COMMISSION DECISION

of 4 September 2009

terminating the anti-dumping proceeding concerning imports of welded tubes, pipes and hollow profiles of square or rectangular cross-section, of iron other than cast iron or steel other than stainless originating in Belarus, Turkey and Ukraine

(2009/698/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the 'basic Regulation'), and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation of the proceeding

(1) On 13 November 2008, pursuant to Article 5 of the basic Regulation, the Commission initiated by a notice published in the *Official Journal of the European Union* [2] ('notice of initiation'), the anti-dumping proceeding with regard to imports into the Community of welded tubes, pipes and hollow profiles of square or rectangular cross-section, of iron other than cast iron or steel other than stainless ('hollow section'), originating in Belarus, Turkey and Ukraine ('the countries concerned').

(2) The proceeding was initiated following a complaint lodged on 29 September 2008 by the Defence Committee of the Welded Steel Tubes Industry of the European Union ('the complainant') on behalf of producers representing a major proportion, in this case more than 25 %, of the total Community production of hollow section. The complaint contained *prima facie* evidence of dumping of hollow section originating in the countries concerned and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned and verification visits

(3) The Commission officially advised the complainant, all known Community producers, importer/traders and users known to be concerned, the exporting producers, their associations and the authorities of the countries concerned and known producers of the like product in the envisaged analogue country (the USA) of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(4) In order to allow exporting producers in Belarus to submit a claim for individual treatment ('IT'), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned as well as to the authorities of Belarus. Two groups of companies in Belarus claimed IT pursuant to Article 9(5) of the basic Regulation.

(5) In view of the apparent large number of exporting producers in Turkey and Ukraine, Community producers and importers involved in this investigation, sampling was 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 necessary and, if so, to select a sample, exporting producers in Turkey and Ukraine, Community producers, and importers and representatives acting on their behalf were requested to make themselves known and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned within 15 days of the date of publication of the notice of initiation.

(6) For Turkey, out of the 13 companies or company groups which had replied to the sampling questions, a sample of four companies or company groups was selected. However, one of the sampled companies did not provide information concerning the existence of two related Turkish producers within the sampling exercise but came forward with this information at a very late stage. Nevertheless, the two related companies were given an additional opportunity to submit a full questionnaire response. However, the information submitted by the related companies was incomplete to an extent that made it impossible to perform a dumping calculation. Consequently, the company was excluded from the sample. Another Turkish producer had not been included in the original sample but had requested individual examination in accordance with Article 17(3) of the basic Regulation and submitted a full questionnaire within the time limits. It was then included in the sample. In terms of export volume the four sampled

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ C 290, 13.11.2008, p. 13.

companies represent 63 % of the total exports of hollow section from Turkey to the Community during the investigation period. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

(7) As concerns Ukraine, two Ukrainian groups of companies and a third company replied to the sampling questions and indicated their willingness to cooperate in the investigation. These companies' exports to the Community accounted, during the investigation period, for approximately 30 % of the imports of hollow section from Ukraine as reported in the Eurostat database. In view of the limited number of cooperating companies, it was decided that the three cooperating exporting producers would be fully investigated and that, consequently, sampling would not be applied.

(8) As concerns the importers of hollow section, the Commission requested all known importers to provide information concerning imports and sales of the product concerned. As eight importers offered to cooperate, sampling was not applied.

(9) With regard to the Community producers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of production and EC sales of hollow section in the Community, which could reasonably be investigated within the time available. On the basis of the information received from the producers in the Community, the Commission selected four company groups having the largest volume of production and sales in the Community. In terms of Community production, the sampled company groups represented 52 % of the estimated total production of hollow section in the Community. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. In addition, the remaining Community producers were requested to provide certain general data for the injury analysis. However, one sampled Community producer did not submit a questionnaire reply and decided not to cooperate further with the investigation. As inclusion of some of the other Community producers which had offered cooperation would only slightly affect the representativity of the sample, it was decided not to replace this company which ceased its cooperation with the investigation.

(10) The Commission sent questionnaires to the sampled exporting producers in Turkey, to the cooperating exporting producers in Belarus and Ukraine, to the sole producer located in the USA which offered cooperation for the purpose of establishing normal value for Belarus, to the sampled Community producers, to all importers which had offered to cooperate and to all known users. Questionnaire replies were received from the three sampled company groups representing fourteen Community producers, four Turkish groups of companies, one individual Turkish exporting producer belonging to a group of companies, the two Ukrainian groups of companies and the third cooperating Ukrainian producer, the two Belarusian exporting producers, which also submitted IT claim forms, and their four importers/owners of exports in case of sales per tolling agreement, the cooperating USA producer, three unrelated Community importers, and one user in the Community. In addition, five further Community producers provided the requested general data.

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

(a) Community producers

— Condesa Fabril; Legutiano, Alava, Spain

— Corus Tubes BV; Oosterhout, the Netherlands

— Corus Tubes UK; Corby, the United Kingdom

— Lorraine Tubes, Lexy, France

— Marcegaglia SPA; Gazoldo degli Ippoliti, Mantova, Italy

(b) Exporting producers Turkey

— Erbosan Erciyas Boru Sanayii ve Ticaret A.Ş., Kayseri

— Noksel Çelik Boru Sanayi A.Ş., Ankara

— MMZ Ohnur Boru Profil Üretim San. ve Tic. A.Ş., Istanbul

— Yücel Boru ve Profil Endüstrisi A.Ş. and the related trader Yücel Boru Ihracat Ithalat ve Pazarlama A.Ş., Istanbul

(c) Exporting producers in Ukraine

— Lugansk Tube Works and related companies, Lugansk and Dniepropetrovsk

(d) Unrelated importers in the Community

— Kromat Trading Ltd.; London, the United Kingdom

— JSC Azovlitas; Kaunas, Lithuania.

1.3. **Investigation period**

(12) The investigation of dumping and injury covered the period from 1 October 2007 to 30 September 2008 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2005 to the end of the investigation period ('period considered').

1.4. **Product concerned**

(13) The product allegedly being dumped is welded tubes, pipes and hollow profiles of square or rectangular cross-section, of iron other than cast iron or steel other than stainless, but excluding line pipe of a kind used for oil or gas pipelines and casing and tubing of a kind used in drilling for oil or gas, originating in Belarus, Turkey and Ukraine ('the product concerned'), normally declared within CN codes 7306 61 92 and 7306 61 99. The product is also often referred to as 'hollow section'.

(14) Hollow section is mostly used for structural and load bearing purposes by the construction industry, as well as for structural parts in ships, cranes, handling equipment, trailers, trucks, farm equipment, etc. Hollow section may also be used as parts of metal furniture, sport and leisure equipment, toys, metal doors and windows, shelving, storage and bundling, etc.

2. **WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING**

(15) By a letter dated 3 June 2009 addressed to the Commission, the complainant formally withdrew its complaint. According to the complainant, this withdrawal was prompted by the fact that the current market situation for the Community industry differs significantly from the market situation in which the complaint was filed, given that the real and apparent demand has recently collapsed in the EU and this has also led to a decline in imports. In view of these changes in the market situation, the complainant does not want to pursue its current case which was based on an analysis of historic data that no longer fully reflect the current market conditions. According to the complainant, it is preferable to respond in these circumstances to any unfair injurious trade practices by way of a new case — in case a future situation would warrant such action — which could fully address the totality of the issues.

(16) The complainant also argued that should the import volumes surge again, these imports could in the prevailing circumstances cast the viability of the Community industry into doubt.

(17) It should be noted that the current situation with respect to the product concerned both in the EU and in the countries concerned is characterised by an unprecedented change of the fundamental economic parameters. While in these circumstances it is difficult to make reasoned assumptions as to the development of the market in the short to medium-term, it would also seem that the economic situation is volatile and that the appearance of injurious dumping could not be excluded. Given the uncertain general market conditions, it is deemed appropriate to monitor imports into the EU of the product concerned. The information obtained in the framework of such monitoring would enable the Commission to react quickly, if necessary. For instance, it could be used for the purposes of the initiation of a new proceeding provided that the conditions as set out in Article 5 of the basic Regulation are met, i.e. if there is sufficient prima facie evidence of injurious dumping.

(18) The Commission also notes that, should there be a new proceeding concerning this product and the circumstances warrant, an expeditious investigation may be appropriate. The basic Regulation in Article 7(1) indeed caters for such a possibility as it allows a rather fast imposition of provisional measures after initiation.

(19) The monitoring period should apply for up to 24 months from the publication of the termination of the present proceeding.

(20) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn unless such termination would not be in the Community interest.

(21) In this respect it is noted that the above analysis of the current situation with respect to the product concerned and any possible new investigation in the future do not put into question the complainant's action to withdraw. Therefore, the Commission considered that the present proceeding should be terminated since the investigation had not brought to light any consideration showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. However, no comments which could alter this decision were received.

(22) The Commission therefore concludes that the anti-dumping proceeding concerning imports into the Community of welded tubes, pipes and hollow profiles of square or rectangular cross-section, of iron other than cast iron or steel other than stainless originating in Belarus, Turkey and Ukraine should be terminated without the imposition of anti-dumping measures,

HAS DECIDED AS FOLLOWS:

Article 1

The anti-dumping proceeding concerning imports of welded tubes, pipes and hollow profiles of square or rectangular cross-section, of iron other than cast iron or steel other than stainless, but excluding line pipe of a kind used for oil or gas pipelines and casing and tubing of a kind used in drilling for oil or gas, originating in Belarus, Turkey and Ukraine, normally declared within CN codes 7306 61 92 and 7306 61 99, is hereby terminated.

Article 2

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

Done at Brussels, 4 September 2009.

For the Commission
Catherine ASHTON
Member of the Commission