

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

COMMISSION

**Notice of initiation of an anti-dumping proceeding concerning imports of certain seamless pipes
and tubes, of iron or steel originating in the People's Republic of China**

(2008/C 174/04)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ('the basic Regulation')⁽¹⁾, alleging that imports of certain seamless pipes and tubes, of iron or steel originating in the People's Republic of China ('the country concerned'), are being dumped and are thereby threatening to cause material injury to the Community industry.

1. Complaint

The complaint was lodged on 28 May 2008 by the Defence Committee of the Seamless Steel Tubes Industry of the European Union ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of certain seamless pipes and tubes, of iron or steel.

2. Product

The product allegedly being dumped is certain 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⁾, originating in the People's Republic of China ('the product concerned') and normally declared 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. These CN codes are only given for information.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-535-67, published by the International Institute of Welding (IIW).

3. Allegation of dumping

In view of the provisions of Article 2(7) of the basic Regulation, the complainant established normal value for the People's Republic of China on the basis of the price in a market economy country, which is mentioned in point 5.1(d). The allegation of dumping is based on a comparison of normal value, thus calculated, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

4. Allegation of injury

The complainant has provided *prima facie* evidence that imports of the product concerned from the People's Republic of China have increased significantly in absolute terms and in terms of market share indicating the likelihood of substantially increased imports.

Moreover, it is alleged that imports are entering the Community at prices that have already had, among other consequences, some negative impact on the level of prices charged by the Community industry.

Furthermore, the complainant has provided *prima facie* evidence that there is sufficient freely disposable capacity and also that there is an imminent and substantial increase in such capacity in the People's Republic of China. It is also alleged that the flow of imports of the product concerned is likely to rise due to the recent initiations of trade defence investigations on imports of similar products in traditional markets other than the EU, i.e. in Canada, Mexico and Ukraine. This can lead to a redirection of exports from these markets to the Community.

In addition, the complainant has provided *prima facie* evidence that inventories of the product being investigated have increased.

It is alleged that the change in circumstances outlined above is clearly foreseen and imminent and would create a situation in which the dumping would cause injury.

5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

5.1. Procedure for the determination of dumping and injury

The investigation will determine whether the product concerned originating in the People's Republic of China is being dumped and whether this dumping has caused injury.

(a) Sampling

In view of the apparent large number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the basic Regulation.

(i) Sampling for exporters/producers in the People's Republic of China

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporters/producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information on their company or companies within the time limit set in point 6(b)(i) and in the format indicated in point 7:

- name, address, e-mail address, telephone, and fax numbers and contact person,
- the turnover in local currency and the volume in tonnes of the product concerned produced and sold for export to the Community during the period 1 July 2007 to 30 June 2008,
- the turnover in local currency and the sales volume in tonnes for the product concerned produced and sold on the domestic market during the period 1 July 2007 to 30 June 2008,
- the precise activities of the company with regard to the product concerned,

— the names and the precise activities of all related companies ⁽¹⁾ involved in the production and/or selling (export and/or domestic) of the product concerned,

— any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion or inclusion in the sample, it will be deemed not to have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting country and any known associations of exporters/producers.

Since a company cannot be certain that it will be selected in the sample, exporters/producers that wish to claim an individual margin ⁽²⁾ pursuant to Article 17(3) of the basic Regulation are advised to request a questionnaire within the deadline foreseen in point 6(a)(i) of this notice, and file it within the deadline foreseen in point 6(a)(ii) first paragraph of this notice. However, attention is drawn to the last sentence of point 5.1(b) of this notice.

(ii) Sampling for importers

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limit set in point 6(b)(i) and in the formats indicated in point 7:

- name, address, e-mail address, telephone, and fax numbers and contact person,

⁽¹⁾ For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

⁽²⁾ Individual margins may be claimed pursuant to Article 17(3) of the basic Regulation for companies not included in the sample, Article 9(5) of the basic Regulation concerning individual treatment in cases involving non market economy countries/economies in transition, and Article 2(7)(b) of the basic Regulation for companies claiming market economy status. Note that claims for individual treatment necessitate an application pursuant to Article 9(5) of the basic Regulation and that claims regarding market economy status necessitate an application pursuant to Article 2(7)(b) of the basic Regulation.

- the total turnover in euro of the company during the period 1 July 2007 to 30 June 2008,
- the total number of employees,
- the precise activities of the company with regard to the product concerned,
- the volume in tonnes and value in euro of imports into and resales made in the Community market during the period 1 July 2007 to 30 June 2008, of the imported product concerned originating in the People's Republic of China,
- the names and the precise activities of all related companies ⁽¹⁾ involved in the production and/or selling of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion or inclusion in the sample, it will be deemed not to have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

In order to obtain the information it deems necessary for the selection of the sample of importers, the Commission will, in addition, contact any known associations of importers.

(iii) Sampling for Community producers

In view of the large number of Community producers supporting the complaint, the Commission intends to investigate injury to the Community industry by applying sampling.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all Community producers, or representatives acting on their behalf, are hereby requested to provide the following information on their company or companies within the time limit set in point 6(b)(i) and in the formats indicated in point 7:

- name, address, e-mail address, telephone, and fax numbers and contact person,
- the total turnover in euro of the company during the period 1 July 2007 to 30 June 2008,

⁽¹⁾ For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

- the precise activities of the company with regard to the product concerned,
- the value in euro of sales of the product concerned made in the Community market during the period 1 July 2007 to 30 June 2008,
- the volume in tonnes of sales of the product concerned made in the Community market during the period 1 July 2007 to 30 June 2008,
- the volume in tonnes of the production of the product concerned during the period 1 July 2007 to 30 June 2008,
- the names and the precise activities of all related companies ⁽¹⁾ involved in the production and/or selling of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion or inclusion in the sample, it will be deemed not to have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

(iv) Final selection of the samples

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in point 6(b)(ii).

The Commission intends to make the final selection of the samples after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the samples must reply to a questionnaire within the time limit set in point 6(b)(iii) and must cooperate within the framework of the investigation.

If sufficient co-operation is not forthcoming, the Commission may base its findings, in accordance with Articles 17(4) and 18 of the basic Regulation, on the facts available. A finding based on facts available may be less advantageous to the party concerned, as explained in point 8.

(b) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled Community industry and to any association of producers in the Community, to the sampled exporters/producers in the People's Republic of China, to any association of exporters/producers, to the sampled importers, to any known association of importers named in the complaint, and to the authorities of the exporting country concerned.

Exporters/producers in the People's Republic of China claiming an individual margin, with a view to the application of Articles 17(3) and 9(6) of the basic Regulation, must submit a completed questionnaire within the time limit set in point 6(a)(ii) of this notice. They therefore have to request a questionnaire within the time limit set in point 6(a)(i). However, such parties should be aware that if sampling is applied to exporters/producers, the Commission may nonetheless decide not to calculate an individual margin for them, if the number of exporters/producers is so large that individual examination would be unduly burdensome and would prevent the timely completion of the investigation.

(c) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(a)(ii).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(a)(iii).

(d) *Selection of the market economy country*

In accordance with Article 2(7)(a) of the basic Regulation, it is envisaged to choose the United States of America as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in point 6(c).

(e) *Market economy treatment*

For those exporters/producers in the People's Republic of China who claim and provide sufficient evidence that they operate under market economy conditions, i.e. that they meet the criteria laid down in Article 2(7)(c) of the basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the basic Regulation. Exporters/producers intending to submit duly substantiated claims must

do so within the specific time limit set in point 6(d). The Commission will send claim forms to all exporters/producers in the People's Republic of China who have either been included in the sample or named in the complaint and to any association of exporters/producers named in the complaint, as well as to the authorities of the People's Republic of China.

5.2. *Procedure for assessment of Community interest*

In accordance with Article 21 of the basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-dumping measures would not be against the Community interest. For this reason the Commission may send questionnaires to the known Community industry, importers, their representative associations, representative users and representative consumer organisations. Such parties, including those not known to the Commission, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in point 6(a)(ii), make themselves known and provide the Commission with information. The parties which have acted in conformity with the preceding sentence may request a hearing setting the particular reasons why they should be heard within the time limit set in point 6(a)(iii). It should be noted that any information submitted pursuant to Article 21 of the basic Regulation will only be taken into account if supported by factual evidence at the time of submission.

6. *Time limits*

(a) *General time limits*

(i) *For parties to request a questionnaire*

All interested parties should request a questionnaire as soon as possible, but not later than 15 days after the publication of this notice in the *Official Journal of the European Union*.

(ii) *For parties to make themselves known, to submit questionnaire replies and any other information*

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. All exporters/producers concerned by this proceeding, who wish to apply for individual examination in accordance with Article 17(3) of the basic Regulation, must also submit

a questionnaire reply within 40 days of the date of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(b)(iii).

(iii) Hearings

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

(b) Specific time limit in respect of sampling

(i) The information specified in points 5.1(a)(i), 5.1(a)(ii) and 5.1(a)(iii) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(ii) All other information relevant for the selection of the sample as referred to in 5.1(a)(iv) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(iii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) Specific time limit for the selection of the market economy country

Parties to the investigation may wish to comment on the appropriateness of the United States of America which, as mentioned in point 5.1(d), is envisaged as a market economy country for the purpose of establishing normal value in respect of the People's Republic of China. These comments must reach the Commission within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

(d) Specific time limit for the submission of claims for market economy and/or for individual treatment

Duly substantiated claims for market economy treatment (as mentioned in point 5.1(e)) and/or for individual treatment

pursuant to Article 9(5) of the basic Regulation, must reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*.

7. Written submissions, questionnaire replies and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party). All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' ⁽¹⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: J-79 4/23
B-1049 Brussels
Fax (32-2) 295 65 05

8. Non-cooperation

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

9. Schedule of the investigation

The investigation will be concluded, according to Article 6(9) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*. According to Article 7(1) of the basic Regulation, provisional

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

measures may be imposed no later than 9 months from the publication of this notice in the *Official Journal of the European Union*.

10. Processing of personal data

It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

11. Hearing Officer

It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of DG Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary mediation on procedural matters affecting the protection of their interests in this proceeding, in particular, with regard to issues concerning access to file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details interested parties may consult the Hearing Officer's web pages of the website of DG Trade (<http://ec.europa.eu/trade>).

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.