000 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine and collecting definitively the provisional duty imposed (OJ L 45, 17.2.2000, p. 1).

<sup>(5)</sup> Council Regulation (EC) No 1322/2004 of 16 July 2004 amending Regulation (EC) No 2320/97 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, inter alia, Russia and Romania (OJ L 246, 20.7.2004, p. 10).

<sup>(6)</sup> 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 (OJ L 46, 17.2.2005, p. 7).

<sup>(7)</sup> Commission Decision of 16 February 2005 partially suspending the definitive anti-dumping duties imposed by Regulation (EC) No 258/2005 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine (OJ L 46, 17.2.2005, p. 46).

<sup>(8)</sup> Council Regulation (EC) No 1866/2005 of 8 November 2005 extending the partial suspension of the definitive anti-dumping duties imposed by Regulation (EC) No 258/2005 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine (OJ L 300, 17.11.2005, p. 1).

- (4) By Regulation (EC) No 954/2006 <sup>(9)</sup> the Council imposed definitive anti-dumping duties on imports of certain seamless pipes and tubes originating in, inter alia, Croatia, Russia and Ukraine, repealed Regulations (EC) No 2320/97 and (EC) No 348/2000, terminated the interim and expiry reviews of the anti-dumping duties on imports of certain seamless pipes and tubes or iron or non-alloy steel originating, inter alia, in Russia and terminated the interim reviews of the anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, inter alia, Croatia, Russia and Ukraine.
- (5) By its judgment of 16 February 2012 in Joined Cases C-191/09 and C-200/09 P *Council and Commission v Interpipe Niko Tube and Interpipe NTRP*, the Court of Justice dismissed the Council's appeal <sup>(10)</sup> of the Court of First Instance's judgment of 10 March 2009, annulling Article 1 of Regulation (EC) No 954/2006 insofar as it concerned the part of the anti-dumping duty fixed for products manufactured by Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT and Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (together the 'Interpipe Group') which exceeded that which would have been applicable had the export price not been adjusted for a commission when sales took place through the intermediary of the affiliated trader, Sepco SA <sup>(11)</sup>. In accordance with Article 266 of the Treaty on the Functioning of the European Union, the Commission took the measures necessary to comply with the judgments and re-calculated the anti-dumping duty rate for the Interpipe Group in line with the directions of the Court of First Instance and the Court of Justice. Council Implementing Regulation (EU) No 540/2012 <sup>(12)</sup> corrected the aspects of the Regulation (EC) No 954/2006 found to be inconsistent with the basic Regulation, and which thus led to the annulment of parts of that Regulation. That Regulation left all other findings made in Regulation (EC) No 954/2006 remain valid. After re-calculation, the anti-dumping duty currently in force for the Interpipe Group for the product concerned was thus established to be 17,7 %.
- (6) By Regulation (EU) No 585/2012 <sup>(13)</sup> the Council, following an expiry review, imposed definitive anti-dumping duties on imports of certain seamless pipes and tubes originating in Russia and Ukraine and terminated on the anti-dumping measures against imports of certain seamless pipes and tubes or iron or non-alloy steel originating in Croatia ('the previous expiry review').
- (7) Following partial interim review investigations in accordance with Article 11(3) of the basic Regulation, the Council, by Regulation (EU) No 795/2012 <sup>(14)</sup> and Regulation (EU) No 1269/2012 <sup>(15)</sup> respectively, amended the definitive measures imposed by Regulation (EU) No 585/2012 with regard to a number of Russian and Ukrainian exporting producers.
- (8) The anti-dumping duties currently in force are 35,8 % for imports originating in Russia, with the exception of the Joint Stock Company Chelyabinsk Tube Rolling Plant and Joint Stock Company Pervouralsky Novotrubny Works (24,1 %), OAO Volzhsky Pipe Plant, OAO Taganrog Metallurgical Works, OAO Sinarsky Pipe Plant and OAO Seversky Tube Works (28,7 %), and 25,7 % for imports originating in Ukraine, with the exception of OJSC Dnepropetrovsk Tube Works (12,3 %), LLC Interpipe Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant (13,8 %).

<sup>(9)</sup> 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 (OJ L 175, 29.6.2006, p. 4).

<sup>(10)</sup> C-191/09 P — Council and Commission v Interpipe Niko Tube and Interpipe NTRP.

<sup>(11)</sup> T-249/06 — Interpipe Niko Tube and Interpipe NTRP v Council.

<sup>(12)</sup> Council Implementing Regulation (EU) No 540/2012 of 21 June 2012 amending Regulation (EC) No 954/2006 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel originating in Croatia, Romania, Russia and Ukraine (OJ L 165, 26.6.2012, p. 1).

<sup>(13)</sup> Council Implementing Regulation (EU) No 585/2012 of 26 June 2012 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009, and terminating the expiry review proceeding concerning imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia (OJ L 174, 4.7.2012, p. 5).

<sup>(14)</sup> Council Implementing Regulation (EU) No 795/2012 of 28 August 2012 amending Implementing Regulation (EU) No 585/2012 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine, following a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 238, 4.9.2012, p. 1).

<sup>(15)</sup> Council Implementing Regulation (EU) No 1269/2012 of 21 December 2012 amending Implementing Regulation (EU) No 585/2012 imposing a definitive anti-dumping duty on imports of certain seamless steel pipes, of iron or steel, originating, inter alia, in Russia, following a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 357, 28.12.2012, p. 1).

### 1.2. Initiation of an expiry review

- (9) On 4 July 2017, the Commission announced the initiation of an expiry review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes, of iron or steel, originating in Russia and Ukraine pursuant to Article 11(2) of the basic Regulation by a notice published in the *Official Journal of the European Union* ('Notice of initiation') <sup>(16)</sup>.
- (10) The review was initiated following a substantiated request lodged on 30 March 2017 by the Defence Committee of the Seamless Steel Tubes Industry of the European Union ('the applicant') on behalf of Union producers representing more than 25 %, of the total Union production of certain seamless pipes and tubes. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping for Ukraine and recurrence of dumping for Russia and recurrence of injury to the Union industry.

### 1.3. Parallel partial interim review

- (11) On 7 May 2018, the Commission initiated a partial interim review concerning imports of certain seamless pipes and tubes, of iron or steel, originating, inter alia, in Ukraine pursuant to Article 11(3) of the basic Regulation <sup>(17)</sup>. That partial interim review was requested by one group of exporting producers in Ukraine, the Interpipe Group, and it is limited in scope to the examination of dumping as far as the applicant is concerned.

### 1.4. Investigation

#### *Review investigation period and period considered*

- (12) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 July 2016 to 30 June 2017 ('review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2014 up to the end of the RIP ('period considered').

#### *Parties concerned*

- (13) The Commission officially informed the exporting producers, importers, known users, the representatives of the exporting countries, the applicant and the Union producers mentioned in the request of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set out in the notice of initiation.

#### *Sampling*

- (14) In view of the large number of exporting producers in Russia and Ukraine and the large number of importers, sampling for exporting producers and importers was initially envisaged in the notice of initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be indeed necessary and, if so, to select a sample, the above parties were requested to make themselves known within 15 days of the initiation of the proceeding and to provide the Commission with the information requested in the notice of initiation.
- (15) Only two Russian exporting producers (TMK Group and ChTPZ Group, 'the two groups of Russian exporting producers') and one Ukrainian exporting producer ('Interpipe Group') came forward and made themselves known within the deadline. Therefore it was decided not to apply sampling in the case of the exporting producers.
- (16) No importer provided the information requested in the notice of initiation and expressed its willingness to cooperate with the Commission. However, four importers sent submissions upon the initiation of the procedure. Therefore, the Commission decided not to apply sampling.

<sup>(16)</sup> Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes of iron or steel originating in Russia and Ukraine (OJ C 214, 4.7.2017, p. 9).

<sup>(17)</sup> Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of certain seamless tubes and pipes originating, inter alia, in Ukraine (OJ C 159, 7.5.2018, p. 18).

- (17) In the Notice of Initiation, the Commission had also stated that it had provisionally selected a sample of Union producers, in accordance with Article 17(1) of the basic Regulation. Prior to the initiation, twelve Union producers had provided the information requested for the selection of the sample and expressed their willingness to cooperate with the Commission. On that basis, the Commission had provisionally selected a sample of three producers, which were found to be representative of the Union industry in terms of volume of production and sales of the like product in the Union.
- (18) Following insufficient cooperation of one of the sampled Union producers and application of the provision of Article 18 of the basic Regulation with regard to this company, the Commission replaced the provisionally selected producer in question by two other Union producers. Therefore, the final sample of the Union producers consists of Arcelor Mittal Tubular Products, Benteler Steel Tube GmbH, Dalmine SpA, and Zeleziarne Podbrezova a.s.

#### *Questionnaires*

- (19) Questionnaires were therefore sent to the five sampled Union producers (total of the original and of final sample), to four importers, to the two groups of Russian exporting producers and to Interpipe Group.
- (20) Neither of the two groups of Russian exporting producers replied to the questionnaire. The Russian authorities were informed of the non-cooperation and the intention of the Commission to apply Article 18 of the basic Regulation.
- (21) Both producers nevertheless sent comments disputing the accuracy of the request and opposing the continuation of the measures.
- (22) Replies to the questionnaires were received from the five Union producers and the sole cooperating Ukrainian exporting producer. No reply to the questionnaires was further received from the four Union importers.

#### *Verification visits*

- (23) The Commission sought and verified all information it deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping and resulting injury and of the Union interest. Verification visits were carried out at the premises of the following companies:

#### *Union producers*

- Arcelor Mittal Tubular Products, Ostrava, Czech Republic,
- Benteler Steel Tube GmbH, Paderborn, Germany
- Dalmine SpA., Bergamo, Italy,
- Zeleziarne Podbrezova a.s., Podbrezova, Slovakia and its related traders Pipex Italia SpA., Arona, Italy and Slavrur Sp. z o.o., Stalowa Wola, Poland,
- Vallourec Deutschland GmbH, Boulogne Billancourt, France.

#### *Exporting producer in Ukraine*

- The Interpipe Group (OJSC Interpipe NTRP, Dnepropetrovsk, Ukraine, LLC Interpipe Niko Tube, Nikopol, Ukraine) and their related trading companies LLC Interpipe Ukraine, Dnepropetrovsk, Ukraine, Interpipe Europe SA, Lugano, Switzerland and Interpipe Central Trade GmbH, Frankfurt, Germany).

#### *Subsequent procedure*

- (24) On 13 July 2018, the Commission disclosed the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or non-alloy steel, originating in Russia and Ukraine.
- (25) Comments were received from the two groups of Russian exporting producers, from Interpipe Group, from the Mission of Ukraine before the European Union and from the Permanent Mission of the Russian Federation to the European Union. On 8 August 2018 a hearing took place between the two groups of Russian exporting producers and the Permanent Mission of the Russian Federation to the European Union and the Commission services. On the same day, a hearing took place between Interpipe Group and the Commission services. In view of the comments made by Interpipe Group, the company was provided with two additional disclosures regarding the analysis with regard to Ukraine and certain company specific issues.

- (26) The comments submitted by the interested parties were considered and taken into account where appropriate.

## 2. PRODUCT CONCERNED AND LIKE PRODUCT

### 2.1. Product concerned

- (27) The product concerned is the same as that in the last investigation which led to the imposition of measures currently in force, i.e. certain seamless pipes and tubes of iron or steel ('SPT'), 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<sup>(18)</sup>, originating in Russia and Ukraine ('the product concerned'), currently falling 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<sup>(19)</sup> (TARIC codes 7304 11 00 10, 7304 19 10 20, 7304 19 30 20, 7304 22 00 20, 7304 23 00 20, 7304 24 00 20, 7304 29 10 20, 7304 29 30 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)
- (28) The product concerned is used in a wide variety of applications, like line pipes to transport liquids, in the construction business for piling, for mechanical uses, gas tubes, boiler tubes and oil and country tubular goods ('OCTG') for drilling, casing and tubing for the oil industry.
- (29) 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, different cross-sections, cut to size or not. There are no generalised standard sizes for the tubes, 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. The investigation showed that all SPT share the same basic physical, chemical and technical characteristics and the same basic uses.

### 2.2. Like product

- (30) As established in previous as well as in the latest investigation, this expiry review investigation confirmed that the product exported to the Union from Russia and Ukraine, the product produced and sold on the domestic markets of Russia and Ukraine, and the product produced and sold in the Union by the Union producers have the same basic physical and technical characteristics and end uses and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

## 3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

- (31) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether dumping was likely to continue or recur upon an expiry of the measures in force.

### 3.1. Russia

#### 3.1.1. Dumping during the review investigation period

##### 3.1.1.1. Preliminary remarks

- (32) In accordance with Article 11(2) of the basic Regulation, the Commission first examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from Russia.
- (33) In the absence of cooperation by any Russian exporting producer, as indicated in recital (20), the Commission based its overall analysis, including the dumping calculation, on facts available pursuant to Article 18 of the basic Regulation.

<sup>(18)</sup> The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-555-67, published by the International Institute of Welding (IIW).

<sup>(19)</sup> As currently defined in Commission Regulation (EU) 2017/1925 of 12 October 2017 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 282, 31.10.2017, p. 1).

- (34) Consequently, the likelihood of a continuation or recurrence of dumping was assessed by using the information contained in the expiry review request, combined with other sources of information such as information collected on the basis of Article 14(6) of the basic Regulation, information contained in the written submissions received including, inter alia, Russian export statistics of the Russian Federal Customs Service ('RFCS') <sup>(20)</sup>, and statistical data from the specialist website Metal Expert <sup>(21)</sup>.
- (35) The Russian non-cooperation made it impossible for the Commission to compare the normal value with the export price on a product type by product type basis. Therefore, both the normal value and the export price were established by using average values, in accordance with Article 18 of the basic Regulation.

#### 3.1.1.2. Normal value

- (36) In order to establish normal value, the Commission used the same methodology as the one applied by the applicant in the request. This methodology is based on the Russian domestic price data available on Metal Expert. The Commission thus used average domestic prices in Russia, ex-works stated in Metal Expert for the 12 months from July 2016 to June 2017.

#### 3.1.1.3. Export price

- (37) Export prices to the Union were established on the basis of the Commission's 14(6) database.

#### 3.1.1.4. Comparison

- (38) The normal value and the export price were compared on an ex-works basis. Normal value was adjusted upwards following the methodology provided by the applicant <sup>(22)</sup> and on the basis of the information available on the Metal Expert. The export price was adjusted downwards to an ex-works level. To this end, delivery costs, insurance and commission were deducted on the basis of information available in the request.

#### 3.1.1.5. Dumping

- (39) On the basis of the above, the Commission calculated a dumping margin for Russian exports to the Union of around 33 %. The level of imports during the review investigation period was, however, relatively limited, representing 0,6 % of Union consumption.

#### 3.1.1.6. Comments after final disclosure

- (40) After disclosure, the two groups of Russian exporting producers jointly submitted comments to the Commission's General Disclosure Document.
- (41) Both companies contested the legality of the existing measures. First, they claimed that the the original measures were illegal since the Commission had applied a cost adjustment to the normal value based on Article 2(5) of the basic Regulation, which would, allegedly, be illegal under the WTO Appellate Body jurisprudence <sup>(23)</sup>. Secondly, they claimed that the Commission's approach in expiry reviews, whereby the Commission does not make company-specific findings <sup>(24)</sup>, is contrary to the letter and spirit of the basic Regulation and the WTO Anti-dumping Agreement.
- (42) The first claim was rejected since it refers to the calculation of the original duty which falls outside the scope of the current procedure. For the purpose of this expiry review, in the absence of cooperation of the Russian exporting producers, the provisions of Article 18 had to be used. On the second claim, the two groups of Russian exporting producers failed to substantiate the reasons as to why country-wide determinations in the context of expiry reviews would be illegal. This claim was therefore also rejected.
- (43) With regard to the specific aspects of the investigation, the two groups of Russian exporting producers first contested the Commission's application of Article 18 of the basic Regulation, and claimed that the Commission had disregarded information submitted by them in the course of the investigation.

<sup>(20)</sup> Federal Customs Services Data Base on External Trade <http://stat.customs.ru/apex/> (publicly available data provided by the Russian exporting producers. Annex 2 of the submissions of 21 August 2017 and of 30 July 2018).

<sup>(21)</sup> Metal Expert LLC: [www.metalexpert-group.com](http://www.metalexpert-group.com)

<sup>(22)</sup> Available in the open version of the request.

<sup>(23)</sup> *European Union — Anti-dumping measures on Biodiesel from Argentina*, WT/DS473/AB.

<sup>(24)</sup> E.g. a determination that may allow for termination of the investigation for an exporting producer even if the measures were to be maintained at a country-wide level.

- (44) With regard to the application of Article 18 of the basic Regulation, all known Russian exporting producers were encouraged to fill in the questionnaire intended for exporting producers following initiation <sup>(25)</sup>. In addition, the Permanent Mission of Russia before the EU received the blank questionnaires and was encouraged to contact (or make the Commission learn about) other Russian producers that may not have been known to the Commission on the day of initiation, so that they would be given the opportunity to take part in the investigation.
- (45) The two groups of Russian exporting producers that came forward informed the Commission, on 21 August 2017, that they had decided not to fully cooperate with the investigation, specifying that they had decided not to reply to the questionnaire and voluntarily limit their participation to submitting only certain data (such as production and capacity, as well as export prices to third markets) and comments on some aspects of the investigation. The two groups of Russian exporting producers were nevertheless provided with a questionnaire and invited to complete it. In the letter accompanying this invitation, the Russian exporting producers were unequivocally informed that absent a reply to the questionnaire, the Commission would apply Article 18 of the basic Regulation. No questionnaire reply was received from either of them.
- (46) In view of this, the Commission informed the Russian authorities of its intention to apply Article 18 of the basic Regulation on 22 March 2018.
- (47) The Commission however underlined, during the hearing of 8 August 2018, that it had not disregarded the data submitted by the two groups of Russian exporting producers, as wrongly claimed by them. In fact, the Commission explained that it had cross-checked the data provided by the two groups of Russian exporting producers regarding capacity and production with publicly available data, namely Metal Expert. The Commission also used the data from the Russian Exports Statistics received from the exporting producers, as explained in recital (34). Therefore, the claim that the Commission had disregarded the information submitted by the two groups of exporting producers was rejected.
- (48) The two groups of Russian exporting producers also noted that they had invited the Commission to carry out verification visits on the limited data that they had provided and that no verification visit had taken place.
- (49) According to Article 16 of the basic Regulation, verification visits should be carried out where the Commission considers it appropriate and, in the absence of a proper and timely reply, the Commission may choose not to carry out such a verification visit. On that basis, and given the absence of a proper questionnaire reply in this case, the Commission considered that no verification visit should take place.

### 3.1.2. *Likelihood of continuation or recurrence of dumping should measures be repealed*

- (50) As established above, Russia was found to continue dumping in the review investigation period, but the level of imports during the review investigation period was relatively limited. Therefore, the Commission analysed whether dumping was likely to continue or recur if the current anti-dumping measures would be allowed to expire. When doing so, it looked into production and spare capacity in Russia, the attractiveness of the Union market and the behaviour of Russian exporters in other markets.

#### 3.1.2.1. Spare capacity

- (51) After final disclosure, the two groups of Russian exporting producers contested the findings made by the Commission on the spare capacity available in Russia. In particular, the two groups of Russian exporting producers claimed that the Commission had overestimated the spare capacity available in Russia. This spare capacity was based on market intelligence data (Metal Expert) and it was estimated at more than 550 000 tonnes.
- (52) During the hearing of 8 August 2018, the Commission explained the data it had used to calculate the figure reported in the General Disclosure Document, i.e., the data publicly available (as included on the file) at the time of the drafting of the General Disclosure Document. Following the comments received and the discussions held at the hearing, the Commission invited the two groups of Russian exporting producers to submit the most updated and detailed data on production and capacity available to them. The two groups of Russian exporting producers supplied this information (sourced from Metal Expert) to the Commission on 10 August 2018. Therefore, for the calculation of the production capacity the Commission used the updated data from Metal Expert as provided by the two groups of Russian exporting producers in the submission of 10 August 2018.

<sup>(25)</sup> In the communication of 27 July 2018, the Russian exporting producers were unequivocally informed that, absent a reply to the questionnaire, the Commission would apply Article 18 of the basic Regulation.

- (53) The updated spare capacity figures thus obtained pointed at a spare capacity in Russia, during the review investigation period, of 350 000-380 000 tonnes. This significant overcapacity represents more than 25 % of Union consumption.

#### 3.1.2.2. Attractiveness of the Union market

- (54) The investigation has confirmed that the Union market is attractive for Russian producers for the following reasons:
- (55) Firstly, in terms of size, the Union market (over 1,3 million tonnes consumption in the review investigation period and 1,5 million tonnes in 2014) can be regarded as one of the largest markets of SPT worldwide.
- (56) Secondly, after the imposition of the US Section 232 measures of 25 % on steel products <sup>(26)</sup>, which cover also the product concerned, Russian exports to one of its main export markets may be, at least, partially restricted. This would in turn make the Union market more attractive, thus creating the risk that certain trade diversion to the Union may take place.
- (57) In terms of prices, the level of undercutting in the review investigation period (see recital (137) below) shows that the average price level of Russian imports on the Union market is below that of the Union producers, and therefore exports are likely to continue to increase should measures be repealed.
- (58) Given the relatively low level of imports to the Union during the review investigation period (8 663 tons), the Commission also analysed the export prices from Russia to other third markets during the review investigation period, as reported in the official Russian export statistics from the RFCS, and it compared these price levels with the import prices into the Union. That analysis showed that Russia was selling in several of its main export markets at prices similar to or sometimes even lower than the prices of exports dumped into the Union market.
- (59) In view of the findings established in recitals (50) to (58) the Commission concluded that there is a strong likelihood that if measures were allowed to lapse, dumped imports from Russia would recur in significant volumes.

#### 3.1.2.3. Comments after final disclosure

- (60) After final disclosure, the groups of Russian exporting producers submitted that there is no likelihood of continuation of dumping should the measures be repealed. They highlighted the performance of the Russian SPT domestic market and the situation of other export markets as the main elements to contest the Commission findings. In addition, the Russian exporting producers claimed that the Commission had disregarded the (publicly available) data supplied by them pertaining to price levels to other third country markets.
- (61) This claim is factually wrong. The Commission informed the Russian exporting producers, at the hearing of 8 August 2018, that it had taken into account for its analysis the data publicly available from the Russian export statistics submitted by the two groups of Russian exporting producers <sup>(27)</sup>. Based on these data, the Commission confirmed that the price levels to several of Russia's main export markets, constituting a relevant share of Russia's total exports of SPT, were made at prices below its export prices to the Union during the review investigation period <sup>(28)</sup>. Therefore the claim was dismissed.
- (62) The two groups of Russian exporting producers claimed that the Commission's conclusion on the size of the Union market, as mentioned in (55) above, was 'largely overestimated'. In addition, they also claimed that there are other markets more attractive than the Union market.
- (63) Firstly, the importance of the Union market was specifically raised at the hearing of 8 August 2018, where the representatives of the largest Russian producer acknowledged that the Union market was indeed one of the main markets for the product concerned. It is to be underlined that the Commission did not take any position as to

<sup>(26)</sup> See: Presidential Proclamations on Adjusting Imports of Steel and Aluminium into the United States, Federal Register, 83 FR 11619 and 83 FR 11625, 15 March 2018; the 22 March 2018 Presidential Proclamations on Adjusting Imports of Steel and Aluminium into the United States. 83 FR 13355 and 83 FR 13361, 28 March 2018; and the 30 April 2018 Proclamations on Adjusting Imports of Steel and Aluminium into the United States. 83 FR 20683 and 83 FR 20677, 7 May 2018; and the 31 May 2018, Proclamations on Adjusting Imports of Steel and Aluminum into the United States.

<sup>(27)</sup> Originally submitted on 21 August 2017, Annex 2. The same data with small variations was also submitted in its comments to the GDD and in its post-hearing submissions of 10 August 2018

<sup>(28)</sup> Annex 2 of the submission of 30 July 2018 and Annex 2 of the submission of 21 August 2017. These data show that the price levels when exporting SPT to several third countries, including top export destinations (accounting for more than 50 % of its total SPT exports) are even lower than the dumped export prices to the Union. For instance, export prices to the USA (number 1), Turkey (number 4), India and UEA (numbers 5 and 6) are lower than export prices to the Union.



whether there could be other markets more attractive than the Union market. Rather, the Commission established that the Union market was attractive for Russian exporting producers for the reasons set out in recitals (55) to (58).

- (64) In this respect the Commission also observed inconsistencies between the narrative part of the submissions received from the Russian exporting producers and the actual data contained in these submissions. In particular, the Russian exporting producers highlighted that the prices to certain countries, such as India, Turkey and the UAE are made at 'prices exceeding export prices to the Union' <sup>(29)</sup>. This claim is factually incorrect and contradicts the actual figures submitted by the same parties <sup>(30)</sup>, which clearly showed that during the review investigation period, prices to the Union were actually higher <sup>(31)</sup>. Therefore this claim was dismissed.
- (65) The two groups of Russian exporting producers also contested the Commission's conclusions that following the application of the US Section 232 measures there would be a risk a trade diversion and also referred to the preliminary findings made by the Commission on the ongoing EU Safeguard investigation on certain steel products, whereby SPT was provisionally excluded from the application of the measures <sup>(32)</sup>.
- (66) With regard to the EU Steel Safeguard investigation, the proceeding is still ongoing and SPT were provisionally excluded from the measures. However, this provisional exclusion of SPT from the provisional safeguard measures was not based on lack of trade diversion (as wrongly argued by the Russian exporting producers), but it was based on a lack of increase in imports <sup>(33)</sup>.
- (67) Regarding the potential effect of the US 232 measures, the Commission maintains that the risk of trade diversion cannot be excluded and that such risk would definitely become more likely if the measures in place were allowed to lapse. It has to be noted that a 25 % duty in the USA as opposed to a 0 % in the Union, if the duties lapsed, would clearly make the Union market more attractive for Russian exporting producers than under the current circumstances, i.e. duty in place in both markets. Therefore the import trends in the USA so far are not indicative given that the Union measures remain in place and the incentive to switch markets may not be as relevant as it would be in the absence of measures in the Union.
- (68) The two groups of Russian exporting producers also claimed that certain exemptions from the US 232 measures for certain Russian exporting producers were very likely to take place. The Commission noted that from the evidence <sup>(34)</sup> made available to it in this respect, it could not be inferred that a particular Russian producer was likely to be excluded from the measures. Therefore, in the absence of any solid evidence in this respect, the Commission rejected this claim.
- (69) Lastly, the two groups of Russian exporting producers claimed that, in view of the limited quantities exported in the review investigation period, it was unlikely that the repeal of the measures would lead to a continuation or recurrence of dumping.
- (70) The Commission referred to its findings on the likelihood of continuation or recurrence of dumping as set out in recitals (50) to (68), and emphasised that the analysis of likelihood of continuation or recurrence of dumping is of a prospective nature. This claim was thus rejected.

## 3.2. Ukraine

### 3.2.1. Dumping during the review investigation period

#### 3.2.1.1. Preliminary remarks

- (71) There are three known producers of SPT in Ukraine. One of them, Interpipe Group, cooperated with the investigation. Interpipe Group is by far the largest producer in Ukraine. According to trade statistics, its exports of SPT to the Union during the review investigation period represented around 87 % of the total imports from Ukraine in that period <sup>(35)</sup>, amounting to 80 711 tonnes or 6 % of Union consumption during the review investigation period. The data submitted by Interpipe Group were verified on-spot in Ukraine as well as at the premises of

<sup>(29)</sup> Paragraph 32 of submission of 21 August 2017, as well as paragraph 25 of the submission of 30 July 2018.

<sup>(30)</sup> Annex 2 of the above submissions.

<sup>(31)</sup> To be noted that, for instance, in the case of Turkey, the prices to the Union had always been higher irrespective of the year of the period considered taken into account (it is not specified in the submission which period it is referred to).

<sup>(32)</sup> Commission Implementing Regulation (EU) 2018/2013 of 17 July 2018 imposing provisional safeguard measures with regard to imports of certain steel products (OJ L 181, 18.7.2018, p. 39).

<sup>(33)</sup> Ibid at 24.

<sup>(34)</sup> Annex 3 of submission of 30 July 2018.

<sup>(35)</sup> Source: Article 14(6) database.

their related trader in Switzerland and its related importer in Germany. After verification, the Commission corrected certain data originally supplied by Interpipe Group, mainly with respect to SG&A and CIF values.

- (72) Interpipe Group has two fully owned and controlled exporting producers, LLC Interpipe Niko Tube ('Niko Tube') and OJSC Interpipe NTRP ('NTRP'). In line with the Commission's standard practice, one common dumping margin was calculated for the two exporting producers. The amount of dumping was first calculated for each individual exporting producer and then a weighted average of the individual dumping margins was established at the level of the Interpipe group.
- (73) In view of the significant exports to the Union by Interpipe Group during the review investigation period, the analysis of continuation of dumping during that period was primarily based on the verified data provided by Interpipe Group.

#### 3.2.1.2. Normal value

- (74) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represents at least 5 % of total export sales volume of the product concerned to the Union during the review investigation period. On this basis, the examination established that the sales of the like product on the domestic market were representative for both exporting producers.
- (75) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export by Interpipe Group.
- (76) The Commission then examined whether the domestic sales of Interpipe Group for each product type that is identical or comparable with a product type sold for export were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the review investigation period constituted at least 5 % of the total volume of export sales of the identical or comparable product type. The Commission established that for the majority of product types domestic sales were made in representative quantities.
- (77) The Commission subsequently defined the proportion of profitable sales to independent customers on the domestic market for each product type during the review investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (78) The normal value was based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
  - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.

In the case at hand, the normal value is the weighted average of the prices of all domestic sales of that product type during the review investigation period.

- (79) The normal value was based on the actual domestic price per product type of only the profitable domestic sales of the product types during the review investigation period, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
  - (b) the weighted average price of this product type is below the unit cost of production.
- (80) When there were no sales of a product type of the like product in the ordinary course of trade, or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (81) Normal value was constructed by adding the following to the average cost of production of the like product of each cooperating exporting producer during the review investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by each cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period, and

- (b) the weighted average profit realised by each cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.
- (82) Following final disclosure, Interpipe Group contested some of the elements used by the Commission in the calculation of the normal value. The claims pertained to the following issues: (i) calculation of SG&A between related companies; (ii) use of financial costs stemming from [confidential]<sup>(36)</sup>; (iii) foreign exchange gains/losses stemming from [confidential]; (iv) certain credit costs should be taken into account.
- (83) With regard to the first element, the Commission informed Interpipe Group, in the second additional disclosure, of what would be the impact on the dumping margin and the subsequent findings if the claim was accepted. The Commission also provided a provisional calculation to this effect, following the same approach as in the previous expiry review. Following the analysis of all the elements, the Commission accepted the claim of Interpipe Group regarding this item and hence the dumping margin was reduced accordingly (see recital (90) below). The Commission rejected the arguments (ii) and (iii). Due to the confidential nature of the data involved in the analysis, the Commission provided Interpipe with an individual explanation on the day of publication of this Regulation.
- (84) With regard to the claim that credit costs should have been taken into account in the dumping calculation, the Commission maintained (as it explained in the specific disclosure of 13 July 2018) that the company had failed to provide the Commission with the requested evidence in support of their claim. Therefore this claim was rejected.

#### 3.2.1.3. Export price

- (85) The exporting producers exported the product concerned to independent customers in the Union through a number of related companies acting as traders and/or importers.
- (86) When the exporting producer exported the product concerned to independent customers in the Union through a related company acting as a trader (Interpipe Europe SA), the export price was established on the basis of prices actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (87) When the exporting producers exported the product concerned to the Union through a related company acting as an importer (Interpipe Central Trade GmbH), the export price was constructed on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. Adjustments to the export price pursuant to Article 2(9) of the basic Regulation were carried out on the transactions concerning the related importer in Germany. The sales price by the related importer to unrelated customers was adjusted backwards to an ex-works price by deducting the SG&A of the related importer, a reasonable amount of profit and other allowances whenever applicable.
- (88) Following final disclosure Interpipe Group claimed that the CIF price of Interpipe Europe should be reviewed due to a discrepancy between the calculation and the narrative explanation in the company specific final disclosure.

Indeed, the Commission observed that the narrative part of the specific disclosure was not properly reflecting the way that the CIF calculation had been actually carried out. The Commission therefore corrected the narrative of the specific disclosure and confirmed that the calculation had been done on the basis of the findings as discussed with the company during the verification visit.

#### 3.2.1.4. Comparison

- (89) Interpipe Group's export prices to the Union were compared with the normal value of its domestic sales at ex-works level. In order to ensure a fair comparison, account was taken of differences which affect price comparability in accordance with Article 2(10) of the basic Regulation. In this respect, allowances for transport costs and commissions affecting normal value and export price were deducted.

#### 3.2.1.5. Dumping

- (90) On the basis of the above, the dumping margin found for the Interpipe Group during the review investigation period amounted to 21,6 %. Given that Interpipe Group is the largest Ukrainian producer and that it represented most of the imports from Ukraine in the review investigation period, as explained in recital (71), the Commission concluded that the dumping found for Interpipe Group was representative for Ukraine at a country-wide level.

<sup>(36)</sup> Any references to company confidential data are labelled as [confidential] in this Regulation.

- (91) The Commission thus established that dumping from Ukraine had continued in the review investigation period.

3.2.2. *Likelihood of continuation of dumping should measures be repealed*

- (92) As established above, Ukraine was found to continue dumping in the review investigation period. Imports from Ukraine reached 80 711 tonnes in the review investigation period, representing 6 % market share in the Union market <sup>(37)</sup>. Further to these findings, the Commission analysed whether dumping from Ukraine was likely to continue if the anti-dumping measures in place were allowed to lapse. When doing so, it looked into production and spare capacity in Ukraine, the attractiveness of the Union market and the behaviour of Ukrainian exporters in other markets.

3.2.2.1. Spare capacity

- (93) Spare capacity was calculated as follows. As concerns Interpipe Group, the spare capacity could be established on the basis of the reported and duly verified data. The other two producers of the product concerned in Ukraine did not reply to the questionnaire. They only provided certain information on their production and production capacity in written submissions. That information was analysed and compared with market intelligence sources, in particular Metal Expert. Accordingly, for Ukraine, the spare capacity available was estimated to be, at least, around 500 000 tonnes, which represents around 40 % of Union consumption <sup>(38)</sup>.
- (94) Following final disclosure, Interpipe Group contested the Commission's spare capacity figure mentioned above, initially claiming that it should amount to [80 000-100 000 tonnes]. Following the comments received, the Commission provided detailed explanations and clarifications in its first additional disclosure to the Interpipe Group, at the hearing with the company and also in the second additional disclosure to the Interpipe Group. In its comments to the first additional disclosure and at the hearing, the Interpipe Group confirmed that it agreed with the spare capacity calculated by the Commission as far as the Interpipe Group was concerned, which was a significantly higher figure than the figure mentioned in its comments to the final disclosure. Nevertheless, the Interpipe Group continued to contest the capacity calculation with regard to the other two Ukrainian producers.
- (95) In this respect, the Commission reminded the Interpipe Group of the fact that none of the two companies had fully cooperated with the Commission as they had only submitted certain information pertaining to production and/or production capacity. It was also recalled that the information provided by these parties was nevertheless, and contrary to what the Interpipe Group claimed, taken into consideration by the Commission in its analysis. In fact, the Commission cross-checked the information provided in these submissions with publicly available data from Metal Expert.
- (96) For one of these parties, Metal Expert data could be reconciled with the company's claim that there had been a massive reduction in the production capacity over the period considered. For calculating its spare capacity, the Commission thus relied on the reduced production capacity as reported in Metal Expert. Nevertheless, after this additional disclosure, the Interpipe Group continued to contest the spare capacity figure thus established. The Commission rejected this claim for the following reasons:
- (97) The company concerned, in its own submission, did not provide any figure regarding production capacity. It only noted that 'employment went down (reduction of between 60 % and 75 % in the workforce) and that the production amounted to [4 000-10 000] MT per year. In addition, in its comments after the additional disclosure, Interpipe Group did not provide any estimation whatsoever of the production capacity of the company concerned.
- (98) Therefore, it follows from the submissions of Interpipe Group as well as of the company concerned that the Commission was not even given a starting point to assess the production and spare capacity for this company. The Commission nevertheless concluded that the claim of the company concerned was corroborated by publicly available data as the reduced production capacity was reflected in the Metal Expert production capacity figure for it. The Commission hence decided to calculate its spare capacity on the basis of the production data provided by the company concerned and the production capacity data reported in Metal Expert.
- (99) Therefore, the claim that the company had massively reduced its production capacity was accepted by the Commission. Interpipe Group's claim is thus unfounded.

<sup>(37)</sup> Source: Article 14(6) database and Interpipe Group's verified information.

<sup>(38)</sup> Source: Interpipe Group's verified data and Metal Expert for the two other producers in Ukraine.

- (100) As concerns the third producer, the Commission observed significant discrepancies between the data provided by it and data publicly available. The Commission thus relied on the production capacity as reported in Metal Expert for calculating its spare capacity. The Interpipe Group claimed that the Commission should make assumptions on the basis of an alleged verification of that company performed in the framework of another anti-dumping investigation which was carried out more than 10 years ago. The Commission considers that using recent figures constitutes a more appropriate and reliable way of obtaining production and spare capacity information in the framework of this investigation.
- (101) In this respect, the Commission notes that the producer in question confirmed in its several submissions to the Commission <sup>(39)</sup> that the number of production lines in place had not changed in the last years (although, allegedly, some of them are currently not in use). Therefore and in the absence of a questionnaire reply, the Commission could not verify whether the allegations of the company would have warranted the acceptance of its claim on reduced production capacity.
- (102) Following the specific additional disclosure, Interpipe Group submitted a document which, it considered, invalidated this calculation with regard to the other two Ukrainian producers. However, the document contradicted market intelligence data available to the Commission, which actually confirmed the Commission's calculation. This market intelligence data showed that the production capacity of the other two Ukrainian exporting producers was significantly higher than the data in the document provided by the Interpipe Group.
- (103) Therefore, the Commission confirms its determination with regard to spare capacity in Ukraine, as set out in recital (93).

#### 3.2.2.2. Attractiveness of the Union market

- (104) The investigation has confirmed that the Union market is also attractive for the Ukrainian exporting producers for the following reasons:
- (105) Firstly, in terms of size, the Union market (over 1,3 million tonnes consumption in the review investigation period and 1,5 million tonnes in 2014) can be regarded as one of the largest markets of SPT worldwide.
- (106) Secondly, in terms of prices, the level of undercutting in the review investigation period (see recital (136) below) shows that the average price level of Ukrainian imports on the Union market is below that of the Union producers, and therefore exports are likely to continue to increase should measures be repealed.
- (107) Third, despite the anti-dumping duty in place, Ukraine has steadily increased its level of imports in the last years (from less than 2 % market share in 2012 to 6 % in the review investigation period), which confirms that the Union market remains an attractive market despite the duties in place.
- (108) Fourth, after the imposition of the US Section 232 measures of 25 % on steel products <sup>(40)</sup>, which cover also the product concerned, Ukrainian exports to one of its main export markets may be, at least, partially restricted. This would in turn make the Union market more attractive, thus creating the risk that certain trade diversion to the Union may take place. This is to be viewed in addition to other existing trade barriers in third markets (see recital (116) below).
- (109) Following final disclosure, the Interpipe Group contested the findings of the Commission with regard to the attractiveness of the Union market.
- (110) In particular, the Interpipe Group challenged the Commission assessment with regard to the potential impact of the US 232 measures and the increasing imports from Ukraine during the period considered.

<sup>(39)</sup> Submissions of 27 July 2017 (t17.009159), 8 August 2017 (t17.009653), 1 February 2018 (t18.000894) and 31 May (t18.006325) and 1 June 2018 (t18.006324)

<sup>(40)</sup> See: Presidential Proclamations on Adjusting Imports of Steel and Aluminium into the United States, Federal Register, 83 FR 11619 and 83 FR 11625, 15 March 2018; the 22 March 2018 Presidential Proclamations on Adjusting Imports of Steel and Aluminium into the United States, 83 FR 13355 and 83 FR 13361, 28 March 2018; and the 30 April 2018 Proclamations on Adjusting Imports of Steel and Aluminium into the United States, 83 FR 20683 and 83 FR 20677, 7 May 2018; and the 31 May 2018, Proclamations on Adjusting Imports of Steel and Aluminium into the United States.

- (111) With regard to the first point, the Interpipe Group contested the Commission analysis regarding the potential impact that the US Section 232 measures would have in the market. In particular, the Interpipe Group considered that there was no risk of trade diversion into the Union market. The Interpipe Group also pointed to the Commission's provisional measures in the context of the safeguard investigation into steel products, as far as SPT is concerned.
- (112) First, as stated in recital (66) in the provisional measures imposed in the context of the safeguard investigation, it was indeed decided to exclude SPT from the scope of the provisional measures. However this provisional exclusion was not done on the basis of a lack of a risk of trade diversion, but rather on the grounds that the level of imports of this product had overall not shown an increase over the relevant period.
- (113) Second, the Interpipe Group acknowledged that some of its exports to the USA concern OCTG types but also general-use and line pipes, which is the product type it mainly exports to the Union. The Interpipe Group also claimed that, until May 2018 (included), the level of exports into the USA had increased.
- (114) The Commission maintains that there is a risk that, at least, some of the quantities currently exported to the USA from Ukraine could be directed to the Union should the measures lapse. This risk concerns in particular standard SPT. It has to be noted that a 25 % duty in the USA on the 'standard SPT', as opposed to a 0 % in the Union, if the duties lapsed, would clearly make the Union market more attractive for Ukrainian exporting producers than under the current circumstances, i.e. duty in place in both markets. Therefore, the trends so far are not indicative given that the Union measures remain in place and the incentive to switch markets may not be as relevant as in the absence of measures in the Union. In addition, the fact that under the US 232 measures some countries and/or specific companies have already been subject to exemptions would make it more difficult for Ukrainian producers to compete in the US market <sup>(41)</sup>.
- (115) Moreover, the Commission considers that the risk of trade diversion cannot be excluded and that such risk would definitely become more likely if the measures in place were allowed to lapse.
- (116) Lastly, the US 232 measures should also be seen in a wider context as far as Ukraine is concerned, namely, the numerous trade barriers that Ukrainian SPT producers are currently subject to in some third markets, namely anti-dumping measures in Brazil, Canada, Mexico, and Russia.
- (117) Therefore, in view of all the above, the Commission maintains that the Union market would become even more attractive without an anti-dumping duty and hence, would likely receive an increase of dumped imports from Ukraine.

#### 3.2.2.3. Other comments after final disclosure

- (118) The Interpipe Group made several claims linked to the developments in the consumption in the Ukrainian market and the diversification of its export markets. First, the Interpipe Group claimed that its export level and market share evolution followed or were otherwise in line with the development of the consumption in the Union, and that the development of imports and their market share cannot create any risk to the Union industry. Second, the Interpipe Group claimed that in view of the unprecedented growth in the Ukrainian market it could not increase the sales of SPT to the Union. The Interpipe Group concluded that the growth in the domestic demand would be capable of absorbing any excess production in Ukraine. In the same vein, the Interpipe Group also pointed at a more diversified export portfolio to contest the Commission's finding on the likelihood of continuation of dumping. The Commission addressed these claims in the second additional disclosure to the Interpipe Group.
- (119) The Commission considered these claims but contested them. The first limb of this claim is factually wrong and the second is at odds with the facts as established by this investigation.
- (120) On the first limb, by way of example, in the year 2015, Ukraine increased its exports by 20 % while consumption in the Union decreased by 9 %. Moreover, in overall terms during the period considered, Ukraine increased its market share in the Union by 27 % (its market share increased by 1,3 percentage points) while consumption in the Union in the same period decreased by 10 %.

<sup>(41)</sup> Neither the Ukrainian authorities, nor the Interpipe Group individually informed the Commission of any exemption granted to them under the US 232 measures.

- (121) Therefore the Commission confirmed that, during the period considered, Ukraine significantly increased its volume of imports to the Union (reaching a market share of 6 %) in the context of a decrease in consumption, and despite the measures in place. As established in the likelihood of continuation of dumping analysis above, it is likely that in the absence of measures the share of dumped imports from Ukraine will increase further. Interpipe Group's claim was therefore rejected.
- (122) With regard to the second limb in recital (118), the Commission maintained that the facts unequivocally showed a different evolution in the export behaviour of Ukrainian exporting producers in the Union market, as compared to the projections made by the Interpipe Group. The Commission did not contest the trends on domestic consumption and other export destinations described by the Interpipe Group. Rather, the Commission pointed out that the conclusions/predictions drawn from such trends by the Interpipe Group (with respect to how they would affect the Ukrainian producers' approach towards the Union market) were at odds with the facts, *i.e.* an increase of imports to the Union even with an anti-dumping duty in place. Lastly, in the context of the claim of export diversification, the Commission refers to recital (116) above, whereby it was shown that there were several trade restrictions currently in place against Ukraine in some relevant third markets. Therefore, the alleged increase of export destinations should be seen together with the above mentioned trade restrictions in other markets.
- (123) Consequently, in view of the findings established regarding attractiveness of the Union market, spare capacity and certain trade restrictions in some third markets, this claim was dismissed.
- (124) The Interpipe Group finally contested the Commission's analysis with regard to an upcoming joint venture agreement with one of the 'key EU producers'. The Commission explained its assessment with regard to this issue in the second additional disclosure to the company. First, according to the information available to the Commission the upcoming joint venture has not been cleared by all the competition authorities concerned. Therefore, it cannot be concluded at this stage what effect, if any, this joint venture could have on the exports of SPT from the Interpipe Group to the Union. Second, Interpipe confirmed that the joint venture has not yet been established. Third, the Commission refers to its assessment in the second additional disclosure to the company, where it also highlighted the fact that, despite several requests, it was refused access to the details of the joint venture agreement in question, so that no effects deriving from e.g. potential future production could be assessed. Accordingly, no conclusions could yet be drawn on the effects of that joint venture at the present point in time. Nevertheless, the Commission further adds that the claims with regard to the potential impact of the joint venture in the Union market and the Interpipe Group's claims on the likelihood of continuation of dumping are in stark contradiction with each other as far as Interpipe's capability (or lack thereof) to increase its exports to the Union is concerned <sup>(42)</sup>.

### **3.3. Conclusion on the likelihood of continuation or recurrence of dumping should measures be repealed**

- (125) In view of: (i) the continuation of dumping practices in the review investigation period from both countries; (ii) the significant spare capacities available (combining for more than 800 000 tonnes); and (iii) the attractiveness of the Union market, the Commission concluded that there is a strong likelihood that if measures were allowed to lapse, dumped imports from Ukraine and Russia would respectively continue to increase and recur in significant volumes.

## **4. UNION PRODUCTION AND UNION INDUSTRY**

- (126) In the period considered, the like product was manufactured by 18 producers in the Union. They are deemed to constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereafter be referred to as the 'Union industry'.
- (127) All available information concerning the Union industry, such as information provided in the request, data collected from Union producers and the applicant before and after initiation of the procedure and the questionnaire responses of the sampled Union producers, were used in order to establish the total Union production for the review investigation period.

<sup>(42)</sup> Due to the confidential nature of this information, the full Commission analysis has not been included in the Regulation. A more detailed explanation was provided to the Interpipe Group in a separate document on the day of the publication of this Regulation.

- (128) On this basis, the total Union production was estimated to be around 2,25 million tonnes during the review investigation period. This figure includes the production of all Union producers, both the sampled producers and non-sampled producers, calculated on the basis of verified data submitted by the applicant.
- (129) As indicated under recitals (17) and (18), a final sample consisting of four producers was selected out of the 12 Union producers which submitted the information requested for the selection of the sample at the pre-initiation stage.
- (130) The four sampled Union producers accounted for 30 % of the total estimated Union production during the review investigation period and 37 % of total Union industry sales on the Union market. Therefore, the final sample is considered to be representative of the entire Union industry.

## 5. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

### 5.1. Union consumption

- (131) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market and the total imports. Union consumption decreased overall by 10 % over the period considered. The lowest point was reached in the year 2016, a 14 % decrease in comparison with the year 2014. In the review investigation period, a moderate increase of consumption was noted.

	2014	2015	2016	RIP
Consumption (in tonnes)	1 493 525	1 360 682	1 283 739	1 344 610
<i>Index</i>	100	91	86	90

Source: Article 14(6) of the basic Regulation data basis, request, questionnaire replies.

### 5.2. Imports from the countries concerned

#### 5.2.1. Volume and market share of the imports concerned

- (132) During the period considered, the imports into the Union from Russia and Ukraine were found to have developed in terms of volume and market share as follows:

	2014	2015	2016	RIP
Russia				
Volume (tonnes)	10 073	6 450	8 178	8 663
<i>Index</i>	100	64	81	86
Market share on Union consumption (%)	0,7	0,5	0,6	0,6
<i>Index</i>	100	70	94	96
Ukraine				
Volume (tonnes)	70 608	77 314	77 550	80 711
<i>Index</i>	100	109	110	114
Market share on Union consumption (%)	4,7	5,7	6,0	6,0
<i>Index</i>	100	120	128	127



	2014	2015	2016	RIP
Both countries concerned				
Volume (tonnes)	80 681	83 764	85 729	89 373
<i>Index</i>	100	104	106	111
Market share on Union consumption (%)	5,4	6,2	6,7	6,6
<i>Index</i>	100	114	124	123

Source: Article 14(6) of the basic Regulation data basis, request, questionnaire replies.

- (133) Import volumes from both countries concerned increased by 11 % in the period considered despite anti-dumping measures in force. The increase was made up solely of imports from Ukraine, that increased by 14 % in the period considered, while imports from Russia decreased by -14 %. In the same period, their joint market share increased by 23 %, again due to the increase of imports from Ukraine, whose market share increased by 27 % during the period considered to reach 6 % of Union consumption in the review investigation period, while the market share of Russia decreased by 4 % and represented 0,6 % of Union consumption in the review investigation period. This has to be seen against a background of decreasing consumption.

#### 5.2.2. Prices of imports and price undercutting

- (134) The table below shows the average price of imports from Russia and Ukraine. It should be underlined that sales prices of imports from both countries concerned were not only below the sales prices of the Union industry throughout the period considered but also showed a sharp downwards trend in this period.

	2014	2015	2016	RIP
Average price in EUR/tonne of Russian imports	758	692	631	633
<i>Index</i>	100	91	83	83
Average price in EUR/tonne of Ukrainian imports	731	679	607	618
<i>Index</i>	100	93	83	85

Source: Article 14(6) of the basic Regulation data basis.

- (135) In view of the absence of cooperation by the Russian exporting producers, price undercutting regarding imports from Russia had to be established on import statistics at TARIC level using information collected on the basis of Article 14(6) of the basic Regulation. Price undercutting regarding imports from Ukraine was established using the export prices of the cooperating Ukrainian exporting producer, not including the anti-dumping duty. Import CIF prices were adjusted upward for post-importation costs. The adjustment amounted to EUR 2 per tonne following the findings of the previous expiry review. Due to lack of cooperation of unrelated importers in the current procedure there were no basis to re-estimate the level of this adjustment. The sales prices of the Union industry were those of the sampled companies to their independent customers, adjusted downwards for the delivery costs, discounts and commissions to an ex-works level.
- (136) In the review investigation period, the undercutting margin for imports of SPT for the sole cooperating Ukrainian exporting producer (representing around 90 % of the Ukrainian export volume to the Union) accounted for 28,9 %.
- (137) With regard to Russia, an undercutting margin of 20,3 % was established on the basis of average prices comparison. In addition, the analysis of Russian export prices to other third markets showed that Russia was selling in some of its main export markets at prices similar to or sometimes even lower than those to the Union, thus reinforcing the conclusion that the current level of Russian prices would undercut the sales prices of the Union industry in the Union market.

- (138) Following final disclosure, the two Russian exporting producers claimed this undercutting margin to be not representative as their exports to the Union allegedly consisted of low-end products while the Union industry domestic sales had a substantial share of high-end products, namely OCTG. According to the companies, the undercutting calculation would have resulted in a completely different margin should the prices of similar product types be compared.
- (139) In this regard, it is noted that the Commission could not make a price comparison on a product type by product type basis as the Russian exporting producers in question decided not to cooperate in the investigation and did not provide a questionnaire reply which would allow the Commission to perform undercutting calculations taking into account alleged different product mix of the Russian exports and Union industry domestic sales.

### 5.3. Other country concerned by anti-dumping measures

- (140) According to Eurostat data, the volume of imports of SPT originating in the People's Republic of China as defined in Article 1(1) of Council Regulation (EC) No 926/2009 <sup>(43)</sup> decreased by 34 % during the period considered.
- (141) The market share of Chinese imports decreased from 5,7 % in 2014 to 4,2 % in the RIP.

### 5.4. Economic situation of the Union industry

#### 5.4.1. Preliminary remarks

- (142) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Union industry.
- (143) As mentioned in recital (129), sampling was used for the examination of the possible injury suffered by the Union industry.
- (144) For the purpose of the injury analysis, the Commission distinguished between macroeconomic and microeconomic injury indicators. In this regard, the economic situation of the Union industry is assessed on the basis of (a) macroeconomic indicators, namely production, production capacity, capacity utilisation, sales volume, market share and growth, employment, productivity, magnitude of the actual dumping margin and recovery from past dumping, for which the data were collected at the level of the total Union industry; and on the basis of (b) microeconomic indicators, namely average unit prices, unit cost, profitability, cash flow, investments, return on investment and ability to raise capital, stocks and labour costs, for which the data were collected at the level of the sampled Union producers.
- (145) All available information concerning the Union industry, including information provided in the request, data collected from the Union producers before and after the initiation of the investigation, and the questionnaire responses of the sampled Union producers, was used in order to establish the macroeconomic indicators and in particular the data pertaining to the non-sampled Union producers.
- (146) The microeconomic indicators were established on the basis of information provided by the sampled Union producers in their questionnaire replies.

#### 5.4.2. Macroeconomic indicators

##### (a) Production, production capacity and capacity utilisation

- (147) The trends for Union production, production capacity and the utilisation of the capacity developed as follows during the period considered:

	2014	2015	2016	RIP
Production volume (tonnes)	2 925 290	2 125 668	1 921 743	2 247 474
<i>Index</i>	100	73	66	77

<sup>(43)</sup> Council Regulation (EC) No 926/2009 of 24 September 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China (OJ L 262, 6.10.2009, p. 19).

	2014	2015	2016	RIP
Production capacity (tonnes)	4 658 456	4 658 456	4 540 036	4 541 932
<i>Index</i>	100	100	97	97
Capacity utilisation (%)	63	46	42	49
<i>Index</i>	100	73	67	79

Source: Article 14(6) of the basic Regulation data basis, request, questionnaire replies.

- (148) The Union production volume decreased 23 % during the period considered. Taking into account that production capacity remained almost constant (slight reduction by 3 %) during that period, the decrease in output resulted in a significant reduction of the capacity utilisation by 14 percentage points from 63 % in 2014 to 49 % in the review investigation period. Capacity utilisation reached record lows in 2015 and 2016 (46 % and 42 % respectively). In the review investigation period, production and thus capacity utilisation rate increased but the latter still remains below 50 %.

(b) Sales volume, market share and growth

- (149) The sales of the Union producers included sales via related trading companies. The sales via related companies represented, over the period considered, around 17 % of the Union consumption. However, to the extent that these sales volumes are later re-sold to independent customers on the Union market, they are still considered part of the sales for the purpose of establishing trends in sales volumes, market share and growth of the Union industry.
- (150) The trends concerning sales volumes, market share and growth developed as follows during the period considered:

	2014	2015	2016	RIP
Sales volume (tonnes)	1 213 764	1 096 745	1 038 252	1 095 231
<i>Index</i>	100	90	86	90
Market share (%)	81,3	80,6	80,9	81,5
<i>Index</i>	100	99	100	100

Source: Article 14(6) of the basic Regulation data basis, request, questionnaire replies.

- (151) The Union industry sales volume decreased by 10 % over the period considered. This trend followed the trend in the consumption so the Union industry managed to keep its market share of around 81 % throughout the whole period under consideration. That was however achieved by serious reduction of sales prices and led to the deterioration of the financial indicators as explained below.

(c) Employment and productivity

- (152) In line with the decline in production and sales, it was observed that the level of the Union industry's employment also decreased by 18 % between 2014 and the review investigation period. However, this reduction of employment did not lead to an increase in productivity, measured as output per person employed per year, as the drop in production volume in the period considered was more pronounced than the reduction in employment. The productivity indicator improved only in the review investigation period which was linked with an increase of production output compared to the year 2016 while the level of employment, after its reduction from 2015, remained stable.

	2014	2015	2016	RIP
Number of employees	15 830	14 209	12 928	12 941
<i>Index</i>	100	90	82	82
Productivity (tonnes/employee)	184,8	149,6	148,6	173,7
<i>Index</i>	100	81	80	94

Source: request, questionnaire replies.

## (d) Magnitude of the actual dumping margin and recovery from past dumping

- (153) The dumping margin found for imports from Ukraine is considerable (see recital (90) above). Given the volume, market share and prices of the dumped imports from Ukraine, discussed above, the impact on the Union industry of the actual dumping margin cannot be considered to be negligible. Continuous unfair pricing by Ukrainian exporters made it also impossible for the Union industry to recover from the past dumping practices.

## 5.4.3. Microeconomic indicators

## (a) Average unit selling prices on the Union market and unit cost of production

- (154) The average sales prices of the sampled Union producers to unrelated customers in the Union decreased by 19 % from 2014 to the review investigation period. The price decrease reflects a general lowering trend in the cost of the main raw materials as well as attempts of cost restructuring leading to cost reduction by the Union producers. However, due to the further price depression exerted in the period considered by the Russian and Ukrainian exporters who were constantly undercutting the Union industry prices, the Union producers could not benefit from the reduction of costs as in order to keep their market share they had to lower the sales prices to a greater extent than the reduction of costs allowed.
- (155) In the period considered the costs of the Union industry decreased by 9 %, which was much less than the decrease in prices. As a result, over the period considered, the profitability of the Union industry deteriorated substantially.

	2014	2015	2016	RIP
Average unit selling price in the Union to unrelated customers (EUR/tonne)	1 024	977	844	832
<i>Index</i>	100	95	82	81
Unit cost of goods sold (EUR/tonne)	944	1 037	932	858
<i>Index</i>	100	110	99	91

Source: questionnaire replies.

## (b) Profitability, cash flow, investments, return on investments and ability to raise capital

- (156) During the period considered, the Union producers' cash flow, investment, return on investment and their ability to raise capital developed as follows:

	2014	2015	2016	RIP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	6,2	- 4,0	- 8,2	- 6,0
Cash flow (EUR)	33 622 691	20 584 055	- 5 190 651	- 5 153 970
<i>Index</i>	100	61	- 15	- 15
Investments (EUR)	70 668 341	49 594 481	31 073 864	25 325 867
<i>Index</i>	100	70	44	36
Return on investments (%)	5,5	- 2,9	- 5,3	- 4,1

Source: questionnaire replies.

- (157) The profitability of the sampled Union producers is expressed as the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. As explained in recital (155), the sampled Union producers were profitable in 2014, but became loss-making from 2015 onwards. Over the whole period considered, the profitability of the sampled Union producers drops from 6 % profit to 6 % loss.

- (158) Cash flow, which is the ability of the industry to self-finance its activities, was positive in the years 2014-2015 but then following the decreasing trend in profitability it became negative in 2016 and the review investigation period.
- (159) The Union producers were still able to invest over the whole period considered but the evolution of profitability and cash flow adversely affected also the level of investments, which decreased by 64 % over the period considered. Furthermore, the return on investments is negative from 2015 onwards, following the trend in profitability.
- (160) In light of the above, it can be concluded that the financial performance of the sampled Union producers was negative during the review investigation period.

(c) Stocks

- (161) The level of stocks of the sampled Union producers decreased by 21 % during the period considered. However, the ratio of stocks to the production volume remains stable in the period considered (around 3 %). The trend in level of stocks follows the trend in production output. In this case however, this indicator is not considered of big relevance to assess the economic situation of the Union producers as, normally, SPT are produced to order.

	2014	2015	2016	RIP
Closing stocks (tonnes)	87 502	51 661	53 858	68 982
<i>Index</i>	100	59	62	79

Source: questionnaire replies.

(d) Labour costs

- (162) The average labour costs of the sampled Union producers decreased slightly during the period considered, which is part of the attempt of the Union industry to restructure its costs. This indicator is especially important as labour costs account for more than 25 % of the costs of production of SPT.

	2014	2015	2016	RIP
Average labour costs per employee (EUR)	53 628	58 653	51 161	50 437
<i>Index</i>	100	109	95	94

Source: questionnaire replies.

### 5.5. Conclusion on likelihood of continuation or recurrence of injury

- (163) In view of recitals (131) to (162), it is concluded that the Union producers were in a less favourable situation during the review investigation period compared to 2014 and that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.
- (164) The investigation showed that the majority of the injury indicators deteriorated during the period considered. Sales volume decreased by 10 %, production volume by 23 % and the capacity utilisation rate dropped from 63 % to 49 %. Even if the Union industry managed to maintain its level of market share around 81 %, this was at the expense of its profitability; indeed, Union sales prices decreased significantly (-19 %). Despite efforts to reduce costs of production (9 % reduction), the Union industry became loss making as from 2015. Between 2014 (6,2 % profit) and the review investigation period (6,0 % loss) profitability dropped by 12,2 percentage points. The financial indicators such as cash flow and return on investment also changed from positive in 2014 to negative in the following years and the review investigation period. Over the same period investments dropped by 64 %.
- (165) The continuation of injury results from several factors such as the decrease of the Union consumption and the drop in export sales. But in addition to this, Union prices were depressed by dumped imports. Indeed, Ukraine increased its export volume to the Union by 14 %, at low and dumped prices, and gained market share over the period considered by 27 %. The sole Ukrainian exporter undercut Union prices by almost 30 %. In this highly capital intensive industry, a decrease in production volume combined with price depression had negative effects on profitability.

- (166) Following final disclosure, the Government of Ukraine and two Russian exporting producers listed several factors that should have been taken into account as other factors in the analysis of the causal link between the injurious situation of the Union industry and imports from the countries concerned. Such factors allegedly were the decreasing Union consumption, domestic competition amongst Union producers, unsatisfactory export performance of the Union producers, overcapacity and high fixed costs of the Union companies and imports from Belarus.
- (167) As recognised in recital (165), the continuation of injury results from several factors. In addition to the decrease in consumption, the drop in export sales and the dumped imports, other factors did not play a significant role. Indeed, the low rate of capacity utilisation rather reflects a decrease in production rather than a situation of overcapacity, and imports from other third country overall decreased. The Union industry market shares also remained relatively stable during the review investigation period. The claim concerning competition between Union producers was not substantiated. It merely relies on the grounds that the sample of Union producers accounted for only 30 % of the EU production and that therefore the competition between the sampled and non sampled producers should be examined. This claim should be rejected since it contradicts the rationale of using sampling. The Commission indeed examined the situation of all the Union producers but — given the large number of producers — limited its examination of certain factors to a sample which is representative of the overall Union Industry. There is therefore no need to examine the effect of the non-sampled producers on those companies selected in the sample.
- (168) In any event, as explained below, the conclusion on injury in this case especially focuses on the likely situation of the Union industry in case measures were repealed.
- (169) Following final disclosure, the Government of Ukraine and one of the Ukrainian exporting producers raised the point that the market share of Ukrainian exports in the Union consumption amounted to 6 % only and is not likely to increase in the future due to domestic consumption in Ukraine and significant diversification of Ukrainian exports which gained new markets.
- (170) In response to this point, it should be underlined that the current 6 % market share is already a cause of injury to the Union industry, especially taking into account the significant price undercutting. It should be also noted that the increase of Ukrainian imports in volume terms over the period under consideration took place despite the anti-dumping duties in force.
- (171) One of the Ukrainian exporting producers, supported also partially in the submission of the Government of Ukraine, claimed additionally that the Commission should have taken into account in its recurrence of injury analysis the joint venture agreement signed between the Ukrainian exporting producer in question and one of the biggest Union producers of the product concerned. According to the Ukrainian producer, the condition of this joint venture agreement will have a significant influence on the volume of future exports of the company to the EU, distribution channels and price setting.
- (172) The Commission refers to its rebuttal in recital (124) above.
- (173) Russia only exported a small volume to the EU, but its prices were also found to undercut Union prices. A prospective analysis of the likely export volumes from this country, should measures be repealed, was performed as described in recitals (50) to (68). It revealed that imports from Russia would likely increase to levels significantly above those reached in the review investigation period.
- (174) As explained in recitals (53) and (93) above, both countries have substantial spare capacity, and are likely to increase low priced imports in case measures are repealed, given the attractiveness of the Union market in terms of volume and prices. The attractiveness of the Union market, as explained in recitals (56) and (108), is likely to increase due to the 25 % duty imposed in March 2018 by the USA on imports of steel products, including SPT. The USA are one of the main export markets for Russia and Ukraine, and the Union market is a likely target for at least part of the quantities that may no longer be sold in the USA.
- (175) The Union industry is still in a vulnerable position, and its situation would become even more difficult should the measures be repealed. Low priced Ukrainian dumped imports would continue to increase and Russian dumped imports would likely recur in significant quantities, causing further price depression and lost sales on the Union market.

## 6. UNION INTEREST

### 6.1. Introduction

- (176) In compliance with Article 21 of the basic Regulation, it was examined whether maintenance of the existing anti-dumping measures against Russia and Ukraine would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved. It should be recalled that, in the previous investigations, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (177) On this basis, it was examined whether, despite the conclusions on the likelihood of continuation or recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Union interest to maintain measures against imports originating in Russia and Ukraine in this particular case.

### 6.2. Interest of the Union industry

- (178) With regard to the Union interest, it is clear that, should the measures be repealed, the already fragile economic situation of the Union industry, which currently provides 13 000 jobs in the steel sector with regard to the product concerned, would deteriorate further.

### 6.3. Interest of importers and users

- (179) There was no cooperation from importers and users, although all known importers and users (more than 70 companies) were informed about the initiation of the procedure and the possibility to cooperate as an interested party.
- (180) According to the findings of the previous expiry review, the importers source from various suppliers from many different countries and thus the impact of a continuation of measures on imports from Russia and the Ukraine is limited. It was also found at that time that, even though measures have been in force for several years, the importers managed to remain profitable.
- (181) With regard to users, on the basis of the findings from the previous expiry review, and information available, it would appear that the share of SPT in their costs of production is quite low. SPT are in general part of larger projects (boilers, pipelines, construction), of which they form only a limited part. Thus the possible impact of a continuation of measures on users is not expected to be significant.
- (182) Due to lack of cooperation of the companies in question there are no verifiable data and information showing that the overall situation has changed.

### 6.4. Conclusion on Union interest

- (183) Given the above, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.
- (184) Following the final disclosure, two Russian exporting producers claimed that the continued imposition of measures would negatively impact a number of Union consumers (users) and would limit competition within the Union. Therefore, the interested parties in question invited the Commission to consider extending the measures for a period no longer than two years.
- (185) The Commission examined the proposal of limited extension of the measures in the Union interest. In this regard, it is recalled that the examination of the Union interest for the purposes of anti-dumping investigations constitutes a strict procedural operation which requires a balancing of the interests concerned, including the interests of the Union industry and users and consumers, and the assessment of complex legal, economic, and political factors<sup>(44)</sup>. The Commission recalled that the Union interest assessment as regards the Union industry showed that, should the measures be repealed, the already fragile economic situation of the Union industry would deteriorate further. It also recalled that there was no cooperation from importers and users indicating that they would be adversely affected by the extension of the current measures in force. Accordingly, there is no evidence on record that would show that a limitation of the application of the measures to two years would serve the Union interest to a greater extent than the application of the measures for the full five year period contemplated in Article 11(2) of the basic Regulation. On that basis, the Commission rejected the argument presented by the two Russian exporting producers.

<sup>(44)</sup> Judgment of the Court of 15 June 2017 in Case C-349/16 *T.KUP*, ECLI:EU:C:2017:469, at paragraph 44. See also judgment of the General Court of 8 July 2003 in Case T-132/01 *Euroalliances and Others v Commission*, ECLI:EU:T:2003:189, paragraph 40.)

## 7. ANTI-DUMPING MEASURES

- (186) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of SPT originating in Russia and Ukraine should be maintained.
- (187) Interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to impose the anti-dumping measures in question and were given the opportunity to comment. The comments received were not of a nature to change the above conclusions.
- (188) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

## Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of 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 <sup>(45)</sup>, currently falling 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 <sup>(46)</sup> (TARIC codes 7304 11 00 10, 7304 19 10 20, 7304 19 30 20, 7304 22 00 20, 7304 23 00 20, 7304 24 00 20, 7304 29 10 20, 7304 29 30 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) and originating in Russia and Ukraine.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies below shall be as follows:

Country	Company	Anti-dumping duty (%)	TARIC additional code
Russia	Joint Stock Company Chelyabinsk Tube Rolling Plant and Joint Stock Company Pervouralsky Novotrubny Works	24,1	A741
	OAO Volzhsky Pipe Plant, OAO Taganrog Metallurgical Works, OAO Sinarsky Pipe Plant and OAO Seversky Tube Works	28,7	A859
	All other companies	35,8	A999
Ukraine	OJSC Dnepropetrovsk Tube Works	12,3	A742
	LLC Interpipe Niko Tube and OJSC Interpipe Nizhnedneprovsky Tube Rolling Plant (Interpipe NTRP)	13,8	A743
	CJSC Nikopol Steel Pipe Plant Yutist	25,7	A744
	All other companies	25,7	A999

3. Unless otherwise specified, the relevant provisions in force concerning customs duties shall apply.

<sup>(45)</sup> The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-555-67, published by the International Institute of Welding (IIW).

<sup>(46)</sup> As currently defined in Commission Regulation (EU) 2017/1925 of 12 October 2017 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 282, 31.10.2017, p. 1). The product coverage is determined in combining the product description in Article 1(1) and the product description of the corresponding CN codes taken together.



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*Article 2*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 October 2018.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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