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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)

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Articles 9(2), 9(4) and 11(2) thereof,

Having regard to the proposal submitted by the European Commission ('the Commission') after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Previous investigations and existing measures

(1) By Regulation (EC) No 2320/97 [2] 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 [3], an undertaking was accepted from an exporter in Russia. By Regulation (EC) No 348/2000 [4] 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 [5], 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 the 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Council, by Regulation (EC) No 258/2005 [6], amended the definitive measures imposed by Regulation (EC) No 348/2000, repealed the possibility of exemption from the duties provided for in Article 2 of that Regulation and imposed an anti-dumping duty of 38,8 % on imports from Croatia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 (DTW), which were subject to an anti-dumping duty of 51,9 %.

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[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 322, 25.11.1997, p. 1.
[3] OJ L 23, 28.1.2000, p. 78.
[4] OJ L 45, 17.2.2000, p. 1.
[5] OJ L 246, 20.7.2004, p. 10.
[6] OJ L 46, 17.2.2005, p. 7.

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(3) By Decision 2005/133/EC ([1]), 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 ([2]).

(4) By Regulation (EC) No 954/2006 ([3]) 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 ('the latest investigation').

(5) Therefore, the measures in force are those established by Regulation (EC) No 954/2006, i.e. 29,8 % for imports from Croatia, 35,8 % for imports from 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 (27,2 %), and 25,7 % for imports from Ukraine, with the exception of OJSC Dnepropetrovsk Tube Works (12,3 %), CJSJ Nikopolsky Seamless Tubes Plant Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant (25,1 %).

(6) With regard to CJSC Nikopolosky Seamless Tubes Plant Niko Tube and OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP) it is recalled that their company names changed in February 2007 to CJSC Interpipe Nikopolsky Seamless Tubes Plant Niko Tube and OJSC Interpipe Nizhnedneprovsky Tube Rolling Plant, respectively ([4]). Subsequently, CJSC Interpipe Nikopolsky Seamless Tubes Plant Niko Tube has been discontinued as a legal entity and all its property and non-property rights and liabilities was taken over by LLC Interpipe Niko Tube, which was established in December 2007.

(7) In accordance with Article 266 of the Treaty on the Functioning of the European Union, the anti-dumping duty rate for the Interpipe group was recalculated on the basis of the judgment of the ECJ of 12 February 2012 ([5]). The duty currently in force for this group is 17,7 % as established by Council Regulation (EU) No 540/2012 ([6]) implementing this judgment of the ECJ.

([1]) OJ L 46, 17.2.2005, p. 46.
([2]) OJ L 300, 17.11.2005, p. 1.
([3]) OJ L 175, 29.6.2006, p. 4.
([4]) OJ C 288, 30.11.2007, p. 34.
([5]) Case C-191/09 — *Interpipe Niko Tube and Interpipe NTRP* v *Council*.
([6]) OJ L 165, 26.6.2012, p. 1.

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1.2. **Request for an expiry review**

(8) On 28 June 2011, the Commission announced by a notice published in the *Official Journal of the European Union* the initiation of an expiry review ('Notice of initiation') ([1]) of the anti-dumping measures applicable to imports of certain seamless pipes and tubes, of iron or steel, originating in Croatia, Russia and Ukraine pursuant to Article 11(2) of the basic Regulation.

(9) The review was initiated following a substantiated request lodged on 29 March 2011 by the Defence Committee of the Seamless Steel Tubes Industry of the European Union ('the applicant') on behalf of Union producers representing a major proportion, in this case more than 50 %, 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 or recurrence of dumping and injury to the Union Industry.

(10) Further to the expiry review mentioned above, the Commission has, in parallel, initiated two partial reviews pursuant to Article 11(3) of the basic Regulation concerning imports of certain seamless pipes and tubes, of iron or steel, originating in Ukraine and Russia ([2]). These partial reviews were requested by one group of exporting producers in Ukraine, the Interpipe group, and one group of exporting producers in Russia, the TMK group, respectively. Both reviews are limited in scope to the examination of dumping only as far as the applicants are concerned.

1.3. **Investigation**

(11) The Commission officially advised 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.

(12) In view of the large number of exporting producers in Russia and Ukraine, of Union producers and of importers involved in the investigation, sampling 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.

([1]) OJ C 187, 28.6.2011, p. 16.
([2]) OJ C 223, 29.7.2011, p. 8 and OJ C 303, 14.10.2011, p. 11.

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(13) Given that only one exporting producer in Russia and only one exporting producer in Ukraine provided the information requested in the notice of initiation and expressed their willingness to further cooperate with the Commission, it was decided not to apply sampling in the case of the exporting producers in Russia and Ukraine, but to send a questionnaire to those producers. Thereafter, the exporting producer in Russia which provided the information requested in the notice of initiation decided not to cooperate further, by sending a reply to the questionnaire intended for the exporting producer in Russia.

(14) Nineteen Union producers provided the information requested for the selection of a sample and expressed their willingness to cooperate with the Commission. On the basis of the information received from the Union producers, the Commission had, prior to the initiation, provisionally selected a sample of four 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. Following comments received on the appropriateness of this choice within the deadline of 15 days after the initiation, the Commission replaced one of the provisionally selected producers by another producer.

(15) Four importers provided the information requested in the notice of initiation and expressed their willingness to cooperate with the Commission. Therefore the Commission decided not to apply sampling and to send a questionnaire to those importers instead.

(16) Questionnaires were therefore sent to the four sampled Union producers, to four importers and to all exporting producers in the three countries concerned that came forward.

(17) All exporting producers in Russia failed to submit a reply to the questionnaire. It is therefore considered that no exporting producer in Russia cooperated in the investigation.

(18) One group of exporting producers in Ukraine submitted a reply to the questionnaire.

(19) One exporting producer in Croatia submitted a reply to the questionnaire.

(20) Replies to the questionnaires were further received from the four sampled Union producers, three importers and one user.

(21) 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:

(a) Union producers:

— Arcelor Mittal Tubular products Ostrava, Czech Republic,

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— Tenaris Dalmine SpA, Bergamo, Italy, and its related company TGS UK, Aberdeen, UK,

— Tubos Reunidos SA, Amurrio, Spain, and its related company Almesa, Barcelona, Spain,

— V & M Deutschland GmbH, Düsseldorf, Germany;

(b) Exporting producer in Croatia:

— CMC Sisak d.o.o.;

(c) 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 and Interpipe Europe SA, Lugano, Switzerland);

(d) Importers/users:

— Castellan Maria & C SPS, San Dona di Piave, Italy,

— TAL Group, Siderpighi, Pontenure, Piacenza, Italy.

(22) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 April 2010 to 31 March 2011 ('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 2008 up to the end of the RIP ('period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(23) 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 [1], originating in Croatia, 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.

(24) The product concerned is used in a wide variety of applications, like transport of gas and liquids, in the construction business for piling, for mechanical uses, gas tubes, boiler tubes as well as oil and country tubular goods (OCTG) for drilling, casing and tubing for the oil industry.

[1] The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-555-67, published by the International Institute of Welding (IIW).

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(25) 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' orders. 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**

(26) As established in previous as well as in the latest investigation, this expiry review investigation confirmed that the product exported to the Union from Croatia, Russia and Ukraine, the product produced and sold on the domestic markets of Croatia, 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. **DUMPING**

(27) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was likely to continue or recur upon a possible expiry of the measures in force.

3.1. **Preliminary remarks**

(28) During the RIP, the total import volume, as recorded in Eurostat, of SPT from Croatia, Russia and Ukraine amounted to 42 723 tonnes, representing 2,5 % of the Union market share.

(29) In accordance with Article 11(9) of the basic Regulation, the same methodology was used as in the latest investigation, whenever circumstances have not changed or whenever the information was available. In case of non-cooperation, such as in the case of Russia, use had to be made of facts available in accordance with Article 18 of the basic Regulation. As far as Croatia and Ukraine are concerned, information made available by the cooperating companies as well as publicly available information were used.

3.2. **Dumping of imports during the RIP**

3.2.1. *General methodology*

(30) The general methodology set out hereafter has been applied to all cooperating producers in Croatia and in Ukraine. The presentation of the findings on dumping for each of the countries concerned therefore only describes what is specific for each exporting country. With regard to Russia, in the absence of cooperation from either of the existing Russian exporting producers the overall analysis, including the dumping calculation, is based on the best facts available pursuant to Article 18 of the basic Regulation.

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3.2.2. *Normal value*

(31) In accordance with Article 2(2) of the basic Regulation it was first examined for each cooperating producer whether its total volume of domestic sales of the like product to independent customers was representative in comparison with its total volume of export sales to the Union, i.e. whether the total volume of such sales represented at least 5 % of the total volume of export sales of the product concerned to the Union.

(32) For each product type sold by an exporting producer on its domestic market and found to be directly comparable with the product type sold for export to the Union, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular product type were considered sufficiently representative when the total volume of that product type sold by the exporting producer on the domestic market to independent customers during the RIP represented at least 5 % of its total sales volume of the comparable product type exported to the Union.

(33) It was also examined whether the domestic sales of each product type could be regarded as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers on the domestic market which were profitable for each exported type of the product concerned during the RIP.

(34) For those product types where more than 80 % by volume of sales on the domestic market of the product type were above cost and the weighted average sales price of that type was equal to or above the unit cost of production, normal value, by product type, was calculated as the weighted average of the actual domestic prices of all sales of the type in question, irrespective of whether those sales were profitable or not.

(35) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the unit cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the RIP.

(36) Wherever there were no domestic sales of a particular product type and for product types where the domestic sales were insufficient, the normal value was constructed in accordance with Article 2(3) of the basic Regulation.

(37) When constructing normal value pursuant to Article 2(3) of the basic Regulation, the amounts for selling, general and administrative costs and for profits have been based, pursuant to Article 2(6), introductory phrase, of the basic Regulation, on the actual data pertaining to the production and sales, in the ordinary course of trade, of the like product, by the exporting producer or on facts available.

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3.2.3. *Export price*

(38) In all cases where the product concerned was exported to independent customers in the Union, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

3.2.4. *Comparison*

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

3.2.5. *Dumping margin for the cooperating exporting producers*

(40) According to Article 2(11) and (12) of the basic Regulation the weighted average normal value was compared with the weighted average export price per product type on an ex-works basis for each cooperating company.

3.3. **Croatia**

(41) During the RIP, the total import volume of SPT from CMC Sisak, which is the sole exporting producer of SPT in Croatia, represented less than 1 % of the total Union consumption.

3.3.1. *Normal value*

(42) The investigation established that while the domestic sales of the product concerned were representative in accordance with recitals 30 and 31 above, there were no sales in the ordinary course of trade. Accordingly, the normal value for the cooperating producer was constructed pursuant to Article 2(3) of the basic Regulation.

(43) As a result, the normal value was constructed on the basis of the cost of manufacturing to which a reasonable amount for profit and for selling, general and administrative expenses (SG&A) was added, based on facts available.

3.3.2. *Export price*

(44) The cooperating producer exported the product concerned either directly or via their related trading company in Switzerland to independent customers in the Union. Export prices were therefore, in accordance with Article 2(8) of the basic Regulation, established on the basis of the prices actually paid or payable by the first independent customer in the Union.

3.3.3. *Comparison*

(45) The comparison between the constructed normal value and the export price was made on an ex-works basis.

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(46) For the purpose of ensuring a fair comparison at the same level of trade due allowance was made for differences that were found to affect price comparability. Adjustments pursuant to Article 2(10) of the basic Regulation were thus made in respect of transport costs, rebates and discounts, commissions and credit costs.

3.3.4. *Dumping margin*

(47) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average of the constructed normal value with the weighted average export price to the Union. This comparison showed the existence of significant dumping of over 60 % during the RIP.

3.4. **Russia**

(48) During the RIP, as recorded in Eurostat, the total import volume of SPT from Russia amounted to 10 785 tonnes, representing around 1 % of the Union market share.

3.4.1. *Normal value*

(49) As mentioned above, in the absence of cooperation by exporting producers in Russia, resort had to be made to facts available to determine whether dumping existed in the RIP. Pursuant to Article 18 of the basic Regulation and in the absence of questionnaire data, normal value was calculated based on data from the review request and the Metal Expert periodical publications for the most basic quality of seamless hot finished tubes.

(50) In regard to gas prices in Russia, it was noted that an adjustment had to be made under Article 2(5) of the basic Regulation when measures were imposed in the latest investigation ([1]). However, in the current investigation, the normal value was determined without considering whether an adjustment was necessary for the gas costs borne by Russian exporting producers in accordance with Article 2(5) of the basic Regulation. This was because, as shown in recital 53, the use of an unadjusted cost of production already clearly shows that dumping took place during the RIP. As a consequence, and given the fact that the purpose of an expiry review is to determine whether dumping would be likely to continue or recur should measures be repealed in order to determine whether the currently applicable measures should be maintained or repealed, it was considered that it was not necessary to examine whether an adjustment under Article 2(5) of the basic Regulation was justified in this case.

3.4.2. *Export price*

(51) Average export price was calculated based on the cif value from Eurostat for the corresponding types of seamless hot finished tubes.

([1]) See recitals 87 and 94 to 99 of Regulation (EC) No 954/2006.

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3.4.3. *Comparison*

(52) In the absence of verified questionnaire data, the comparison between the normal value and the export price was made using data found in the request in accordance with Article 2(10) of the basic Regulation.

3.4.4. *Dumping margin*

(53) In accordance with Article 18(5) of the basic Regulation, the dumping margin was established on the basis of a comparison of the calculated average normal value with the weighted average export price to the Union, by product type. This comparison showed the existence of dumping amounting to 38,4 %, which is higher than the dumping margin of 35,8 % found in the latest investigation.

3.5. **Ukraine**

(54) Of three known exporting producers in Ukraine only one group of exporting producers cooperated with the Commission in the current review investigation; the Interpipe group. This exporting producer accounted for approximately 70 % of Ukraine's total SPT production and more than 80 % of Ukraine's total exports to the Union. During the RIP, the share of Ukraine's exports to the Union in relation to Union consumption amounted to less than 2 %.

3.5.1. *Normal value*

(55) The investigation established that the domestic sales of the like product were representative in accordance with recitals 31 to 33 above. Therefore, normal value was established in accordance with recitals 34 to 37 as above.

(56) In regard to energy prices in Ukraine, it was noted that an adjustment had to be made under Article 2(5) of the basic Regulation when measures were imposed in the latest investigation ([1]). However, in the current investigation, the normal value was determined without considering whether an adjustment was necessary for energy costs borne by Ukrainian exporting producers in accordance with Article 2(5) of the basic Regulation. This was because, as shown in recital 61 below, the use of an unadjusted cost of production already clearly shows that dumping took place during the RIP. As a consequence, and given the fact that the purpose of an expiry review is to determine whether dumping would be likely to continue or recur should measures be repealed in order to determine whether the currently applicable measures should be maintained or repealed, it was considered that it was not necessary to examine whether an adjustment under Article 2(5) of the basic Regulation was justified in this case.

3.5.2. *Export price*

(57) The Interpipe group exported the product concerned through their related trading company located in Switzerland directly to independent customers in the Union. Export prices were therefore established in accordance with recital 38.

([1]) See recitals 119 to 127 of Regulation (EC) No 954/2006.

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3.5.3. *Comparison*

(58) The normal value and the export price of the Interpipe group were compared in accordance with recital 39. On this basis, adjustments for transport, insurance, handling, loading and ancillary costs, credit costs, and commissions have been made where applicable and justified.

3.5.4. *Dumping margin*

(59) The dumping margin was calculated in accordance with recital 40.

(60) As in the last investigation, and in line with the institutions' standard practice, a single dumping margin was calculated for the whole group. In the method used for doing so the amount of dumping was calculated for each individual exporting producer before determining a weighted average rate of dumping for the group as a whole. It should be noted that this methodology was different from the methodology applied in the last investigation, where the dumping calculation was done by collapsing all production, profitability and sales in the Union of the producing entities. The change in circumstances that warrants this change in methodology is due to a change in the corporate structure of the group allowing the identification of the producer within the group in respect to sales and production.

(61) The comparison showed the existence of dumping of more than 10 % for the cooperating group of exporting producers that exported to the Union in the RIP.

4. LIKELIHOOD OF A CONTINUATION OF DUMPING

4.1. Preliminary remarks

(62) It follows from the above considerations that dumping continued to be present during the review investigation period. Therefore, the likelihood of continuation of dumping in case the measures would be allowed to lapse is examined in the following.

4.1.1. *Croatia*

(63) As noted above in recital 46, a significant dumping margin was found to exist during the review investigation period. However, the owner of the exporting producer has subsequently decided to divest the company and, as a consequence, the exporting producer stopped accepting new orders in autumn 2011 and ceased all production of SPT by the end of 2011. Accordingly, as of 2012 there is no production of seamless pipes and tubes in Croatia and exports in the post-RIP period have been of very limited quantities.

(64) The investigation showed that no significant stocks are held by the company which produced to order. Indeed, due to the wide variety of pipes and high costs, no economical benefits can be realised by holding large stocks.

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(65) In view of the above consideration and taking into account that the process of selling the company is still ongoing, a continuation of dumping of SPT originating in Croatia is highly unlikely in the short to medium term.

4.1.2. *Russia*

4.1.2.1. Preliminary remarks

(66) Further to the analysis of the existence of dumping during the RIP, the likelihood of continuation of dumping was also investigated.

(67) In this respect, the following elements were analysed: the volume and prices of dumped imports from Russia, the production capacity and the spare capacity in Russia, the attractiveness of the Union market and other third markets.

4.1.2.2. Volume and prices of dumped imports from Russia

(68) After the imposition of definitive measures in June 2006, and their revision in August 2008 by Council Regulation (EC) No 812/2008 ([1]), imports declared as originating in Russia decreased steadily and remained low until the end of the RIP.

(69) In the same period, prices of dumped imports from Russia remained relatively low.

4.1.2.3. Production capacity and spare capacity in Russia

(70) As far as the total production capacity of the SPT in Russia is concerned, and in the absence of verified data, different sources of information publicly available point to a production capacity that is largely in excess of demand on the domestic market.

(71) Even though the Russian Union market share is not significantly above 1 %, the estimated installed Russian capacity is close to 4 million tonnes per annum. The Russian industry only operates on an estimated 70 % of its production capacity. By deducting the known domestic consumption and the export volumes to other markets according to the Russian export statistics there is a current spare capacity exceeding 1 million tonnes per annum which represents almost 65 % of the Union consumption. In spite of this current overcapacity and based on information provided by the complainant which was not contested by the interested parties, it appears that the Russian capacity may be further increased in the next years. One exporting producer in Russia argued that it was operating at a higher capacity rate and had no intention to expand its production capacity in the near future. This export producer also claimed that according to a reputable market publication, the Russian industry SPT capacity

([1]) OJ L 220, 15.8.2008, p. 1.

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utilisation rates were ‘high’ and that the amount of production of product concerned in Russia was in line with domestic consumption. However, the information provided by the company was not available in the file as the company had chosen not to cooperate, nor could it be verified. Furthermore, the term ‘high’ was not quantified in the publication and it was not possible to reach a conclusion on this. Hence the comments regarding production and consumption levels in Russia of the product concerned had no devaluating effects on the existence of significant spare capacity in Russia. It should be noted that the estimated installed capacity of close to 4 million tonnes per annum has not been contested after disclosure of the investigation findings to all interested parties.

4.1.2.4. Attractiveness of the Union market and other third countries markets

(72) As mentioned above, there is an important production over-capacity on the Russian domestic market suggesting a strong and natural need to find alternative markets to absorb this excess in production capacity.

(73) The Union market is one of the biggest markets in the world and is still growing. It is also clear, based on information collected during the investigation that Russian companies have shown a big interest in developing their presence on one of the biggest markets in the world and maintaining a significant market share on the Union market. One exporting producer in Russia argued that the information submitted as requested in the notice of initiation should have been the basis for the findings regarding the existence of dumping and the likelihood of recurrence of dumping and injury rather than making a determination based on best facts available. However, when this exporting producer in Russia chose to not further cooperate, it stated that due to internal restructuring processes, the completion of the questionnaire, which would include the information submitted after initiation, could not be used to determine in its case whether there is a likelihood of continuation or recurrence of dumping or whether the circumstances changed to the degree justifying the review of the level of the measures. Therefore, it was considered that this information could not be used.

4.1.2.5. Conclusion of the likelihood of continuation of dumping

(74) In view of the findings described above, it can be concluded that imports from Russia are still being dumped and that there is a strong likelihood of continuation of dumping. Given the current and potential future spare capacity in Russia and the fact that the Union market is one of the largest market in the world with attractive level of prices, it can be concluded that the Russian exporters are likely to further increase their exports to the Union at dumped prices should the anti-dumping measures be allowed to lapse.

4.1.3. *Ukraine*

4.1.3.1. Preliminary remarks

(75) Further to the analysis of the existence of dumping during the RIP (recitals 54 to 61 above), the likelihood of continuation of dumping was also examined.

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(76) In this respect, the following elements were analysed; the volume and prices of dumped imports from Ukraine, the production capacity and the spare capacity in Ukraine and the attractiveness of the Union market and other third markets.

4.1.3.2. Volume and prices of dumped imports from Ukraine

(77) After the imposition of definitive measures in June 2006, imports from Ukraine decreased significantly and have remained at a rather low level with a Union market share of below 2 %. In the same period, prices of dumped imports from Ukraine remained relatively low. In addition, the average sales prices to other export markets than the Union, where no anti-dumping duties are applied, were found to be at a similar or even lower level than the sales prices to the Union.

4.1.3.3. Production capacity and spare capacity in Ukraine

(78) Based on information available in the public domain there are three main Ukrainian producers of SPT with a total estimated production capacity of around 1,5 million tonnes annually or almost equal to the total Union consumption.

(79) Even though, the Ukrainian Union market share is just below 2 %, the estimated spare capacity in Ukraine is 50 % or 750 000 tonnes per annum, which represents almost half of the Union consumption.

4.1.3.4. Attractiveness of the Union market and other third markets

(80) The investigation has confirmed that all three main Ukrainian producers of SPT are exporting the product concerned to the Union. The investigation has further established that the cooperating party is exporting to the Union at dumped prices. Information available in the public domain further indicates that the other main Ukrainian producers export SPT to the Union at prices below those of the cooperating company.

4.1.3.5. Conclusion of the likelihood of continuation of dumping

(81) Considering imports from Ukraine are still being dumped and that export sales to export markets other than the European Union are made at prices similar or even lower than the Union prices and, given the significant spare capacity in Ukraine and the fact that the Union market is one of the largest markets in the world, it can be concluded that the Ukrainian exporters are likely to further increase their exports to the Union at dumped prices should the anti-dumping measures be allowed to lapse.

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4.2. **Conclusion**

(82) In light of the above considerations it is concluded that there is a significant and real risk of continuation of dumping with regard to seamless pipes and tubes originating in Ukraine and Russia should the existing measures lapse. On the other hand, the particular circumstances that have been found to exist with regard to Croatia lead to the conclusion that there is no risk of continuation of dumping should the existing anti-dumping measures expire with regard to imports of seamless pipes and tubes originating in Croatia.

5. **UNION PRODUCTION AND UNION INDUSTRY**

(83) Within the Union, SPT are manufactured by some 19 producers/groups of producers which constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

(84) As indicated under recital 14, a sample consisting of four producers/producer groups companies was selected out of the following 19 Union producers which submitted the required information:

— Arcelor Mittal Tubular Products Ostrava, Czech Republic,

— Arcelor Mittal Tubular Products Roman SA, Romania,

— Benteler Stahl/Rohr GmbH, Germany,

— Huta Batory, Poland,

— Ovako Steel AB, Sweden,

— Productos Tubulares SA, Spain,

— Rohrwerk Max Hütte GmbH, Germany,

— Rurexpol Sp. z o.o., Poland,

— Silcotub, Romania,

— Tenaris Dalmine SpA, Bergamo, Italy,

— Tubos Reunidos SA, Amurrio, Spain,

— TMK Artrom, Romania,

— Valcovny Trub Chomutov, Czech Republic,

— Vallourec Mannesmann Oil and Gas, France,

— Vitkovice Valcovnatrub AS, Czech Republic,

— V & M Deutschland GmbH, Düsseldorf, Germany,

— V & M, France,

— Voest Alpine Tubulars, Austria,

— Železiarne Podbrezová, Slovak Republic.

(85) It is noted that the four sampled Union producers accounted for 30 % of the total Union production during the RIP and 35 % of total sales on the Union market, whilst the above 19 Union producers accounted for 100 % of the total Union production during the RIP which is considered to be representative of the entire Union production.

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6. SITUATION ON THE UNION MARKET

6.1. Consumption in the Union market

(86) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market, and Eurostat data for all EU imports.

(87) On the basis of those data, it was found that the Union consumption decreased by 34 % from 2 597 110 tonnes to 1 724 743 tonnes between 2008 and the RIP. Consumption in 2008 was very high, which could be explained by the fact that high oil and gas prices in 2008 encouraged investments in these sectors and therefore increased the demand. The decrease took place fully in 2009, in which consumption decreased by almost 50 %. After 2009 consumption started increasing again, a trend which continued up to the RIP.

	2008	2009	2010	RIP
Union consumption (in tonnes)	2 597 110	1 345 551	1 609 118	1 724 743
Index	*100*	*52*	*62*	*66*

6.2. Imports from the countries concerned

6.2.1. *Cumulation*

(88) In the previous investigations, imports of SPT originating in Croatia, Russia and Ukraine were assessed cumulatively in accordance with Article 3(4) of the basic Regulation. It was examined whether a cumulative assessment was also appropriate in the current investigation.

(89) In this respect, it was found that the margin of dumping established in relation to the imports from each country was more than *de minimis*. As regards the quantities, a prospective analysis of the likely export volumes by each country, should measures be repealed, was performed. It revealed that imports from Russia and Ukraine, unlike Croatia, would likely increase to levels significantly above those reached in the RIP and certainly exceed the negligibility threshold, if measures were repealed. As to Croatia, it was found that imports into the Union were negligible in the period considered and production had even completely ceased after the RIP. It is thus not very likely that this situation will change in the short term.

(90) Given the fact that the volume of dumped imports from Croatia during the RIP was negligible and that it is not likely to increase due to reasons explained in recital 88 above, it was considered that the criteria set out in Article 3(4) of the basic Regulation were not met with regard to imports from Croatia.

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(91) Regarding imports from the three countries concerned, the investigation has found that the imported SPT from these countries were alike in their basic physical and technical characteristics. Furthermore, the various types of imported SPT were interchangeable with types produced in the Union and they were marketed in the Union during the same period. In light of the above, it was considered that the imported SPT originating in the countries concerned competed with the SPT produced in the Union.

(92) On the basis of the above, it was therefore considered that the criteria set out in Article 3(4) of the basic Regulation were met with regard to Russia and Ukraine. Imports from these two countries were therefore examined cumulatively. Since the criteria set in Article 3(4) of the basic Regulation and in particular the conditions of competition between imported products thereof, were not met with regard to Croatia, imports originating in this country were examined individually.

6.3. **Imports from Russia and Ukraine**

6.3.1. *Volume, market share and prices of imports*

(93) According to Eurostat data, the volume of imports of the product concerned originating in Russia and Ukraine decreased by 47 % during the period considered. More precisely, a major drop of 44 % took place in 2009 and, since then, imports have slightly decreased from 40 611 to 38 108 tonnes. This has to be seen against the background of declining consumption.

(94) The market share of Russian and Ukrainian imports decreased from 2,7 % to 2,2 % during the period considered.

(95) As far as the weighted average prices of imports of SPT are concerned, they decreased by 15 % points in 2009, and then increased again to reach in the RIP the same level as in 2008. This decrease and subsequent increase followed roughly the trend of the cost of raw materials.

	2008	2009	2010	RIP
Import (tonnes)	72 328	40 611	39 505	38 108
Index	*100*	*56*	*55*	*53*
Market share %	2,8 %	3,0 %	2,5 %	2,2 %
Index	*100*	*111*	*93*	*88*
Price of import	741,03	627,66	649,96	734,22
Index	*100*	*85*	*88*	*99*

6.3.2. *Price undercutting*

(96) 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 by CN code using information collected on the basis of Article 14(6) of the basic

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Regulation. Price undercutting regarding imports from Ukraine was established using the export prices of the cooperating Ukrainian exporting producer, without anti-dumping duty. The relevant sales prices of the Union industry were those to independent customers, adjusted where needed to an ex-works level. In the RIP, the undercutting margin for imports of SPT originating in Russia and Ukraine ranged, anti-dumping duty excluded, from 20,4 % to 55,4 %.

6.4. **Imports from Croatia**

6.4.1. *Volume, market share and prices of imports from Croatia*

(97) According to Eurostat data, the volume of imports of the product concerned originating in Croatia increased by 133 % during the period considered. Very few imports took place in 2008, then imports increased up to 2010, and in the RIP they slightly decreased again. Overall, the level of imports from Croatia has remained very low during the whole period considered.

(98) The market share of Croatian imports has increased from 0,1 % to 0,3 % during the period considered.

(99) As far as import prices are concerned, they have decreased steadily by 23 % over the period considered.

	2008	2009	2010	RIP
Imports				
Index	*100*	*153*	*251*	*233*
Market share %	0,1 %	0,2 %	0,3 %	0,3 %
Price of import				
Index	*100*	*89*	*74*	*77*

6.4.2. *Price undercutting*

(100) Price undercutting was established using the export prices of the cooperating Croatian producer, without anti-dumping duty, and was found to be 29,3 %. In view of the absence of any other exporting producer in Croatia, this conclusion is also valid for the country as a whole.

6.5. **Other country concerned by anti-dumping measures**

(101) 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 [1] decreased by 80 % during the period considered.

(102) The market share of Chinese imports decreased from 20,5 % in 2008 to 3,1 % in the RIP.

[1] OJ L 262, 6.10.2009, p. 19.

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7. ECONOMIC SITUATION OF THE UNION INDUSTRY

(103) 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.

7.1. Preliminary remarks

(104) In view of the fact that sampling was used with regard to the Union industry, the injury was assessed both on the basis of information collected at the level of the entire Union industry as defined in recital 57 and on the basis of information collected at the level of the sampled Union producers.

(105) Where recourse is made to sampling, in accordance with established practice, certain injury indicators (production, capacity, productivity, sales, market share, growth and employment) are analysed for the Union Industry as a whole, while those injury indicators relating to the performance of individual companies, i.e. prices, costs of production, profitability, wages, investments, return on investment, cash flow, ability to raise capital are examined on the basis of the information collected at the level of the sampled Union producers.

7.2. Data relating to the Union industry

(a) Production

(106) The Union industry's production decreased by 16 % between 2008 and the RIP, i.e. from 3 479 266 tonnes to 2 917 325 tonnes. Production volume dropped significantly by 43 % in 2009 as a consequence of the global economic downturn. In line with the improved of demand situation, it recovered in 2010 and in the RIP, and increased by 27 % between 2009 and the RIP, but no longer reached the level of 2008. The production volume showed a similar trend to that of consumption, but decreased less than the consumption on the Union market as a consequence of the demand on non-EU markets.

Union industry	2008	2009	2010	RIP
Production volume (tonnes)	3 479 266	1 979 967	2 675 053	2 917 325
Index	*100*	*57*	*77*	*84*

(b) Capacity and capacity utilisation rates

(107) Production capacity remained stable during the period considered. As production decreased by 16 %, the resulting capacity utilisation declined, from 80 % in 2008 to 67 % in the RIP. However, the major decline from 80 % to 45 %took place in 2009 as a result of the decrease in the production volume. In 2010 and the RIP capacity utilisation grew steadily.

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Union industry	2008	2009	2010	RIP
Capacity	4 334 520	4 378 520	4 332 520	4 357 520
Index	*100*	*101*	*100*	*101*
Capacity utilisation	80 %	45 %	62 %	67 %
Index	*100*	*56*	*77*	*83*

(c) Stocks

(108) As far as stocks are concerned, the vast majority of production is made to order. Therefore, whilst the level of stocks of the sampled producers decreased significantly in 2009, but increased, with slight fluctuation in 2010 to the RIP, almost to the 2008 level, it is considered that in this case stocks were not a relevant indicator of injury.

Sampled producers	2008	2009	2010	RIP
Closing stock (tonnes)	106 078	82 788	107 490	104 184
Index	*100*	*78*	*101*	*98*

(d) Sales volume

(109) The sales by the Union industry on the Union market decreased by 21 % between 2008 and the RIP. After decreasing by 42 % in 2009, sales volume increased again by 21 percentage points up to the RIP. This development is in line with the evolution of the consumption in the Union market, which declined by 48 % in 2009 as a result of the economic downturn and started recovering afterwards.

Union industry	2008	2009	2010	RIP
Sales to unrelated parties in the Union (tonnes)	1 445 070	841 514	1 060 349	1 135 572
Index	*100*	*58*	*73*	*79*

(e) Market share

(110) The Union industry managed to increase its market share gradually from 2008 up to the RIP. This increase is mainly due to the anti-dumping measures that are in place against imports from the People's Republic of China since 2009. The market share below is the share of total sales of the Union industry, both to unrelated and related customers, in the Union as a percentage of the Union consumption.

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Union industry	2008	2009	2010	RIP
Market share	70,2 %	78,7 %	84,5 %	85,2 %
Index	*100*	*112*	*120*	*121*

(f) Growth

(111) Between 2008 and the RIP, when the Union consumption decreased by 34 %, the sales volume of the Union industry decreased by only 21 %. The Union industry thus gained market share, whereas the imports from Russia and Ukraine lost 0,6 % during the same period.

(g) Employment

(112) The level of employment of the Union industry declined by 8 % between 2008 and the RIP. The decrease started in 2009, continued in 2010, but in the RIP increased again by 11 % in relation to 2010. This shows that the Union industry was able to adapt to the new market situation.

Union industry	2008	2009	2010	RIP
Employment	14 456	13 131	12 073	13 368
Index	*100*	*91*	*84*	*92*

(h) Productivity

(113) Productivity of the Union industry's workforce, measured as output per full-time equivalent (FTE) employed per year, was volatile over the period considered.

Union industry	2008	2009	2010	RIP
Productivity tonnes/per employee	240,7	150,8	221,6	218,2
Index	*100*	*63*	*92*	*91*

(i) Magnitude of dumping margin

(114) As concerns the impact on the Union industry of the magnitude of the actual margins of dumping, this impact cannot be considered negligible, in view of the overall volume of the imports from the countries concerned.

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7.3. **Data relating to the sampled Union producers**

(a) Sales prices and factors affecting domestic prices

(115) Unit sales prices of the Union industry decreased by 13 % between 2008 and the RIP. Prices increased slightly in 2009 before dropping by 17 % in 2010. In the RIP prices went slightly up compared to 2010. This price development is linked to the fact that 2008 was a year with a very high demand and high prices of raw materials resulting in higher sales prices. The effects of it could still be felt in the first part of 2009. As from the second part of 2009, demand decreased significantly and prices dropped following the trend of decreasing prices of raw materials. In the RIP the decrease of the prices seemed to have stopped.

Sampled producers	2008	2009	2010	RIP
Average unit sales price in the EU (EUR/ tonne)	1 286	1 300	1 086	1 115
Index	*100*	*101*	*84*	*87*

(b) Wages

(116) Between 2008 and the RIP, the average wage per FTE decreased by 12 % during the period considered. No meaningful conclusion should, however, be drawn.

(c) Investments and ability to raise capital

(117) Investments in SPT increased by 24 % over the period considered. Investments were significant and amounted to over EUR 100 million in the RIP. SPT is a capital intensive industry which requires significant investments in the production lines in order to remain competitive. The investigation revealed that the investments were made to maintain production capacity at its current level and not with the purpose to increase the production volume. It was also found that the sampled producers did not face difficulties in raising capital over the period considered.

Sampled producers	2008	2009	2010	RIP
Investments (EUR 1 000)	83 334	91 330	101 775	103 635
Index	*100*	*110*	*122*	*124*

(d) Profitability on the Union market

(118) Although profitability dropped by 66 % during the period considered, the sampled producers managed to achieve profits over the whole period considered. The profits achieved from 2008 to the RIP were above the target profit of 3 % set in the latest investigation. 2008 was a very good year with high profits. In 2009 and also in 2010 profitability dropped by 50 % compared

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to the previous year, but in the RIP profitability raised again by 35 % compared to 2010 and was 6,6 %. The Union industry managed to adapt to the decreased demand in the EU and was helped by the sustained global demand for the sampled producers that enabled them to dilute fix costs. The drop in profitability after 2008 is explained by the economic downturn which resulted in a significant drop of demand, a drop in prices and by a decrease in production volume which had a negative impact on cost of production.

Sampled producers	2008	2009	2010	RIP
Profitability on the Union market (%)	19,7 %	9,6 %	4,9 %	6,7 %
Index	*100*	*49*	*25*	*34*

(e) Return on investments

(119) The return on investments (ROI), expressed as the total profit generated by the SPT activity as a percentage of the net book value of assets directly and indirectly related to the production of SPT, broadly followed the above profitability trends over the whole period considered and remained positive during the whole period considered. The ROI dropped by 80 % during the period considered but in the RIP increased again by 50 % compared to 2010.

Sampled producers	2008	2009	2010	RIP
ROI (%)	30 %	7 %	4 %	6 %
Index	*100*	*23*	*13*	*20*

(f) Cash flow

(120) The cash-flow situation deteriorated significantly between 2008 and the RIP, as it dropped with 93 %. The trend in cash flow did not evolve in line with the trend in profitability which could be explained by the cost of depreciation, which is typically high for this capital intensive industry.

Sampled producers	2008	2009	2010	RIP
Cash flow (EUR 1 000)	466 198	345 152	45 562	33 614
Index	*100*	*74*	*10*	*7*

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(g) Recovery from the effects of past dumping

(121) While the indicators examined above show that the Union industry suffered from the economic downturn as sales volume, production volume, ROI and cash flow went down, they also indicate that the Union industry adapted its production equipment to better face the new economic environment and be able to seize opportunities on Union and non-Union markets, in particular in segments where high margins can be achieved. The improvement in the economic and financial situation of the Union industry, further to the imposition of anti-dumping measures in 2006 against imports from the countries concerned and in 2009 against imports from the People's Republic of China, shows that the measures are effective and that the Union industry recovered from the effects of past dumping practices, though no longer reaches the profitability level of 2008.

7.4. **Conclusion**

(122) Although consumption decreased by 34 %, the Union industry managed to increase its market share, and production volume and sales volume decreased less than consumption. In terms of profitability, the Union industry was profitable throughout the period considered. In view of the above, it can be concluded that the Union industry did not suffer material injury over the period considered.

8. **LIKELIHOOD OF RECURRENCE OF INJURY**

(123) As explained in recitals 69, 70, 77 and 78, the exporting producers in Russia and Ukraine have the potential to substantially raise their exports volume to the Union by using available spare capacity of some 1 750 000 tonnes, which is equal to the entire Union consumption. The total capacity of the exporting producers in Russia and Ukraine amounts to 5 500 000 tonnes. It is therefore likely that substantial quantities of Russian and Ukrainian SPT will penetrate the Union market to regain lost market share due to the anti-dumping duties in force and increase it further should measures be repealed.

(124) As highlighted in recital 95 prices of imports from Russia and Ukraine were found to be low and to undercut EU prices. These low prices would most likely continue to be charged. Indeed in the case of Ukraine, as indicated in recital 80 prices may even drop further. Such price behaviour, coupled with the ability of the exporters in those countries to deliver significant quantities of the product concerned to the Union market, would in all likelihood have a downward effect on prices in the Union market, with an expected negative impact on the economic situation of the Union industry. As shown above, the financial performance of the Union industry is closely linked to the price level on the Union market. It is therefore likely that if the Union industry was

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exposed to increased volumes of imports from Russia and Ukraine at dumped prices it would result in a deterioration of its financial situation as found in the latest investigation. On this basis, it is concluded that the repeal of the measures against imports originating in Russia and Ukraine would in all likelihood result in the recurrence of injury to the Union industry.

(125) It is important to recall that antidumping measures were imposed in 2006 to counteract the injurious dumping caused by imports from, inter alia, Croatia, Russia and Ukraine. However, the Union industry could not benefit fully from these measures since the market shares of these countries have been substituted by low priced Chinese imports. This certainly had an effect in limiting the recovery of the Union industry until the moment measures were imposed against China in 2009. It can therefore be concluded that the recovery of the Union industry from past dumping cannot be considered as complete and that the Union industry remains vulnerable to the injurious effect possibly caused by the presence of substantial quantities of dumped imports in the Union market.

(126) As far as Croatia is concerned and as indicated in recital 60, the sole plant is for sale, production has ceased completely and is not likely to resume shortly. In addition, given the negligible volumes exported to the Union, even if production is to be resumed shortly, it is very unlikely that the volume that can be exported to the Union will reach the volumes exported in the past.

(127) Therefore, in view of the negligible exports in the period considered and the fact that production has ceased completely after the RIP, it is concluded that the repeal of the measures on imports originating in Croatia would in all likelihood not result in the recurrence of injury to the Union industry.

9. **UNION INTEREST**

9.1. **Introduction**

(128) 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.

(129) On this basis, it was examined whether, despite the conclusions on the likelihood of 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.

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9.2. **Interest of the Union industry**

(130) The Union industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation observed during the period considered. In particular, the fact that the Union industry increased its market share over the period considered is a strong indicator that the Union industry managed to adapt to the changed market circumstances. Also, the Union industry remained profitable throughout the period considered.

(131) It can reasonably be expected that the Union industry will continue to benefit if the measures are maintained. The imposition of measures will enable the Union industry to increase its sales volume and profit level to allow continued investment in its production facilities. Should the measures against imports originating in Russia and Ukraine not be maintained, it is likely that the Union industry will again suffer injury from increased imports at dumped prices from these countries and that its financial situation will deteriorate.

9.3. **Interest of importers**

(132) It is recalled that in the previous investigations it was found that the impact of the imposition of measures would not be significant to importers. As indicated in recital 18, three importers replied to the questionnaire and cooperated fully in this investigation. They indicated that measures were pushing prices up. However, as the investigation showed that the cooperating importers source SPT from various suppliers from many different countries and that prices were at competitive levels, the possible impact of a continuation of measures on imports from Russia and Ukraine will be limited.

(133) In view of the above, it was concluded that the current measures in force had no substantial negative effect on the importers' financial situation and that the continuation of the measures would not unduly affect them.

9.4. **Interest of users**

(134) On the basis of the information available it would appear that the share of SPT in the costs of production of users is quite low. SPT are, in general, part of larger projects (boilers, pipelines, construction) of which they form only a limited part. The possible impact of a continuation of measures may, therefore, not be significant.

(135) The Commission sent questionnaires to all known users. As mentioned in recital 18, only one user cooperated in this investigation. It indicated that it did not suffer from the existence of the measures as other sources were available and that SPT did not represent a significant share of its cost of production. In this context, it was concluded that given the negligible incidence of the cost of SPT on the user industries and the existence of other available sources of supply, the measures in force do not have a significant effect on the user industry.

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9.5. **Conclusion on Union interest**

(136) Given the above, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.

10. **ANTI-DUMPING MEASURES**

(137) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained on imports of the product concerned originating in Russia and Ukraine and be terminated with regard to imports originating in Croatia. They were also granted a period to make representations subsequent to this disclosure.

(138) One Russian exporter requested and was granted a hearing with the Hearing Officer. That exporter argued that the Commission incorrectly concluded that it did not cooperate in the investigation. This exporter had come forward as an interested party and provided the Commission with two submissions, mainly related to injury, which were duly taken into consideration by the Commission. However, that exporter did not reply to the AD questionnaire and did not provide any information regarding its export price. Therefore the Commission had no option but to calculate the normal value with regard to Russia based on best facts available. The use of this methodology was not questioned by that exporter. Under these circumstances this exporter cannot be considered to have fully cooperated in the investigation.

(139) The same exporter also claimed that the disclosure was vague, contradictory and insufficiently motivated. However, this claim was not substantiated.

(140) Another Russian exporter argued that imports from Russia should be de-cumulated for those of Ukraine. However, in the latest investigation, imports from Russia and Ukraine were assessed cumulatively (together with imports from Croatia). As the conditions of Article 3(4) of the basic Regulation are still met with regard to imports from Russia and Ukraine, the effects of such imports were cumulatively assessed as set out in recitals 88 to 92. No arguments were brought forward that would justify a change in methodology in this respect.

(141) Several interested parties argued that the situation of the Union industry does not warrant maintenance of the measures as the recurrence of injury is unlikely. However, no new arguments were brought forward that would lead to a different conclusion regarding the recurrence of injury as set out in recitals 123 to 127 above.

(142) It was also argued by several interested parties that the long duration of the measures is unjustified and calls for their expiry. In this respect it has to be recalled that this is the first expiry review regarding the current product scope. Measures regarding this product scope are only in force since 2006, which cannot be considered as an unjustifiably long duration. Indeed measures were in force between 1997 and 2004 regarding imports from Russia and between 2000 and 2004 regarding imports from Croatia and Ukraine, but these

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measures concerned a much smaller product scope. In any event, as it has been found in this investigation that the conditions in Article 11(2) of the basic Regulation have been met for the continuation of the measures, the fact that measures may have been in place for a number of years is irrelevant.

(143) Finally it was stated that imports from Russia are treated differently than imports from Belarus and Croatia, which can be considered discriminatory. This statement does not reflect reality as the situation with regard to these countries is completely different. The complaint regarding imports from Belarus was withdrawn and the proceeding was subsequently terminated in accordance with Article 9(1) of the basic Regulation ([1]). Following disclosure, no indications were provided showing that such termination would not be in the Union interest. With regard to Croatia, as set out in recitals 63 to 65, production in Croatia ceased.

(144) Therefore, it can be concluded that the comments received were not of such nature as to change the above conclusions.

(145) 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. Conversely, the measures applicable to imports from Croatia should be allowed to lapse,

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 ([2]), 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 ([3]) (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.

([1]) OJ L 121, 8.5.2012, p. 36.

([2]) The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-555-67, published by the International Institute of Welding (IIW).

([3]) As currently defined in Commission Regulation (EU) No 1006/2011 of 27 September 2011 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, 28.10.2011, 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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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	27,2	A859
	All other companies	35,8	A999
Ukraine	OJSC Dnepropetrovsk Tube Works	12,3	A742
▼M1	LLC Interpipe Niko Tube and OJSC Interpipe Nizhnedne-provsky Tube Rolling Plant (Interpipe NTRP)	13,8	A743
▼B	CJSC Nikopol Steel Pipe Plant Yutist	25,7	A744
	All other companies	25,7	A999

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

4. The review proceeding concerning 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, 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 and originating in Croatia is hereby terminated.

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.