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⁽¹⁾ Text with EEA relevance.

EN

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2019/563

of 8 April 2019

on the conclusion, on behalf of the Union, of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with point (a) of the second subparagraph of Article 218(6) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) In accordance with Council Decision 2018/538 ⁽²⁾, Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union ('Memorandum of Cooperation NAT-I-9406') was signed on 13 December 2017, subject to its conclusion at a later date.
- (2) Amendment 1 to Memorandum of Cooperation NAT-I-9406 extends the scope of cooperation between the Parties to all phases of air traffic management modernisation, including deployment activities, with the goal of ensuring global interoperability. It also modifies the structure and governance of Memorandum of Cooperation NAT-I-9406 so as to optimise the implementation and management of the cooperative activities carried out thereunder.
- (3) It is necessary to lay down procedural arrangements for the participation of the Union in the executive management of Memorandum of Cooperation NAT-I-9406A between the United States of America and the European Union on air traffic management modernisation, civil aviation research and development and global interoperability ('Memorandum of Cooperation NAT-I-9406A'), which is set out in the addendum to Amendment 1 and replaces Memorandum of Cooperation NAT-I-9406.
- (4) Therefore, Amendment 1 to Memorandum of Cooperation NAT-I-9406 should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union is hereby approved on behalf of the Union ⁽³⁾.

⁽¹⁾ Consent of 12 September 2018 (not yet published in the Official Journal).

⁽²⁾ Council Decision (EU) 2018/538 of 7 December 2017 on the signing, on behalf of the Union, and provisional application of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union (OJ L 90, 6.4.2018, p. 1).

⁽³⁾ The text of Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the United States of America and the European Union has been published in OJ L 90, 6.4.2018, p. 3, together with the decision on signature.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article II.B of Amendment 1 to Memorandum of Cooperation NAT I 9406, in order to express the consent of the Union to be bound by Amendment 1 to Memorandum of Cooperation NAT I 9406 ⁽⁴⁾.

Article 3

The Commission, after consultation with a special committee designated by the Council, shall determine the position to be taken by the Union in the executive management of Memorandum of Cooperation NAT-I-9406A and the Annexes thereto, as referred to in Article III of Memorandum of Cooperation NAT-I-9406A, with respect to:

- (a) the adoption of additional annexes to Memorandum of Cooperation NAT-I-9406A and appendices to the Annexes to Memorandum of Cooperation NAT-I-9406A; and
- (b) the adoption of amendments to the Annexes to Memorandum of Cooperation NAT-I-9406A and to the Appendices to those Annexes.

Article 4

Without prejudice to Article 3 of this Decision, the Commission may take any appropriate action under Articles III, IV, V, VII and VIII of Memorandum of Cooperation NAT-I-9406A.

Article 5

The Commission shall represent the Union in consultations under Article XI of Memorandum of Cooperation NAT-I-9406A.

Article 6

The Commission shall inform the Council of the implementation of Memorandum of Cooperation NAT-I-9406A whenever necessary and at least once a year.

Article 7

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, 8 April, 2019.

For the Council
The President
F. MOGHERINI

⁽⁴⁾ The date of entry into force of Amendment 1 to Memorandum of Cooperation NAT I 9406 will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2019/564

of 28 March 2019

amending Delegated Regulation (EU) 2016/2251 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the date until which counterparties may continue to apply their risk-management procedures for certain OTC derivative contracts not cleared by a CCP

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾, and in particular Article 11(15) thereof,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement, or failing that, two years after that notification, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) Commission Delegated Regulation (EU) 2019/397 ⁽²⁾ provides for an amendment to Commission Delegated Regulation (EU) 2016/2251 ⁽³⁾ as regards the date until which counterparties may continue to apply their risk-management procedures for certain OTC derivative contracts not cleared by a CCP. Pursuant to Article 2 of Delegated Regulation (EU) 2019/397, that Regulation is to apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, unless a withdrawal has entered into force by that date or the two-year period referred to in Article 50(3) of the Treaty on European Union has been extended.
- (3) By letter of 20 March 2019, the United Kingdom submitted a request for an extension of the period provided for in Article 50(3) of the Treaty on European Union until 30 June 2019, with a view to finalising the ratification of the Withdrawal Agreement ⁽⁴⁾. On 21 March 2019, the European Council agreed to an extension until 22 May 2019, provided the Withdrawal Agreement is approved by the House of Commons in the following week. If that is not the case, the European Council agreed to an extension until 12 April 2019. Consequently, Delegated Regulation (EU) 2019/397 will not apply.
- (4) However, the reasons underlying Delegated Regulation (EU) 2019/397 will remain, regardless of any extension of the period referred to in Article 50(3) of the Treaty on European Union. In particular, the risks to the smooth functioning of the market and a level playing field between counterparties established in the Union will persist in the case of the United Kingdom's withdrawal from the Union without an agreement after the extended period. Those risks are expected to remain for the foreseeable future.

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2019/397 of 19 December 2018 amending Delegated Regulation (EU) 2016/2251 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the date until which counterparties may continue to apply their risk-management procedures for certain OTC derivative contracts not cleared by a CCP (OJ L 71, 13.3.2019, p. 15).

⁽³⁾ Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty (OJ L 340, 15.12.2016, p. 9).

⁽⁴⁾ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 66 I, 19.2.2019, p. 1).

- (5) Delegated Regulation (EU) 2016/2251 should therefore be amended accordingly.
- (6) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority to the Commission.
- (7) It is necessary to facilitate the implementation of efficient solutions by market participants as quickly as possible. Therefore, the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority have analysed the potential related costs and benefits but have not conducted any open public consultation in accordance with the second subparagraph of Article 10(1) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽⁵⁾, the second subparagraph of Article 10(1) of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽⁶⁾ and the second subparagraph of Article 10(1) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽⁷⁾. For the same reason, this Regulation should enter into force on the day following that of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Article 35 of Delegated Regulation (EU) 2016/2251 is replaced by the following:

‘Article 35

Transitional provisions

1. Counterparties referred to in Article 11(3) of Regulation (EU) No 648/2012 may continue to apply the risk-management procedures that they have in place at the date of application of this Regulation in respect of non-centrally cleared OTC derivative contracts entered into or novated between 16 August 2012 and the relevant dates of application of this Regulation.
2. Counterparties referred to in Article 11(3) of Regulation (EU) No 648/2012 may also continue to apply the risk-management procedures that they have in place at 14 March 2019 in respect of non-centrally cleared OTC derivative contracts fulfilling all of the following conditions:
 - (a) the non-centrally cleared OTC derivative contracts have been entered into or novated before either the relevant dates of application of this Regulation as set out in Articles 36, 37 and 38 of this Regulation or 11 April 2019 whichever is earlier;
 - (b) the non-centrally cleared OTC derivative contracts are novated for the sole purpose of replacing a counterparty established in the United Kingdom with a counterparty established in a Member State;
 - (c) the non-centrally cleared OTC derivative contracts are novated between the date following that on which Union law ceases to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union and either of the following, whichever is later:
 - (i) the relevant dates of application set out in Articles 36, 37 and 38 of this Regulation; or
 - (ii) 12 months from the date following that on which Union law ceases to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.’.

Article 2

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

It shall apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

⁽⁵⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁽⁶⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

⁽⁷⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

However, this Regulation shall not apply in either of the following cases:

- (a) a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by the date referred to in the second paragraph of this Article;
- (b) a decision has been taken to extend the two-year period referred to in Article 50(3) of the Treaty on European Union beyond 31 December 2019.

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

Done at Brussels, 28 March 2019.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2019/565**of 28 March 2019****amending Delegated Regulation (EU) 2015/2205, Delegated Regulation (EU) 2016/592 and Delegated Regulation (EU) 2016/1178 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the date at which the clearing obligation takes effect for certain types of contracts****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾, and in particular Article 5(2) thereof,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement, or failing that, two years after that notification, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) Commission Delegated Regulation (EU) 2019/396 ⁽²⁾ provides for an amendment to Commission Delegated Regulation (EU) 2015/2205 ⁽³⁾, Commission Delegated Regulation (EU) 2016/592 ⁽⁴⁾ and Commission Delegated Regulation (EU) 2016/1178 ⁽⁵⁾ as regards the date at which the clearing obligation takes effect for certain types of contracts. Pursuant to Article 4 of Delegated Regulation (EU) 2019/396, that Regulation is to apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, unless a withdrawal has entered into force by that date or the two year period referred to in Article 50(3) of the Treaty on European Union has been extended.
- (3) By letter of 20 March 2019, the United Kingdom submitted a request for an extension of the period provided for in Article 50(3) of the Treaty on European Union until 30 June 2019, with a view to finalising the ratification of the Withdrawal Agreement ⁽⁶⁾. On 21 March 2019, the European Council agreed to an extension until 22 May 2019, provided the Withdrawal Agreement is approved by the House of Commons in the following week. If that is not the case, the European Council agreed to an extension until 12 April 2019. Consequently, Delegated Regulation (EU) 2019/396 will not apply.
- (4) However, the reasons underlying Delegated Regulation (EU) 2019/396 will remain, regardless of any extension of the period referred to in Article 50(3) of the Treaty on European Union. In particular, the risks to the smooth functioning of the market and a level playing field between counterparties established in the Union will persist in the case of the United Kingdom's withdrawal from the Union without an agreement after the extended period. Those risks are expected to remain for the foreseeable future.

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2019/396 of 19 December 2018 amending Delegated Regulation (EU) 2015/2205, Delegated Regulation (EU) 2016/592 and Delegated Regulation (EU) 2016/1178 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the date at which the clearing obligation takes effect for certain types of contracts (OJ L 71, 13.3.2019, p. 11).

⁽³⁾ Commission Delegated Regulation (EU) 2015/2205 of 6 August 2015 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 314, 1.12.2015, p. 13).

⁽⁴⁾ Commission Delegated Regulation (EU) 2016/592 of 1 March 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 103, 19.4.2016, p. 5).

⁽⁵⁾ Commission Delegated Regulation (EU) 2016/1178 of 10 June 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on the clearing obligation (OJ L 195, 20.7.2016, p. 3).

⁽⁶⁾ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ C 66 I, 19.2.2019, p. 1).

- (5) Delegated Regulation (EU) 2015/2205, Delegated Regulation (EU) 2016/592 and Delegated Regulation (EU) 2016/1178 should therefore be amended accordingly.
- (6) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority to the Commission.
- (7) It is necessary to facilitate the implementation of efficient solutions by market participants as quickly as possible. Therefore, the European Securities and Markets Authority have analysed the potential related costs and benefits but have not conducted any open public consultation in accordance with the second subparagraph of Article 10(1) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽⁷⁾. For the same reason, this Regulation should enter into force on the day following that of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2015/2205

Delegated Regulation (EU) 2015/2205 is amended as follows:

- (1) in Article 3, the following paragraph is added:

‘3. By way of derogation from paragraphs 1 and 2, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect 12 months from the date of application of this Regulation where the following conditions are fulfilled:

- (a) the clearing obligation has not been triggered by 11 April 2019;
- (b) the contracts are novated for the sole purpose of replacing the counterparty established in the United Kingdom with a counterparty established in a Member State.’;

- (2) in Article 4, paragraph 3 is replaced by the following:

‘3. For financial counterparties in Category 3 and for transactions referred to in paragraphs 2 and 3 of Article 3 of this Regulation concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 50 years for contracts that belong to the classes of Table 1 or Table 2 of the Annex;
- (b) 3 years for contracts that belong to the classes of Table 3 or Table 4 of the Annex.’

Article 2

Amendment to Delegated Regulation (EU) 2016/592

Delegated Regulation (EU) 2016/592 is amended as follows:

- (1) in Article 3, the following paragraph is added:

‘3. By way of derogation from paragraphs 1 and 2, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect 12 months from the date of application of this Regulation where the following conditions are fulfilled:

- (a) the clearing obligation has not been triggered by 11 April 2019;
- (b) the contracts are novated for the sole purpose of replacing the counterparty established in the United Kingdom with a counterparty established in a Member State.’;

- (2) in Article 4, paragraph 3 is replaced by the following:

‘3. For financial counterparties in Category 3 and for transactions referred to in paragraphs 2 and 3 of Article 3 of this Regulation concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be 5 years and 3 months.’

⁽⁷⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

*Article 3***Amendment to Delegated Regulation (EU) 2016/1178**

Delegated Regulation (EU) 2016/1178 is amended as follows:

(1) in Article 3, the following paragraph is added:

‘3. By way of derogation from paragraphs 1 and 2, in respect of contracts pertaining to a class of OTC derivatives set out in the Annex, the clearing obligation shall take effect 12 months from the date of application of this Regulation where the following conditions are fulfilled:

- (a) the clearing obligation has not been triggered by 11 April 2019;
- (b) the contracts are novated for the sole purpose of replacing the counterparty established in the United Kingdom with a counterparty established in a Member State.’;

(2) in Article 4, paragraph 3 is replaced by the following:

‘3. For financial counterparties in Category 3 and for transactions referred to in paragraphs 2 and 3 of Article 3 of this Regulation concluded between financial counterparties, the minimum remaining maturity referred to in point (ii) of Article 4(1)(b) of Regulation (EU) No 648/2012, at the date the clearing obligation takes effect, shall be:

- (a) 15 years for contracts that belong to the classes in Table 1 set out in Annex I;
- (b) 3 years for contracts that belong to the classes in Table 2 set out in Annex I.’

*Article 4***Entry into force and application**

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

It shall apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

However, this Regulation shall not apply in either of the following cases:

- (a) a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by the date referred to in the second paragraph of this Article;
- (b) a decision has been taken to extend the two year period referred to in Article 50(3) of the Treaty on European Union beyond 31 December 2019.

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

Done at Brussels, 28 March 2019.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2019/566

of 9 April 2019

imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings originating in the Russian Federation, the Republic of Korea and Malaysia following an expiry review pursuant to Article 11(2) of the Regulation (EU) 2016/1036 of the European Parliament and of the Council and terminating the investigation concerning the imports of the same product originating in the Republic of Turkey

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE

1.1. Measures in force

(a) *The Republic of Korea and Malaysia*

- (1) The Council, following an anti-dumping investigation, by Regulation (EC) No 778/2003 ⁽²⁾ imposed a definitive anti-dumping duty on imports of certain tube and pipe fittings originating in the Republic of Korea ('Korea') and Malaysia ('the original investigation'). Following a first expiry review of the anti-dumping measures pursuant to Article 11(2) of the basic Regulation, the Council, by Implementing Regulation (EC) No 1001/2008 ⁽³⁾ re-imposed the anti-dumping measures. Following a second expiry review of the anti-dumping measures pursuant to Article 11(2) of the basic Regulation, the Commission, by Implementing Regulation (EU) No 1283/2014 ⁽⁴⁾ re-imposed the anti-dumping measures. Following a partial interim review in accordance with Article 11(3) of the basic Regulation, limited in scope to the examination of dumping as far as TK Corporation, a Korean exporting producer, was concerned, the Commission amended Implementing Regulation (EU) No 1283/2014 by Implementing Regulation (EU) 2016/306 ⁽⁵⁾.
- (2) The anti-dumping measures currently in force on the imports of certain tube and pipe fittings originating in the Republic of Korea took the form of an *ad valorem* duty rate, which was set at the level of the dumping margin of 32,4 % for imports from an individually named exporter (TK Corporation), with a residual duty rate of 44,0 % set at the level of the injury margin.
- (3) The anti-dumping measures currently in force on the imports of certain tube and pipe fittings originating in Malaysia took the form of an *ad valorem* duty rate, which was set at the level of the dumping margin of 49,9 % and 59,2 % for imports from individually named exporters, with a residual duty rate of 75,0 %.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 778/2003 of 6 May 2003 amending Commission Decision No 283/2000/ECSC and Council Regulations (EC) No 584/96, (EC) No 763/2000 and (EC) No 1514/2002 with regard to the anti-dumping measures applicable to certain hot-rolled coils and to certain tube and pipe fittings, of iron or steel (OJ L 114, 8.5.2003, p. 1).

⁽³⁾ Council Regulation (EC) No 1001/2008 of 13 October 2008 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the Republic of Korea and Malaysia following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96 (OJ L 275, 16.10.2008, p. 18).

⁽⁴⁾ Commission Implementing Regulation (EU) No 1283/2014 of 2 December 2014 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the Republic of Korea and Malaysia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 347, 3.12.2014, p. 17).

⁽⁵⁾ Commission Implementing Regulation (EU) 2016/306 of 3 March 2016 amending Implementing Regulation (EU) No 1283/2014 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the Republic of Korea and Malaysia following an interim review pursuant to Article 11(3) of Council Regulation (EC) No 1225/2009 (OJ L 58, 4.3.2016, p. 38).

(b) ***The Republic of Turkey and the Russian Federation***

- (4) The Council, following an anti-dumping investigation, by Implementing Regulation (EU) No 78/2013 ⁽⁶⁾ imposed a definitive anti-dumping duty against imports of certain tube and pipe fittings originating in the Republic of Turkey ('Turkey') and the Russian Federation ('Russia').
- (5) The anti-dumping measures currently in force with respect to Russia took the form of an *ad valorem* residual duty rate set at the level of the dumping margin of 23,8 %. With respect to Turkey, *ad valorem* duty rates were set at the level of the dumping margins of 2,9 %, 9,6 %, 12,1 % for imports from individually named exporters, with a residual duty rate of 16,7 %.

(c) ***Other third countries not subject to this review***

- (6) Anti-dumping measures are currently in force on imports of certain tube and pipe fittings originating in the People's Republic of China ('China'), which have been extended to Taiwan, Indonesia, Sri Lanka and the Philippines ⁽⁷⁾.

1.2. Request for an expiry review

- (7) Following the publication of a notice of impending expiry ⁽⁸⁾ of the anti-dumping measures in force on the imports of certain tube and pipe fittings originating in Turkey, Russia, Korea, and Malaysia ('the countries concerned'), the Commission received a request for review pursuant to Article 11(2) of basic Regulation.
- (8) The request was lodged by the Defence Committee of the Steel Butt-Welding Fittings Industry ('the applicant') on behalf of Union producers representing approximately 51 % of the total Union production of certain tube and pipe fittings.
- (9) The request was based on the grounds that the expiry of the measures would be likely to result in continuation and/or recurrence of dumping and continuation and/or recurrence of injury to the Union industry.

1.3. Initiation

- (10) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 27 January 2018, by a notice published in the *Official Journal of the European Union* ⁽⁹⁾ ('the Notice of Initiation') the initiation of an expiry review pursuant to Article 11(2) of basic Regulation.

1.4. Review investigation period and period considered

- (11) The investigation of continuation or recurrence of dumping covered the year 2017 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2014 to the end of the investigation period ('the period considered').

1.5. Interested parties

- (12) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, exporting producers, importers and users in the Union known to be concerned and the authorities in Turkey, Russia, Korea, and Malaysia of the initiation of the expiry review and invited them to participate.
- (13) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time-limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request in writing a hearing by the Commission investigation services and/or the Hearing Officer in trade proceedings.

⁽⁶⁾ Council Implementing Regulation (EU) No 78/2013 of 17 January 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey (OJ L 27, 29.1.2013, p. 1).

⁽⁷⁾ Commission Implementing Regulation (EU) 2015/1934 of 27 October 2015 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 282, 28.10.2015, p. 14.).

⁽⁸⁾ OJ C 214, 4.7.2017, p. 8 and OJ C 146, 11.5.2017, p. 9.

⁽⁹⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain tube and pipe fittings originating in Turkey, Russia, Korea and Malaysia (OJ C 31, 27.1.2018, p. 16).

1.5.1. *Sampling*

- (14) In the Notice of Initiation, the Commission stated that it might sample interested parties, in accordance with Article 17 of the basic Regulation.

1.5.2. *Sampling of Union producers*

- (15) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation the Commission selected the sample on the basis of the largest representative volume of production which could reasonably be investigated within the time available, considering also the geographical location. This sample consisted of four Union producers. The sampled Union producers accounted for around 54 % of the total Union production. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the sample was thus confirmed. The sample was considered representative of the Union industry.

1.5.3. *Sampling of unrelated importers*

- (16) In order to enable the Commission to decide whether sampling was necessary and, if so, to select a sample, all unrelated importers/users were invited to participate in this investigation. Those parties were requested to make themselves known by providing the Commission with the information on their companies requested in Annex II of the Notice of Initiation. Two importers came forward. They were invited to cooperate by filling-in the questionnaire. However, neither of the two replied.

1.5.4. *Sampling of exporting producers*

- (17) In view of the apparent large number of exporting producers in the four countries concerned by this expiry review, sampling was envisaged in the Notice of Initiation.
- (18) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the countries concerned to provide the information specified in the Notice of Initiation. The information requested included sales volume and value, production volume and production capacity. In addition, the Commission requested the Mission of the countries concerned to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (19) Sampling questionnaires were sent to forty known potential exporting producers: eleven in Turkey, five in Malaysia, ten in South Korea and fourteen in Russia. Three Turkish companies replied to the sampling questionnaire, one of them subsequently withdrew its cooperation. One company in Russia replied to the sampling questionnaire but then withdrew its cooperation. None of the Malaysian or Korean producers that were contacted or any other Malaysian/Korean producer came forward and provided the information requested.

1.5.5. *Questionnaires and verification visits*

- (20) The Commission sent questionnaires to the four sampled Union producers, four exporting producers as mentioned in recital (18) and two importers that came forward after initiation.
- (21) Questionnaire replies were received from the four sampled Union producers and two exporting producers in Turkey. No replies were received from importers.
- (22) The Commission sought and verified all the information it deemed necessary for the determination of the likelihood of continuation or recurrence of dumping and injury and for the determination of the Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

(a) Union producers:

- Erne Fittings GmbH Group, Austria
- Lindemann, Germany
- Vallourec Fittings S.A., France
- Virgilio CENA& Figli S.p.A., Italy

(b) Exporting producers:

- Sardogan Industry and Trade — Mehmet Sardogan, Turkey
- RSA Tesisat Malzemeleri San. Tic. A.S., Turkey

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (23) The product under review is the same as in the original investigation, namely tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 (TARIC codes 7307 93 11 91, 7307 93 11 93, 7307 93 11 94, 7307 93 11 95, 7307 93 11 99, 7307 93 19 91, 7307 93 19 93, 7307 93 19 94, 7307 93 19 95, 7307 93 19 99, 7307 99 80 92, 7307 99 80 93, 7307 99 80 94, 7307 99 80 95 and 7307 99 80 98) ('TPF' or 'the product under review').

2.2. Like product

- (24) It was considered that the product under review produced in the four countries concerned and exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical and chemical characteristics, and the same basic uses. They were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

- (25) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to continuation or recurrence of dumping from the countries concerned.

3.1. Preliminary remarks

- (26) None of the producers in Russia, Malaysia and Korea cooperated in the investigation. Furthermore, the two cooperating Turkish exporting producers represented around 50 % of the total Turkish exports of TPF to the Union during the review investigation period. They represented around 40 % of the total production established for Turkey during the review investigation period. The level of cooperation from Turkey was therefore considered low.
- (27) The Commission informed the authorities of all four countries concerned that, due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to Turkey, Russia, Malaysia and Korea. The Commission did not receive any comments or requests for an intervention of the Hearing Officer from the authorities of the four countries in this regard.
- (28) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular publicly available information such as official company websites, information in the request for review, and information obtained from cooperating parties in the course of the review investigation (namely, the applicant, the sampled Union producers and the two cooperating exporting producers). The Commission also used various import statistics, including import statistics collected pursuant to Article 14(6) of the basic Regulation ('Article 14(6) database'). Global Trade Atlas ('GTA') ⁽¹⁰⁾, and the United States of America ('US') import database were also used.

3.2. Turkey

3.2.1. Dumping during the review investigation period

- (29) In accordance with Article 11(2) of the basic Regulation, the Commission first examined whether imports of TPF from Turkey in the Union during the review investigation period were dumped, based on the data provided by the cooperating exporting producers. For the sake of completeness, dumping by non-cooperating exporting producers during the review investigation period was also examined, based on facts available in particular data from the Article 14(6) database, adjusted for freight and insurance, on the basis of the replies of the cooperating exporting producers.

⁽¹⁰⁾ <http://www.gtis.com/gta/secure/default.cfm>

3.2.1.1. Targeted dumping

- (30) In the original investigation the Commission found that some of the exporting producers cooperating in that investigation were practicing targeted dumping, within the meaning of Article 2(11) of the basic Regulation. In this review investigation, the Commission analysed the export sales to the Union during the review investigation period in order to examine whether targeted dumping continued throughout that period, i.e. whether there was a clear pattern of export prices that differed significantly among different purchasers, regions or time periods. No indications of such practices were found in this expiry review.

3.2.1.2. Cooperating exporting producers

Normal value

- (31) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represents at least 5 % of its total export sales volume of the product under review to the Union during the review investigation period.
- (32) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union and examined whether the domestic sales by each cooperating exporting producer for each product type were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the review investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (33) The Commission defined the proportion of profitable sales to independent customers on the domestic market for each product type during the review investigation period in order to decide whether to use actual domestic sales prices for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (34) The normal value was based on the actual domestic price per product type, irrespective of whether those sales were profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (35) In those cases, the normal value was established at the weighted average of the prices of all domestic sales of that product type during the review investigation period.
- (36) The normal value was based on the actual domestic price per product type of only the profitable domestic sales of the product types during the review investigation period, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type: or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (37) When there were no or insufficient sales of a product type of the like product in the ordinary course of trade or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Articles 2(3) and 2(6) of the basic Regulation.
- (38) Normal value was constructed by adding the following to the average cost of production of the like product of each cooperating exporting producer during the review investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by each cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period; and
 - (b) the weighted average profit realised by each cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.

Export price

- (39) In all cases the product under review was exported to independent customers in the Union, and therefore, 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.

Comparison

- (40) The Commission compared the normal value and the export price of the exporting producers as established above on an ex-works basis.
- (41) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. The normal value was adjusted for freight and credit costs, whereas the export price was adjusted for freight, insurance and credit costs.

Dumping by the cooperating exporting producers during the review investigation period

- (42) For the cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product under review, in accordance with Article 2(11) and (12) of the basic Regulation.
- (43) For the two cooperating exporting producers, the comparison between the normal value and the export price showed no dumping during the review investigation period.

3.2.1.3. Non-cooperating exporting producers

- (44) The Commission examined dumping by non-cooperating exporting producers, using facts available, in accordance with Article 18 of the basic Regulation.

Normal value

- (45) The Commission could not use the weighted average normal value established for the cooperating exporting producers, as it was based on pieces whereas the export price taken from the Article 14(6) database was based on tonnes. Therefore, the Commission used the normal value provided by the applicant as more representative for the country as a whole. In any event, as mentioned below, using the weighted average normal value of the cooperating exporting producers would not change the Commission's findings regarding the absence of dumping during the review investigation period.

Export price

- (46) To establish the average export price for the non-cooperating exporting producers in Turkey, the Commission used data from the Article 14(6) database, excluding the import figures of the cooperating exporting producers.

Comparison

- (47) The Commission compared the normal value and the export price of the exporting producers as established above on an ex-works basis.
- (48) The Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. The normal value and export price were adjusted for freight, insurance and credit costs, calculated based on the data provided by the cooperating exporting producers.

Dumping by the non-cooperating exporting producers during the review investigation period

- (49) The Commission found no dumping as the export price was significantly above the normal value. Furthermore, the average export price of non-cooperating exporting producers was above the average export price of the cooperating exporting producers. Thus, had the weighted average normal value of the cooperating exporting producers been used, there would also be no dumping.

3.2.2. Likelihood of recurrence of dumping

- (50) Since no dumping was established during the review investigation period, the Commission analysed whether there was a likelihood of recurrence of dumping, should the measures on imports of TPF from Turkey be allowed to lapse. When doing so, the following elements were analysed: export price to other destinations, the production capacity and spare capacity in Turkey, and the attractiveness of the Union market.

3.2.2.1. Exports to other third countries

- (51) The Commission examined the price behaviour of Turkish exporters to other third countries, based on Turkish export statistics, which are at 8-digit code level ⁽¹¹⁾. The Commission consulted these statistics, as both cooperating exporting producers did not export to third countries during the review investigation period.
- (52) Based on the GTA export statistics, although the Union is the most significant export market for Turkish producers, these exports only represented around 13 % of the estimated TPF production in Turkey, as described in recital (53) below. Therefore, Turkish domestic market remains the main focus of Turkish TPF producers. The Commission's analysis of the Turkish export statistics also showed that the exports to third countries were negligible ⁽¹²⁾ and that the product type price variations were significant to the extent that they rendered the average unit price in those third countries and any comparison with the average unit price on the Union market unrepresentative and meaningless.

3.2.2.2. Turkish production capacity

- (53) Based on the request, the questionnaire replies of the cooperating companies and a submission by the Turkish Steel Exporters' Association, the Commission established Turkish production capacity at around 35 000 tonnes. Based on the same dataset, the Commission established the spare capacity of TPF in Turkey at around 23 000 tonnes. While this is still close to half of the Union consumption of TPF during the review investigation period (53 000 tonnes), as established in recitals (54) to (55), it is unlikely that these spare capacities will be directed to the Union market in large quantities should the measures lapse. It is also noted that spare capacities in Turkey are far below the levels found in the other countries concerned, which were estimated at 50 000 tonnes for Russia, 112 000 tonnes for Korea and 44 000 tonnes for Malaysia.

3.2.2.3. Attractiveness of the Union market

- (54) Despite being attributed by far the lowest duty compared to the anti-dumping duty on imports of the product under review from other countries subject to the measures ⁽¹³⁾, Turkish TPF producers did not exploit this relative advantage, as confirmed by the relatively low volumes exported to the Union during the review investigation period. Hence, while the Turkish TPF producers remain present on the Union TPF market, its attractiveness for the said producers has been limited.
- (55) The above considerations appear to be confirmed by the behaviour of one of the largest producers of TPF in Turkey, whose situation was determined to be a good indicator of what might happen if the measures for Turkey were discontinued. The company was attributed the lowest anti-dumping duty (2,9 %). Despite this relatively low duty, in particular in comparison to their competitors, it did not increase its export sales to the Union, which were even lower in the review investigation period than in the original investigation period. At the same time, its domestic sales remained roughly at the same level than prior to the imposition of the definitive measures.

⁽¹¹⁾ 8 digit codes allow for more accurate narrowing down of the trade statistics to the product under review than 6 digit codes. The figures based on 8 digit codes are therefore closer to the value and volume of trade of the product under review.

⁽¹²⁾ The three biggest of them being Turkmenistan, Georgia and Azerbaijan, representing around 0,7 %, 0,5 % and 0,3 % of all Turkish estimated production of TPF in the review investigation period, respectively.

⁽¹³⁾ There are anti-dumping duties imposed on imports of TPF originating in China at a level of 58,6 % (extended to Taiwan, Indonesia, Sri Lanka and the Philippines), while the anti-dumping duties imposed on imports of TPF originating in South Korea, Malaysia and Russia range between 23,8 % and 75 %. In comparison, the anti-dumping duties imposed for imports of TPF originating in Turkey range from 2,9 % to 16,7 %.

3.2.2.4. Conclusion on the recurrence of dumping

- (56) Whilst there is spare production capacity of TPF in Turkey, the Commission found no indication that spare capacity would be used for exports to the Union in significant quantities, also given the lack of interest in the Union market the Turkish producers have shown during the review investigation period, despite their relative advantage to access the Union market. This finding is further substantiated by the fact that Turkish producers, who benefit from low anti-dumping duties in the Union, giving them a relative comparative advantage in relation to other exporting producers, did not use this opportunity to increase their market share. Finally, any exports to the Union are unlikely to be made at dumped levels, as exports during the review investigation period were not made at dumped levels. The Commission found no indication that future exports would be at dumped price levels. On this basis, it is expected that, even if Turkish exports may increase should measure be removed, this increase will not be at any significant quantities and in any event not at dumped price levels.
- (57) Considering the foregoing, the Commission concluded that there is no likelihood of recurrence of dumping from Turkey should measures be allowed to lapse.

3.3. Russia

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

3.3.1. Dumping during the review investigation period

3.3.1.1. Preliminary remarks

- (59) None of the Russian exporting producers cooperated with the investigation. The Commission therefore used facts available, in accordance with Article 18 of the basic Regulation to establish the continuation or recurrence of dumping. In this regard, the Commission used statistical data (i.e. the Article 14(6) database and the GTA export statistics), as well as the information provided by the applicant in the request for review.
- (60) In their comments on the final disclosure, the Russian Government argued that the information used by the Commission to calculate the dumping margin was based solely on the request for review, had not been checked properly and does not reflect the real situation on the Russian market. As stated in recital (59), none of the Russian exporting producers cooperated in the review investigation despite having been invited to do so. Moreover, contrary to what the Russian Government claims, when using facts available the Commission not only used information provided by the applicant but also relied on other statistical data from independent sources. This argument is therefore rejected.

3.3.1.2. Continuation of dumping to the Union during the review investigation period

Normal value

- (61) In the absence of any other information available, normal value was based on data provided by the applicant in the request for review, in accordance with Article 18 of the basic Regulation.

Export price

- (62) Due to non-cooperation the average export price to the Union was established based on the Article 14(6) database. There was no information available to distinguish product types in the Article 14(6) database. Therefore, the average export price of all product types was used.
- (63) In their comments on the final disclosure, the Russian Government contended that the export price was calculated selectively on the basis of the data on Russian export to the Czech Republic only. This is incorrect. In establishing the export price the Commission used exports of the product under review to all Member States during the review investigation period, as recorded in the Article 14(6) database, not only the Czech Republic. This argument is therefore rejected.

Comparison

- (64) The weighted average normal value was compared with the weighted average export price, in accordance with Article 2(11) of the basic Regulation.

- (65) For ensuring a fair comparison between normal value and export price, account was taken of differences in factors affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. In this respect, transport cost and insurance, which were established based on the information provided by the applicant in the request for review, were deducted from the export price.

Dumping margin

- (66) A comparison of the average normal value and the average export price duly adjusted to *ex-works* level as described above, expressed as a percentage of the Cost Insurance Freight ('CIF') Union frontier price resulted in a dumping margin of 41,8 % during the review investigation period. Therefore, the Commission found that dumping continued during the review investigation period. The level of imports during the review investigation period was, however, relatively limited, representing 0,9 % of the total Union consumption during that period, according to Article 14(6) database. Yet, the Commission considered such information as the best available information to conclude that dumping continued during the review investigation period.

3.3.1.3. Likelihood of continuation or recurrence of dumping should measures on imports from Russia be repealed

- (67) As established above, imports of TPF from Russia were found to be dumped during the review investigation period. The Commission further analysed if dumping found during the review investigation period was likely to continue if the current anti-dumping measures on imports of TPF from Russia would be allowed to lapse. For the sake of completeness, the Commission also analysed whether dumping was likely to recur if the current anti-dumping measures on imports of TPF from Russia would be allowed to lapse. When doing so, the following elements were analysed: export price to other destinations, the production capacity and spare capacity in Russia and the attractiveness of the Union market.

3.3.1.4. Exports to third countries

- (68) According to the GTA export statistics, only two export markets, alongside the Union (representing around 12 % of its exports) are of significance for Russian TPF producers. These are Kazakhstan (around 46 % of total exports) and Belarus (around 26 % of total exports). However, the information on export sales to these countries is available only at 6-digit code level and includes therefore products other than the product under review. Therefore conclusions on export volumes to other third countries based on the GTA export statistics can only be considered as indicative. Likewise, average prices established on this basis would also include products other than the product under review, which may have different unit values, and any conclusion based on them would also need to be considered as indicative.
- (69) In their comment on the final disclosure, the Russian Government alleged that there would be no dumping had the Commission used Russian TPF producers' sales to third countries, instead of Russian exports to the Union, as recorded in Article 14(6) database. Absent cooperation from the exporting producers, the Commission could not examine actual export figures to third countries. Moreover, the figures relied on by the Russian Government for this claim are based on 6-digit code (which includes other products than the product under review as explained above in recital (68)). The analysis made by the Commission in recital (66) is based on Article 14(6) database, which, although does not distinguish between product types, gives precise data on the imports of the product under review. This argument is therefore rejected.

3.3.1.5. Production capacity and spare capacity

- (70) According to the facts available included in the request for review, Russia has an estimated production capacity of 90 000 tonnes and an estimated spare capacity of 50 000 tonnes. Russia's spare capacity is therefore close to the entire Union consumption of TPF.

3.3.1.6. Attractiveness of the Union market

- (71) TPF is used mainly in the oil and gas industry, construction, energy generation, shipbuilding and industrial installations. None of the facts available point to a substantial growth or decline of these sectors in Russia and, hence, the Russian domestic market for TPF is considered to remain rather stable for the years ahead and is unlikely to offer any substantial expansion possibilities for the Russian TPF. Besides Russia, the main export markets for these industries are the Union, Kazakhstan and Belarus. No information is available suggesting that the demand

on any of those markets would shrink or increase to a significant extent in the coming years. According to the information provided by the applicant, there is a worldwide overcapacity of TPF and the Union market is one of the largest markets worldwide and therefore an attractive export destination.

- (72) In their comments on the final disclosure, the Russian Government submitted that the domestic Russian consumption as well as forecasted demand for TPF showed moderate upward trend (2 % and 2,4-2,8 % respectively). It is noted that the Russian Government failed to back these figures with a verifiable dataset. In any event, even when taking the said figures at a face value, they show consistently with the Commission's findings that the situation on the Russian market for the product under review is rather stable and is unlikely to offer any substantial expansion possibilities for the Russian TPF. This argument is therefore rejected.
- (73) The Russian exporting producers of TPF did not cooperate with this investigation. There is also no valid statistical information on prices available on Russian TPF sales to other third country markets or the domestic market in Russia. Therefore, price levels to these markets could not be established during the investigation.
- (74) Given the level of anti-dumping duties in place, Russian producers had almost stopped their exports to the Union. The investigation showed that Russian imports were practically absent from the Union market in 2014 and 2015. Russia resumed exports to the Union (which were moreover dumped despite high duties in place) only in 2016 and increased them further in the review investigation period.
- (75) Should the duty be allowed to lapse, Russian exports will be able to access the Union market without obstacles. Considering the large spare capacities of Russia, combined with the global overcapacity, the Commission considered that it could not be excluded that this would lead to a significant increase of exports from Russia to the Union, which is also due to its proximity an important potential export market for Russia. In addition, Russian exports to the Union will likely be at dumped prices as established in recital (66).

3.3.1.7. Conclusion on the likelihood of continuation or, in any event, likelihood of recurrence of dumping

- (76) Based on the above, the Commission concluded that dumping would be likely to continue in the future should measures be allowed to lapse. The Commission also concluded that there was likelihood of recurrence of dumping. Given the lack of cooperation the Commission could only analyse data on export to third countries at 6-digit code level. This analysis could not be considered conclusive for the reasons explained in recital (68). Nevertheless, considering the large spare capacity in Russia, the dumped price levels of TPF to the Union during the review investigation period, together with the attractiveness of the Union market for the Russian TPF producers, which is a major potential export market for Russia, the Commission also concluded that significant quantities of TPF from Russia would likely enter the Union market at dumped price levels, should measures be allowed to lapse.
- (77) In light of the foregoing, based on facts available the Commission concluded that the expiry of the anti-dumping measures on TPF from Russia would be likely to lead to a continuation and in any case recurrence of dumping.

3.4. Korea

- (78) No Korean producer cooperated during the investigation. Therefore, the likelihood of continuation or recurrence of dumping was based on facts available in accordance with Article 18 of the basic Regulation. In this regard, the Commission used the request, GTA export statistics and US import statistics.

3.4.1. Continuation of dumping in the Union during the review investigation period

- (79) Exports from Korea were negligible (less than 40 tonnes) during the review investigation period and were therefore not considered representative. The analysis focused on the recurrence of dumping from Korea based on facts available, in accordance with Article 18 of the basic Regulation.

3.4.2. Evidence of likelihood of recurrence of dumping

- (80) The Commission analysed whether there was a likelihood of recurrence of dumping should the measures lapse. When doing so, the following elements were analysed: Korean export prices to other destinations, the production capacity, and spare capacity in Korea and the attractiveness of the Union market.

3.4.2.1. Exports to third countries

- (81) In order to examine the likely behaviour of TPF producers in Korea vis-à-vis the Union market, should measures lapse, the Commission considered Korean export behaviour to the US market. The Commission chose the US since, unlike any other Korean export destination, that market is of a similar size to the Union market, with many domestic producers but also with a large proportion of imports and low import tariff rates, making it a very competitive market. Furthermore, the US is the first destination for exports from Korea, representing around 27 % of its TPF exports in the review investigation period ⁽¹⁴⁾, with relatively detailed statistics ⁽¹⁵⁾. Finally, this approach is identical to the one applied in the previous expiry review for Korea mentioned in recital (1).

Normal value

- (82) In the absence of any other information available, normal value was based on data provided by the applicant in the request for review, in accordance with Article 18 of the basic Regulation.
- (83) For the sake of completeness, the Commission also used domestic price listing provided by the applicant in the request for review as an alternative method to determine normal value. Yet, using either normal value, the Commission's findings on dumping remained positive. In fact, using the domestic price listing resulting in higher dumping margins found.

Export price

- (84) Export prices during the review investigation period were established based on publicly available data, i.e. the US customs statistics. Based on the methodology developed by the applicant in the request for review, the Commission adjusted the statistics to exclude product types, which were not included in the constructed normal value as described above, in view of a better comparability.

Comparison

- (85) The weighted average normal value was compared with the weighted average export price as established above, in accordance with Article 2(11) of the basic Regulation, both at *ex-works* level.
- (86) For ensuring a fair comparison between normal value and export price, account was taken of differences in factors affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, the export price was adjusted for transport, insurance and packing costs estimated by the applicant in the request for review to bring the values obtained from the US import statistics on CIF basis to *ex-works* level.

Dumping margin during the review investigation period

- (87) A comparison of the average normal value and the average export price duly adjusted to *ex-works* level as described above, expressed as a percentage of the CIF US frontier price resulted in a dumping margin of 7,2 % for constructed normal value and 9,1 % for when the domestic price listing was used. Furthermore, as further explained in recital (90) below, Korean producers of certain TPF (carbon steel butt-welding fittings) were recently found dumping their product in Japan.

3.4.2.2. Production capacity and spare capacity

- (88) According to the facts available in the request for review, Korea has a production capacity of 160 000 tonnes and a spare production capacity of 112 000 tonnes. This spare capacity equals two times the entire Union consumption. According to the request, since the introduction of the definitive duties in 2002, the Korean TPF production capacity has been significantly extended, from estimated 10 000 tonnes to estimate 160 000 tonnes during the review investigation period.

⁽¹⁴⁾ The other main destinations during the review investigation period were Saudi Arabia, United Arab Emirates and China, representing respectively 16 %, 5 % and 4 % of Korean TPF exports.

⁽¹⁵⁾ The US import statistics are based on 8 digit codes, which allow for more accurate narrowing down of the trade statistics to the product under review than 6 digit codes. The figures based on 8 digit codes are therefore closer to the value and volume of trade of the product under review.

3.4.2.3. Attractiveness of the Union market

- (89) None of the facts available point to a substantial growth or decline of sectors that use TPF in Korea and, hence, the Korean domestic market for TPF is considered to remain rather stable for the years ahead and will therefore not offer any substantial expansion possibilities for the Korean TPF producers. Besides the US, the main other export markets for Korean TPF producers are the Middle East and South-East Asia. No information available during the investigation suggests that the demand on any of those markets would increase to a significant extent in the coming years.
- (90) In addition, on 31 March 2018, Japan imposed definitive anti-dumping duties, ranging from 41,8 % to 63,2 % on imports of carbon steel butt welding fittings from Korea. An open Union market would be a perfect target for diverting those exports.
- (91) The investigation showed that the Union TPF market is attractive for Korean exports, as it is not yet fully exploited by them, in view of the high duties in force (from 32,4 %, for one producer, to 44 % for the others). Although their exports stopped following the introduction of the measures in 2002, the Korean TPF industry is still heavily dependent on exports. With over-capacities in South-East Asia, anti-dumping duties in Japan and already significant exports to the US, the Union market would represent another major potential export market for the Korean over-capacities, should measures lapse.

3.4.2.4. Conclusion on the likelihood of recurrence of dumping

- (92) Considering the production and spare capacities, pricing practices of Korean producers on the US market and the attractiveness of the Union market for Korean TPF producers, it is highly likely that Korean TPF producers would export significant quantities of TPF to the Union at dumped prices, should the measures lapse. Considering the increase in production capacity and spare capacity since the measures were originally introduced, the level of dumped imports could be much higher than before the definitive measures were imposed. Therefore, the Commission concluded that there is likelihood of recurrence of dumping should the measures lapse.

3.5. Malaysia

- (93) No Malaysian producer cooperated during the investigation. Therefore, the likelihood of continuation or recurrence of dumping was based on facts available in accordance with Article 18 of the basic Regulation. In this regard, the Commission used the request, GTA export statistics, and US import statistics.

3.5.1. Continuation of dumping in the Union during the review investigation period

- (94) According to the Article 14(6) database, imports from Malaysia were negligible (less than 10 tonnes) during the review investigation period and were therefore not considered representative. The analysis focused on the recurrence of dumping from Malaysia based on facts available, in accordance with Article 18 of the basic Regulation.

3.5.2. Evidence of likelihood of recurrence of dumping

- (95) The Commission analysed whether there was a likelihood of recurrence of dumping should the measures lapse. When doing so, the following elements were analysed: Malaysian export prices to other destinations, the production capacity and spare capacity in Malaysia, and the attractiveness of the Union market.

3.5.2.1. Exports to third countries

- (96) In order to examine the likely behaviour of TPF producers in Malaysia, the Commission examined Malaysia's exports to the US. This approach is identical to the one applied in the previous expiry review for Malaysia mentioned in recital (1). The Commission chose the US, as the US market is of a similar size to that of the Union, with many domestic producers but also with a large proportion of imports and low import tariff rates, making it a very competitive market. Furthermore, the US market is by far the most important export market for Malaysia. According to GTA export statistics, the export volume to the US was almost 19 000 tonnes in the

review investigation period, representing around 90 % of Malaysia's total TPF exports during that period. The export volume to the US is also more than the estimated total Malaysian production ⁽¹⁶⁾. The other main export markets for Malaysians TPF producers are Mexico, Turkey, and Canada, representing respectively 4 %, 3 % and 1 % of their TPF exports.

Normal value

- (97) In the absence of any other information available, normal value was based on data provided by the applicant in the request for review, in accordance with Article 18 of the basic Regulation.

Export price

- (98) Export prices during the review investigation period were established based on publicly available data, i.e. the US customs statistics. Based on the methodology developed by the applicant in the request for review, the Commission adjusted the statistics to exclude product types which were not included in the constructed normal value as described above, in view of a better comparability.

Comparison

- (99) The weighted average normal value was compared with the weighted average export price of TPF, in accordance with Article 2(11) of the basic Regulation, both at *ex-works* level.
- (100) For ensuring a fair comparison between normal value and export price, account was taken of differences in factors affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, the export price was adjusted for transport, insurance and packing costs, estimated by the applicant in the request for review to bring the values obtained from the US import statistics on CIF basis to *ex-works* level.

Dumping margin during the review investigation period

- (101) A comparison of the average normal value and the average export price duly adjusted to *ex-works* level as described above, expressed as a percentage of the CIF US frontier price resulted in all cases in a dumping margin of over 86,7 %. Indeed, as explained in recital (105) below, the US authorities found that Malaysia was being used to circumvent anti-dumping duties imposed on Chinese TPF producers. The duties were extended to Malaysian TPF exporters.

3.5.2.2. Production capacity and spare capacity

- (102) According to the request, Malaysia has a production capacity of 59 000 tonnes and spare capacity of 44 000 tonnes, which is close to the entire Union consumption of TPF. The request for review adds that, since the introduction of the definitive measures in 2002, Malaysian TPF production capacity has been significantly extended, from estimated 10 000 tonnes to estimate 59 000 tonnes during the review investigation period.

3.5.2.3. Attractiveness of the Union market

- (103) None of the facts available point to a substantial growth or decline in the Malaysia industries using TPF and hence, the Malaysian domestic market for TPF is considered to remain rather stable for the years ahead and will therefore not offer any substantial expansion possibilities for the Malaysian TPF.
- (104) The investigation showed that the Union TPF market is attractive for Malaysian exports. This is mainly due to the potential offered to the Malaysian TPF producers, which they are not realising due to the level of anti-dumping duties. Although their exports practically stopped following the introduction of the definitive measures in 2002, the Malaysian TPF industry is heavily depending on exports with the main export market being the US.

⁽¹⁶⁾ In their decision of 25 July 2018, US authorities provisionally extended the duties of 182,9 % imposed on carbon steel butt-weld pipe fittings from the People's Republic of China to Malaysia due to circumvention, 83 FR 35205 – 35208.

- (105) On 25 July 2018, the US authorities extended the anti-dumping duty of 182,9 % imposed on imports of carbon steel butt-weld pipe fittings from the People's Republic of China provisionally onto imports of that product from Malaysia, because they found that Malaysia was used to circumvent these measures. Whilst the genuine TPF producers in Malaysia may be exempted from this duty, the certification obligation would make it more cumbersome and thus less attractive for them to sell their products in the US.
- (106) The above, in combination with over-capacities in South-East Asia, mentioned in recital (91), makes the Union market a target market for the Malaysian over-capacities and products previously sold to the US, should the measures be allowed to lapse.

3.5.2.4. Conclusion on the likelihood of recurrence of dumping

- (107) Considering the spare capacity, the pricing practices in the US and the anti-dumping duties extended onto Malaysia in that market, paired with the attractiveness of the Union market for Malaysian TPF producers, it is highly likely that Malaysian TPF producers would export significant quantities of TPF at dumped prices to the Union, should the measures be allowed to lapse. Considering the increase in production capacity and spare capacity since the definitive measures were introduced in 2002, the level of dumped imports could be much higher than prior to the imposition of the definitive measures. Therefore, the Commission concluded that there is likelihood of recurrence of dumping should the measures lapse.

3.6. Conclusion

3.6.1. Turkey

- (108) As concluded in recitals (43) and (49) the investigation did not reveal dumping for any of the exporting producers in Turkey during the review investigation period and did not establish any likelihood of recurrence of dumping should measures be allowed to lapse.
- (109) The investigation concerning Turkey should therefore be terminated and measures with regard to Turkey repealed.

3.6.2. Russia, Korea and Malaysia

- (110) With respect to Russia, the Commission concluded that, on the basis of the information available during the review investigation period, dumping from Russia continued. Moreover, considering the large spare capacity in Russia, the export prices to third countries, the dumped price levels of TPF to the Union during the review investigation period, together with the attractiveness of the Union market for the Russian TPF producers, which is a major potential export market for Russia, the Commission also concluded that significant quantities of TPF from Russia would likely enter the Union market at dumped price levels, should measures be allowed to lapse. Thus, the Commission also concluded that there was evidence of recurrence of dumping.
- (111) With respect to Malaysia and Korea, given the important overcapacities in those countries, the limited growth potential on their domestic markets, and the attractiveness of the Union market for the TPF producers in these countries, it was concluded that imports from these countries of the product under review to the Union would increase in significant quantities should anti-dumping measures be allowed to lapse. The Commission found in addition that those imports would likely be made at dumped prices. The Commission therefore concluded that the expiry of the measures on TPF would be likely to lead to recurrence of dumping with respect to Korea and Malaysia.

4. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

4.1. Definition of the Union industry and Union production

- (112) During the review investigation period, the like product was manufactured by twenty-one Union producers. Three of those producers are represented by the applicant. Those twenty-one Union producers constitute the 'Union industry' within the meaning of Article 4(1) and 5(4) of the basic Regulation. The four Union producers were sampled, as described in recitals (14) to (15). The sample accounts for more than 54 % of the total Union production and sales volume as described in recital (15).

4.2. Union consumption

(113) The Commission established the Union consumption by adding:

- (i) the sales of the sampled Union producers, obtained after verification of the questionnaire replies,
- (ii) the sales of non-sampled cooperating Union producers, obtained from the review request and subsequent information provided by the applicant,
- (iii) the imports from the countries concerned and from all other third countries, based on Eurostat (TARIC level).

(114) On this basis, Union consumption developed as follows:

Table 1

Union consumption

	2014	2015	2016	RIP
Union consumption (tonnes)	59 864	51 151	56 722	52 535
<i>Index (2014 = 100)</i>	100	85	95	88

Source: questionnaire replies of sampled Union producers, review request, information provided by the applicant, Eurostat (TARIC level).

(115) The Union consumption decreased by 12 % over the period considered. More specifically, while the Union consumption decreased by 15 % in 2015, it recovered between 2015 and 2016 before decreasing again from 2016 to the review investigation period.

4.3. Imports from the countries concerned

4.3.1. Preliminary remark

(116) As mentioned in recitals (43), (49) and (57), no dumping during the review investigation period or likelihood of recurrence of dumping was found as far as imports of the product under review originating in Turkey are concerned. As a consequence, the measures with regard to Turkey should be terminated. Therefore, for the purpose of the examination of continuation or recurrence of injury, the Commission will examine imports from Turkey together with imports from third countries. For the sake of completeness, figures concerning Turkey will also be reported separately in section 4.3.5.

4.3.2. Imports from Malaysia

(117) Import volumes from Malaysia were based on Eurostat (TARIC level) statistics. The Commission established the market share of the imports on the basis of the Union consumption as set out in recital (113).

(a) Volume and market share

Table 2

Import volume and market share

		2014	2015	2016	RIP
Malaysia	Import volume (tonnes)	0,1	0,6	0,4	1,3
	<i>Index (2014 = 100)</i>	100	600	400	1 300
	Market share (%)	0,0	0,0	0,0	0,0

Source: Eurostat (TARIC level)

(118) Import volumes from Malaysia were close to zero during the whole period considered and at a similar level since imposition of the definitive measures in 2002. Market shares were negligible during the whole period considered.

(b) Prices and price undercutting

- (119) In view of very low import volumes from Malaysia and the wide range of product types (comprising variety of parameters such as specification standards, material grade, basic raw material, type (elbow, tee or reducer), external diameter and wall thickness) of the product under review, prices of these imports could not be analysed meaningfully.

4.3.3. Imports from Korea

- (120) Import volumes from Korea were based on Eurostat (TARIC level) statistics. The Commission established the market share of the imports on the basis of the Union consumption as set out in recital (113).

(a) Volume and market share

Table 3

Import volume and market share

		2014	2015	2016	RIP
Korea	Import volume (tonnes)	405	89	346	36
	Index (2014 = 100)	100	22	85	9
	Market share (%)	0,7	0,2	0,6	0,1
	Index (2014 = 100)	100	26	90	10

Source: Eurostat (TARIC level)

- (121) Import volumes from Korea were negligible during the whole period considered and shrank to 0,1 % of market share during the RIP. They remained at a similar level since imposition of the definitive measures in 2002. Market shares decreased from 0,7 % in 2014 to 0,1 % in the RIP.

(b) Prices and price undercutting

- (122) In view of very low import volumes from Korea and the wide range of product types of the product under review, prices of these imports could not be analysed meaningfully.

4.3.4. Imports from Russia

- (123) Import volume and average import price for Russia were based on Eurostat (TARIC level) statistics. The Commission established the market share of the imports on the basis of the Union consumption as set out in recital (113).

(a) Volume and market share

Table 4

Import volume and market share

		2014	2015	2016	RIP
Russia	Import volume (tonnes)	18	21	431	468
	Index (2014 = 100)	100	119	2 448	2 657
	Market share (%)	0,0	0,0	0,8	0,9
	Index (2014 = 100)	100	139	2 584	3 027

Source: Eurostat (TARIC level)

- (124) Import volumes from Russia were at low levels during the whole period considered. They increased from 18 tonnes in 2014 and 2015 to 431 tonnes in 2016 and to 468 tonnes during the RIP, which corresponded to an increase of market share from 0 % in 2014/15 to 0,9 % in the RIP.

(b) Prices and price undercutting

- (125) The average price of imports into the Union from Russia developed as follows:

Table 5

Import price

		2014	2015	2016	RIP
Russia	Import prices (EUR/tonne)	9 706	7 088	1 126	980
	Index (2014 = 100)	100	73	12	10

Source: Eurostat (TARIC level)

- (126) Average import price from Russia reached very high levels during 2014 and 2015, but dropped from 2015 to 2016 by 84 % and by further 13 % in the RIP. Overall, import prices decreased by 90 % during the period considered.
- (127) As set out in recital (124), whilst import volumes were too low to be considered representative it was considered that prices of those imports could nonetheless be considered a fair indication of future price behaviour should measures be allowed to lapse.
- (128) In the absence of cooperation by Russian exporters/producers as mentioned in recital (58) the Commission had to rely on facts available to determine the level of the price undercutting in accordance with Article 18 of the basic Regulation. In this case, it determined the price undercutting for imports originating in Russia during the review investigation period by comparing (i) the weighted average sales prices of the sampled Union producers charged to unrelated customers in the Union, adjusted to an ex-works level; with (ii) the average price of the imports from Russia to the first independent customer on the Union market, established on a CIF basis as reported in Eurostat adjusted for post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value.
- (129) Due to the non-cooperation the product types exported from Russia could not be determined. Therefore, a comparison on a per-type basis was not possible. The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period.
- (130) The comparison showed a weighted average undercutting margin of 49,8 % for Russia in the Union market during the review investigation period.

4.3.5. Imports from other third countries

- (131) Import volume and average import price for all other third countries was based on Eurostat (TARIC level) statistics. The Commission established the market share of the imports on the basis of the Union consumption as set out in recital (113).

Table 6

Import volume and market share

Country		2014	2015	2016	RIP
All other third countries	Imports (tonnes)	21 906	17 812	23 062	20 865
	Index (2014 = 100)	100	81	105	95
	Market share (%)	36,6	34,8	40,7	39,7
	Price (EUR/tonne)	1 879	2 202	1 907	1 686
	Index (2014 = 100)	100	117	102	90

Country		2014	2015	2016	RIP
China	Imports (tonnes)	8 915	7 239	10 054	8 086
	<i>Index (2014 = 100)</i>	100	81	113	91
	Market share (%)	14,9	14,2	17,7	15,4
	Price (EUR/tonne)	1 232	1 474	1 285	1 233
	<i>Index (2014 = 100)</i>	100	120	104	100
Cambodia	Imports (tonnes)	1 151	1 137	2 899	3 403
	<i>Index (2014 = 100)</i>	100	99	252	296
	Market share (%)	1,9	2,2	5,1	6,5
	Price (EUR/tonne)	1 301	1 486	1 280	1 322
	<i>Index (2014 = 100)</i>	100	114	98	102
Vietnam	Imports (tonnes)	2 954	2 377	2 348	2 803
	<i>Index (2014 = 100)</i>	100	80	79	95
	Market share (%)	4,9	4,6	4,1	5,3
	Price (EUR/tonne)	1 696	1 883	1 473	1 501
	<i>Index (2014 = 100)</i>	100	111	87	88
Turkey	Import volume (tonnes)	1 147	1 316	1 745	1 509
	<i>Index (2014 = 100)</i>	100	115	152	132
	Market share (%)	1,9	2,6	3,1	2,9
	<i>Index (2014 = 100)</i>	100	134	161	150
	Import prices (EUR/tonne)	1 924	1 915	1 824	1 782
	<i>Index (2014 = 100)</i>	100	100	95	93
Other third countries	Imports (tonnes)	7 739	5 743	6 016	5 065
	<i>Index (2014 = 100)</i>	100	74	78	65
	Market share (%)	12,9	11,2	10,6	9,6
	Price (EUR/tonne)	2 773	3 460	3 443	2 729
	<i>Index (2014 = 100)</i>	100	125	124	98

Source: Eurostat (TARIC level).

- (132) In line with the decrease in consumption, the volume of imports from all other third countries decreased by 5 % between 2014 and the RIP. The market share of imports from all other third countries remained within the range 34,8 %-40,7 % during the period considered. Most imports came from China, Cambodia and Vietnam, which were the only countries with an individual market shares higher than 5 % during the review investigation period.
- (133) As mentioned in recital (6), anti-dumping measures are currently in force on imports of TPF originating in China. Despite declining import volumes (9 % during the period considered), given the decrease in the Union consumption, the market share of Chinese imports increased slightly during the same period (0,5 %). During the period considered market share ranged between 14,2 % and 17,7 %. Import prices from China were stable during the period considered. They were on average lower than the prices of the Union producers and also lower than import prices from other third countries.

- (134) Import volumes from Cambodia increased in absolute terms during the period considered and market share by 4,6 percentage points, from 1,9 % in 2014 to 6,5 % in the review investigation period. Import volumes from Vietnam decreased (by 5 %), which translated, however, as for China due to the decrease in the Union consumption to an increase in market share (by 0,4 percentage points). Market share of Vietnam thus developed from 4,9 % in 2014 to 5,3 % in the review investigation period. Import prices from Vietnam and Cambodia were on average lower than the prices of the Union producers and also lower than import prices from other third countries.
- (135) Finally, the import volumes of the remaining third countries not mentioned above decreased considerably by 35 % between 2014 and the RIP. Their market share decreased by 3,3 percentage points over the period considered, from 12,9 % in 2014 to 9,6 % in the review investigation period. Import prices from these countries were on average significantly higher than the prices of the Union producers. They were also significantly higher than import prices from China, Cambodia and Vietnam.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (136) In accordance with 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 during the period considered.
- (137) As mentioned in recital (15), sampling was applied for the determination of possible injury suffered by the Union industry.
- (138) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission assessed macroeconomic indicators relating to the whole Union industry on the basis of data obtained from the applicant, cross-checked with the information provided by a number of Union producers at pre-initiation stage and the verified questionnaire replies of the sampled Union producers. The Commission assessed the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers, which were verified. Both sets of data were found representative of the economic situation of the Union industry.
- (139) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (140) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments and ability to raise capital.

4.4.2. Macroeconomic indicators

(c) **Production, production capacity and capacity utilisation**

- (141) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 7

Production, production capacity and capacity utilisation of Union producers

	2014	2015	2016	RIP
Production volume (tonnes)	48 385	44 428	40 008	41 350
<i>Index (2014 = 100)</i>	100	92	83	85
Production capacity (tonnes)	165 181	165 181	164 003	150 202
<i>Index (2014 = 100)</i>	100	100	99	91
Capacity utilisation (%)	29,3	26,9	24,4	27,5

Source: review request, information provided by the applicant, verified questionnaire replies of the sampled Union producers.

- (142) The production volume decreased by 15 % during the period considered. More specifically, it started to decrease in 2015 and then decreased further in 2016 while picking up slightly in the review investigation period.
- (143) The production capacity decreased by 9 % over the period considered. It is noted that the production site of one Union producer stopped operations and was dismantled in August 2017, i.e. during the review investigation period.
- (144) Since production volume decreased more than capacity, the capacity utilisation decreased by 1,8 percentage points during the period considered.

(d) **Sales volume and market share**

- (145) The Union industry's sales volume and market share developed over the period considered as follows:

Table 8

Sales volume and market share of Union producers

	2014	2015	2016	RIP
Sales volume in the Union (tonnes)	37 535	33 228	32 882	31 165
<i>Index (2012 = 100)</i>	100	89	88	83
Market share (%)	62,7	65,0	58,0	59,3

Source: review request, information provided by the applicant, verified questionnaire replies of the sampled Union producers.

- (146) Total sales of the Union industry in the Union market decreased by 17 % during the period considered, at a slightly steeper rate than consumption during the same period (– 12 %). The Union industry's market share decreased by 3,4 percentage points over the period considered. On a yearly basis, the Union industry's sales volume mainly decreased between 2014 and 2015 (by 11 %), remained relatively stable in 2016, and decreased by further 6 % in the review investigation period. This resulted in a fluctuating market share during the period considered, increasing by 2,3 percentage points in 2015, then decreasing by 7 percentage points in 2016 and increasing again by 1,3 percentage points in the review investigation period.

(e) **Growth**

- (147) Between 2014 and the review investigation period, the Union consumption decreased by 12 %. The sales volume of the Union industry decreased by 17 %, which, translated into a loss in market share of 3,4 percentage points.

(f) **Employment and productivity**

- (148) Employment and productivity developed over the period considered as follows:

Table 9

Employment and productivity of Union producers

	2014	2015	2016	RIP
Number of employees	1 312	1 314	1 250	924
<i>Index (2014 = 100)</i>	100	100	95	70
Productivity (tonnes/employee)	37	34	32	45
<i>Index (2014 = 100)</i>	100	92	87	121

Source: review request, information provided by the applicant, verified questionnaire replies of the sampled Union producers.

- (149) Employment of the Union industry decreased by 30 % during the period considered. The major decrease happened in 2017, partly due to the closure of the production site of one Union producer.
- (150) Due to the decrease in production and even bigger decrease in employment (decrease of 14 % and 30 % respectively over the period considered), the productivity increased by 21 % over the same period.

(g) **Magnitude of the dumping margin and recovery from past dumping**

- (151) Dumping margin established with regard to imports of TPF into the Union from Russia during the review investigation period were significantly above the de minimis level. At the same time, the level of imports from Russia during the review investigation period was very limited, representing only 0,9 % of Union consumption. Therefore, the impact of the magnitude of the actual margins of dumping from Russia on the Union industry was rather limited.
- (152) As explained in recitals (118) and (121) the imports from Malaysia and Korea were negligible during the period considered. Accordingly, it was not possible to establish an affirmative determination of dumping with regard to these two countries. The investigation therefore focused on the likelihood of recurrence of dumping should the anti-dumping measures be repealed.

4.4.3. *Microeconomic indicators*

(a) **Prices and factors affecting prices**

- (153) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 10

Average sales prices in the Union and unit cost

	2014	2015	2016	RIP
Average unit selling price in the Union (EUR/tonne)	2 784	2 865	2 628	2 552
Index (2014 = 100)	100	103	94	92
Unit cost of production (EUR/tonne)	3 175	3 303	3 185	2 999
Index (2014 = 100)	100	104	100	94

Source: verified questionnaire replies of the sampled Union producers.

- (154) The Union industry's average unit sales price to unrelated customers in the Union decreased by 8 % and reached 2 553 EUR/tonne in the review investigation period. The Union industry had to adjust its prices downwards in order to reflect the general decrease of selling prices in the TPF market, due to the shrinking demand.
- (155) The average cost of production of the Union industry decreased to a lesser extent, by 6 % over the period considered. The major factor having influenced the decrease in the unit cost of production was the decrease in the raw material price.

(b) **Labour costs**

- (156) The average labour costs developed over the period considered as follows:

Table 11

Average labour costs per employee

	2014	2015	2016	RIP
Average labour costs per employee (EUR/employee)	55 163	54 443	53 850	54 988
Index (2014 = 100)	100	99	98	100

Source: verified questionnaire replies of the sampled Union producers.

(157) The average labour costs per employee remained stable over the period considered.

(c) **Inventories**

(158) Stock levels developed over the period considered as follows:

Table 12

Inventories

	2014	2015	2016	RIP
Closing stocks	5 857	6 213	7 495	7 098
<i>Index (2014 = 100)</i>	100	106	128	121
Closing stocks as a percentage of production (%)	23	28	38	32

Source: verified questionnaire replies of the sampled Union producers.

(159) The level of closing stocks of the sampled Union producers increased by 21 % during the period considered. In the review investigation period, the level of stocks represented around 32 % of its production.

(d) **Profitability, cash flow, investments, return on investments and ability to raise capital**

(160) Profitability, cash flow, investments and return on investments developed over the period considered as follows:

Table 13

Profitability, cash flow, investments and return on investments

	2014	2015	2016	Review investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	– 12,3	– 13,3	– 17,5	– 14,9
Cash flow (EUR)	– 3 572 396	– 3 040 537	– 2 134 815	1 100 439
<i>Index (2014 = 100)</i>	– 100	– 85	– 60	31
Investments (EUR)	2 606 076	1 644 753	1 691 602	3 550 772
<i>Index (2012 = 100)</i>	100	63	65	136
Return on investments (%)	– 20,0	– 20,3	– 25,7	– 18,5

Source: verified questionnaire replies of the sampled Union producers.

(161) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The losses of the Union industry increased from – 12,3 % in 2014 to – 14,9 % in the review investigation period, i.e. an increase of 2,6 percentage points.

(162) The net cash flow is the Union producer's ability to self-finance its activities. The net cash flow increased and turned to positive during the period considered. It was mostly affected by the profit generated on export sales. These export sales represented 32 % of all unrelated sales of the sampled producers in the review investigation period and allowed the sampled Union producers to be close to a break-even situation over the period considered.

- (163) During the period considered the annual flow of investments in the product under review made by the Union industry increased, from 2,6 million EUR in 2014 to 3,6 million EUR in the review investigation period. Investments were necessary for the Union producers to sustain the Union production, mostly in the maintenance and replacement of the old machinery and should be seen as a part of the ongoing restructuring process of the Union industry.
- (164) The return on investments is the profit in percentage of the net book value of investments. The return on investment from the production and sale of the like product fluctuated and reached – 18,5 % during the review investigation period.

4.4.4. Conclusion on the situation of the Union industry

- (165) The investigation showed that despite the measures in force most of the injury indicators developed negatively and the economic and financial situation of the Union industry deteriorated during the period considered.
- (166) Taking the above developments into account, it can be concluded that the Union industry suffered material injury during the review investigation period.
- (167) The negative developments of the Union industry are mainly explained by the decrease in consumption, which declined by 12 % during the period considered and the presence of imports from other third countries, mainly China, Cambodia and Vietnam, which represented 67 % of all imports into the Union during the review investigation period. Given that there was no cooperation from importers/users and that the data available in Eurostat do not differentiate between different product types, a meaningful price comparison by product type could not be carried out and the impact of the imports from these third countries could not be clearly established.

4.4.5. Conclusion

- (168) The Commission concluded in recital (166) that the Union industry suffered material injury during the review investigation period. The Commission also concluded in recital (167) that the injury to the Union industry observed during the review investigation period could not have been caused by imports from Malaysia, Korea, and Russia due to their very limited volume.
- (169) In this regard, the Commission further examined the likelihood of recurrence of injury originally caused by dumped imports from Malaysia, Korea, and Russia if measures were repealed.

4.5. Likelihood of recurrence of injury

4.5.1. Preliminary remark

- (170) To establish the likelihood of recurrence of injury should the measures be repealed the following elements were analysed: (a) the production capacity and spare capacity in Malaysia, Korea, and Russia, (b) the possible price levels of imports from these countries should measures be allowed to lapse and their impact on the Union industry's situation, (c) the existence of trade restrictive measures in other third countries on exports of TPF from Malaysia, Korea, and Russia.
- (171) Given the complete non-cooperation by the exporting producers findings were based on facts available in accordance with Article 18 of the basic Regulation. In this regard, information from the review request, Eurostat (TARIC level) and the US trade statistics was used.

(a) Production capacity and spare capacity available in Malaysia, Korea and Russia

- (172) As established in recitals (70), (88), and (102), the spare capacity in Russia, Malaysia and Korea was estimated to be around 251 000 tonnes in the RIP, which is more than four times the Union consumption during the same period.
- (173) In addition, there were no elements found that could indicate any significant increase of domestic demand of TPF in Malaysia, Korea or Russia or in any other third country market in the near future. Considering the decline of the Union TPF consumption during the period considered, the Commission concluded that domestic demand in Malaysia, Korea or Russia or in other third country markets could not absorb the available spare capacity.

(b) Possible price levels of imports from Malaysia, Korea and Russia

- (174) There was no cooperation from exporting producers in Malaysia, Korea and Russia. Furthermore, in view of the very low quantities imported in the Union from Malaysia and Korea, no reliable import prices could be established for these countries during the review investigation period.
- (175) Under these circumstances and in line with the methodology used in the last expiry review of the anti-dumping measures on imports originating in Malaysia and Korea, the export prices from Korea and Malaysia to the US were used as a proxy to establish what would be the likely price level of imports from Malaysia and Korea should measures be repealed. In this regard, it should be noted that the import volumes from Korea and Malaysia to the US amounted to 63 % of the Union consumption during the review investigation period. Furthermore, as established in recital (96), the US was found to be a comparable market to the Union market. On this basis, the Commission calculated undercutting margins excluding anti-dumping duties for such imports into the US. The calculation showed that import prices from Malaysia and Korea would likely undercut the Union sales prices by 53 % and 20 % respectively.
- (176) As far as Russia is concerned, while the import volume into the Union in the review investigation period was low, it was considered sufficient to give a fair indication of future price behaviour should measures be allowed to lapse. On this basis, the calculation without the anti-dumping duties showed that import prices from Russia would likely undercut the Union sales prices by 59 %.
- (177) Therefore, should the measures be repealed, the Union industry would be under a significant price pressure from Malaysia, Korea and Russia, which would further worsen its economic situation.

(c) Trade restrictive measures on exports from Malaysia, Korea and Russia and the attractiveness of the Union market

- (178) As indicated in the recital (90), Japan imposed definitive anti-dumping duties on imports of TPF from Korea in March 2018. In addition, as indicated in recital (98), anti-dumping measures on TPF imports in the US had been extended to Malaysia since July 2018. This implies that the access to the third large export markets for Korean and Malaysian exporting producers is restricted and, considering the attractiveness of the Union market for Korean and Malaysian exporters described in part 3.4.2.3 and 3.5.2.3, and proximity of the Union market for Russian exporters described in part 3.3.1.6, there is a strong likelihood that these exporting producers will (re)direct their imports of the product under review to the Union market.

4.5.2. Impact on the Union industry

- (179) It can be reasonably expected that, as a consequence of the attractiveness of the Union market described in part 3.3.1.6, 3.4.2.3 and 3.5.2.3, should the measures be repealed, at least part of the spare capacity will, in all likelihood, be (re)directed to the Union market.
- (180) In recitals (76), (92) and (107) it was concluded that it is likely that the exporting producers from Malaysia, Korea and Russia will export significant quantities of product under review to the Union should measures be allowed to lapse and that these exports will likely be made at dumped prices.
- (181) In terms of volumes, and considering the significant spare capacity it is very likely that exporting producers from Malaysia, Korea and Russia will resume their imports to the Union and gain market shares in the Union market. Given the current trend of a decreasing consumption, the gain in market share is expected to be even more important. Under this scenario, the Union industry would face an immediate drop in its sales volumes and market shares. This would also result in further lowering of the capacity utilisation rate which is already at very low levels and increase the losses even further.
- (182) Furthermore, considering the already negative profit margins of the Union industry, they will not be able to decrease its prices further in an attempt to match import prices and maintain sales volumes in the Union. Decreasing its price levels would immediately lead to a further deterioration of the situation of the Union industry, which was already suffering material injury during the review investigation period and would very likely put the Union industry as a whole at risk involving decrease or even closure of production sites.
- (183) Based on the above the Commission concluded that there is a strong likelihood of recurrence of injury from Malaysia, Korea and Russia imports should the measures be repealed.

- (184) In their comments on the final disclosure, the Russian Government claimed that there was no causal link between the Russian imports and the material injury suffered by the Union industry. This claim ignores the analysis of the elements and conclusions listed in recitals (170) to (183) pointing to a strong likelihood of recurrence of injury from Malaysia, Korea and Russia imports should the measures be repealed and had therefore to be rejected. The conclusions in recital (183) are therefore maintained.

5. UNION INTEREST

- (185) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures against Malaysia, Korea and Russia 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, including those of the Union industry, importers and users.
- (186) It is recalled that, in the original investigations, the adoption of measures was considered not to be against the interest of the Union.
- (187) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.
- (188) On this basis, the Commission examined whether, despite the conclusions on the likelihood of recurrence of dumping and injury, compelling reasons existed which would lead to the conclusion that it was not in the Union interest to maintain the existing measures.

5.1. Interest of the Union industry

- (189) As concluded in recital (166), the Union industry suffered material injury during the review investigation period, as confirmed by the negative trends of most injury indicators. At the same time, it was also concluded in recital (183), that the Union industry would be likely to experience a further deterioration of its situation in case the anti-dumping measures against Malaysia, Korea and Russia were allowed to lapse.
- (190) Overall, despite the injurious situation of the Union industry on the Union market, the Commission considered that the industry remains viable. This was based on the fact that, as mentioned in recital (162), the export sales of the Union industry account for a significant share of the sales volume and allowed the Union industry to be close to a break-even situation over the period considered. Yet, the Union industry still shows very low levels of capacity utilisation and attempts to improve its economic situation by making ongoing investments to allow for its restructuring process.
- (191) Any further deterioration would have an impact on its overall situation with the risk of a decrease or even definitive closure of production sites in the Union. Therefore, it can be concluded that the continuation of the measures against Malaysia, Korea and Russia would be in the interest of the Union industry.

5.2. Interest of importers, traders and users

- (192) Sixty-one importers and users were contacted at the initiation of this investigation and invited to cooperate. However, none of them cooperated in the current investigation. It is recalled that in the previous investigations on TPF, it was found that the imposition of measures was not likely to have a serious negative effect on the situation of importers and users in the Union.
- (193) The users did not submit any information showing that there have been difficulties in finding other sources and the investigation did not reveal such information either.
- (194) In previous investigations, the analysis of the Union interest showed no negative impact of the measures on importers and users, which were able to transfer the price increase. There were no elements found in this expiry review to contradict this conclusion. Users of TPF are mainly operating in the petrochemical industries as well as industries active in the building sector. The product under review is used to connect tubes or pipes together. While tubes and pipes account for a more significant share in the overall cost of the projects TPF represents generally only minor part of the overall cost.
- (195) In addition, considering the termination of the measures vis-à-vis Turkey, around 60 % of the imports of TPF could be made without anti-dumping duties in the Union and therefore a reasonable choice of suppliers would be preserved.

- (196) On this basis, and in line with the conclusions drawn in previous investigations, it is expected that the continuation of measures will not have a significant negative impact on users and that there are therefore no compelling reasons to conclude that it is not in the Union interest to extend the existing measures for Malaysia, Korea and Russia.

5.3. Conclusion on Union interest

- (197) In view of the above, the Commission concluded that there are no compelling reasons of Union interest against the extension of the current anti-dumping measures on imports from Malaysia, Korea and Russia.

6. ANTI-DUMPING MEASURES

- (198) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the anti-dumping measures in force for Malaysia, Korea and Russia and the repeal of the measures in force on imports of the product under review originating in Turkey. They were also granted a period within which they could submit comments subsequent to this disclosure. The submissions and comments were duly taken into consideration.
- (199) It follows from the above considerations that, under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of TPF originating in Malaysia, Korea and Russia imposed by Implementation Regulation (EU) No 78/2013 and Implementing Regulation (EU) No 1283/2014, as amended by Implementing Regulation (EU) 2016/306 should be maintained and the anti-dumping measures applicable to imports of TPF originating in Turkey should be allowed to lapse.
- (200) The individual company anti-dumping duty rates specified in this Regulation are solely applicable to imports of the product under review produced by these companies and thus by the specific legal entities mentioned. Imports of the product under review manufactured by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (201) Any claim requesting the application of these individual anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽¹⁷⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, the Regulation will be amended accordingly by updating the list of companies benefiting from individual duty rates.
- (202) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁸⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (203) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 (TARIC codes 7307 93 11 91, 7307 93 11 93, 7307 93 11 94, 7307 93 11 95, 7307 93 11 99, 7307 93 19 91, 7307 93 19 93, 7307 93 19 94, 7307 93 19 95, 7307 93 19 99, 7307 99 80 92, 7307 99 80 93, 7307 99 80 94, 7307 99 80 95 and 7307 99 80 98) and originating in Malaysia, the Russian Federation and the Republic of Korea.

⁽¹⁷⁾ European Commission, Directorate-General for Trade, Directorate H, B-1049 Brussels, Belgium.

⁽¹⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

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

Country	Company	Duty rate	TARIC additional code
Malaysia	Anggerik Laksana Sdn Bhd, Selangor Darul Ehsan	59,2 %	A324
	Pantech Steel Industries Sdn Bhd	49,9 %	A961
	All other companies	75,0 %	A999
Russian Federation	All companies	23,8 %	—
Republic of Korea	TK Corporation, 1499-1, Songjeong- Dong, Gangseo-Gu, Busan	32,4 %	C066
	All other companies	44,0 %	C999

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

Article 2

The definitive antidumping duties on imports of tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 (TARIC codes 7307 93 11 91, 7307 93 11 93, 7307 93 11 94, 7307 93 11 95, 7307 93 11 99, 7307 93 19 91, 7307 93 19 93, 7307 93 19 94, 7307 93 19 95, 7307 93 19 99, 7307 99 80 92, 7307 99 80 93, 7307 99 80 94, 7307 99 80 95 and 7307 99 80 98) and originating in the Republic of Turkey are hereby repealed and the proceeding concerning these imports is terminated.

Article 3

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

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

Done at Brussels, 9 April 2019.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2019/567**of 9 April 2019****amending Council Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 ⁽¹⁾, and in particular Article 11(b) thereof,

Whereas:

- (1) Annex III to Regulation (EC) No 1210/2003 lists public bodies, corporations and agencies and natural and legal persons, bodies and entities of the previous government of Iraq covered by the freezing of funds and economic resources that were located outside Iraq on the date of 22 May 2003 under that Regulation.
- (2) On 4 April 2019, the Sanctions Committee of the United Nations Security Council decided to remove nine entries from the list of persons or entities to whom the freezing of funds and economic resources should apply.
- (3) Annex III to Regulation (EC) No 1210/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1210/2003 is amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 9 April 2019.

For the Commission,

On behalf of the President,

Head of the Service for Foreign Policy Instruments

⁽¹⁾ OJ L 169, 8.7.2003, p. 6.

ANNEX

In Annex III to Council Regulation (EC) No 1210/2003, the following entries are deleted:

- '48. GENERAL ESTABLISHMENT FOR THARTHAR PROJECT. Address: P.O. Box 21, Fallouja, Iraq.'
 - '58. IRAQI BROADCASTING AND TELEVISION ESTABLISHMENT. Address: Broadcasting & TV Building, Salihiya, Karkh, Baghdad, Iraq.'
 - '64. IRAQI NEWS AGENCY. Address: 28 Nissan Complex, Al Salihiya, Baghdad, Iraq.'
 - '81. MINISTRY OF YOUTH, DIRECTORATE-GENERAL OF PLANNING AND FOLLOW UP, IMPORT SECTION. Address: P.O. Box 19055, Palestine Street, near Al-Shaab Stadium, Baghdad, Iraq.'
 - '140. STATE ENTERPRISE FOR IRRIGATION PROJECTS. Address: Karantina, near Sarafiya Bridge, Baghdad, Iraq.'
 - '164. STATE ESTABLISHMENT OF HADITHA DAM. Address: Haklanya, Haditha, Iraq.'
 - '165. STATE ESTABLISHMENT OF HEMREEN DAM. Address: 6 Mukdadiya, Mukdadiya, Iraq.'
 - '169. STATE ESTABLISHMENT OF MOSUL DAM. Address: Ninewa Governorate, Mosul, Iraq.'
 - '170. STATE ESTABLISHMENT OF SMALL DAMS AND REGULATORS. Address: Sinak, Baghdad, Iraq.'
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DECISIONS

COUNCIL IMPLEMENTING DECISION (EU) 2019/568

of 8 April 2019

on the appointment of a member of the Single Resolution Board

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 ⁽¹⁾, and in particular Article 56(6) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 5 December 2018 the Commission, after hearing the Single Resolution Board ('the Board') in its plenary session, adopted a shortlist of candidates for the position of a member of the Board and provided it to the European Parliament.
- (2) The Council was informed of the shortlist on the same date.
- (3) Pursuant to Article 56(5) of Regulation (EU) No 806/2014, the term of office of full-time members of the Board is five years.
- (4) On 30 January 2019, the Commission adopted a proposal for the appointment of Sebastiano LAVIOLA as a member of the Board and submitted it to the European Parliament for approval.
- (5) The European Parliament approved the proposal on 14 March 2019,

HAS ADOPTED THIS DECISION:

Article 1

Mr Sebastiano LAVIOLA is hereby appointed as a full-time member of the Single Resolution Board for a term of office of five years as from 1 May 2019.

Article 2

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

Done at Luxembourg, 8 April 2019.

For the Council

The President

F. MOGHERINI

⁽¹⁾ OJ L 225, 30.7.2014, p. 1.

COMMISSION DECISION (EU) 2019/569**of 3 April 2019****on the proposed citizens' initiative entitled 'Respect for the rule of law within the European Union'***(notified under document C(2019) 2314)***(Only the French text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative ⁽¹⁾, and in particular Article 4 thereof,

Whereas:

- (1) The subject-matter of the proposed citizens' initiative entitled 'Respect for the rule of law within the European Union' refers to the following: 'Creation of an objective and impartial evaluation mechanism to verify the application of the European Union's values by all the Member States'.
- (2) The objectives of the proposed citizens' initiative refer to the following: '(a) Provide the European Union with general legislation making it possible to verify in an objective manner the practical application of national provisions relating to the rule of law in order to strengthen mutual trust between the Member States and to facilitate the implementation of the provisions of Article 7 TEU concerning possible breaches of the Union's values; (b) Facilitate the enforcement of European laws on judicial cooperation in criminal matters (e.g. the European Arrest Warrant).'
- (3) The annex to the proposed citizens' initiative refers to strengthening the role of the European Union Agency for Fundamental Rights, whose opinion could be sought in order to ensure the maximum objectivity of decisions by the Union's institutions, including the areas of police and security cooperation.
- (4) The Treaty on European Union (TEU) reinforces citizenship of the Union and enhances further the democratic functioning of the Union by providing, inter alia, that every citizen is to have the right to participate in the democratic life of the Union by way of a European citizens' initiative.
- (5) To this end, the procedures and conditions required for the citizens' initiative should be clear, simple, user-friendly and proportionate to the nature of the citizens' initiative so as to encourage participation by citizens and to make the Union more accessible.
- (6) Legal acts of the Union for the purpose of implementing the Treaties can be adopted:
 - for measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies in the area of freedom, security and justice by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition, on the basis of Article 70 of the Treaty on the Functioning of the European Union (TFEU);
 - for amendments to Council Regulation (EC) No 168/2007 ⁽²⁾, on the basis of Article 352 TFEU.
- (7) Conversely, legal acts of the Union for the purpose of implementing the Treaties cannot be adopted for the purpose of amending the procedure laid down in Article 7 TEU.
- (8) The proposed citizens' initiative, inasmuch as it aims at proposals from the Commission for legal acts laying down arrangements to conduct objective and impartial evaluation of the implementation by national authorities of the Union's policies in the area of freedom, security and justice, as well as amending the Council Regulation establishing the European Union Agency for Fundamental Rights, does not fall manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties in accordance with Article 4(2)(b) of the Regulation.

⁽¹⁾ OJ L 65, 11.3.2011, p. 1.

⁽²⁾ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

- (9) Furthermore, the citizens' committee has been formed and the contact persons have been designated in accordance with Article 3(2) of the Regulation and the proposed citizens' initiative is neither manifestly abusive, frivolous or vexatious nor manifestly contrary to the values of the Union as set out in Article 2 TEU.
- (10) The proposed citizens' initiative entitled 'Respect for the rule of law within the European Union' should therefore be registered,

HAS ADOPTED THIS DECISION:

Article 1

1. The proposed citizens' initiative entitled 'Respect for the rule of law within the European Union' is hereby registered.
2. Statements of support for this proposed citizens' initiative may be collected, based on the understanding that it aims at proposals from the Commission for legal acts
 - laying down arrangements to conduct objective and impartial evaluation of the implementation by national authorities of the Union's policies in the area of freedom, security and justice;
 - amending the Council Regulation establishing the European Union Agency for Fundamental Rights.

Article 2

This Decision shall enter into force on 8 April 2019.

Article 3

This Decision is addressed to the organisers (members of the citizens' committee) of the proposed citizens' initiative entitled 'Respect for the rule of law within the European Union', represented by Mr Pier Virgilio DASTOLI and Mr Marco CAPPATO acting as contact persons.

Done at Brussels, 3 April 2019.

For the Commission
Frans TIMMERMANS
First Vice-President

COMMISSION IMPLEMENTING DECISION (EU) 2019/570**of 8 April 2019****laying down rules for the implementation of Decision No 1313/2013/EU of the European Parliament and of the Council as regards rescEU capacities and amending Commission Implementing Decision 2014/762/EU***(notified under document C(2019) 2644)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism ⁽¹⁾, and in particular Article 32(1)(g) thereof,

Whereas:

- (1) The Union Civil Protection Mechanism ('the Union Mechanism') set out in Decision No 1313/2013/EU strengthens cooperation between the Union and the Member States and facilitates coordination in the field of civil protection in order to improve the Union's response to natural and man-made disasters.
- (2) Decision No 1313/2013/EU defines the legal framework of rescEU. RescEU aims to provide assistance in overwhelming situations where overall existing capacities at national level and those committed by Member States to the European Civil Protection Pool are not able to ensure an effective response.
- (3) In recent years there has been a sharp increase in the number of extreme forest fires in Europe with serious economic, environmental and social consequences. In particular, the 2017 and 2018 forest fire seasons demonstrated the need to be prepared when disasters severely and simultaneously affect several Member States.
- (4) The changing nature of the forest fire risk has resulted in proven response capacity gaps at Union level. These gaps were particularly evident during the 2017 forest firefighting season when capacities made available via the Union Mechanism were insufficient to respond to the needs of countries requesting assistance.
- (5) The initial composition of rescEU should therefore be defined with the utmost urgency in accordance with Article 12(2) of Decision No 1313/2013/EU and should in the first implementing decision include aerial forest firefighting capacities to respond to wild fires. Due to the necessary flexibility during the transitional period pursuant to Article 35 of Decision No 1313/2013/EU, the number of rescEU capacities should be indicatively set out in subsequent implementing decisions.
- (6) In accordance with Article 12(4) of Decision No 1313/2013/EU, quality requirements for aerial forest firefighting capacities under rescEU should be laid down after consultation with Member States and should be based on established international standards, where such standards already exist. Given the lack of established international standards for aerial forest firefighting capacities, the quality requirements for aerial forest firefighting capacities should be based on the existing general requirements for modules under the European Civil Protection Pool and best practices within the Union Mechanism. Those quality requirements should be laid down in an Annex to this Decision.
- (7) For reasons of budgetary discipline, it is necessary to lay down in this Decision the costs associated with the Union financial support under rescEU during the transitional period.
- (8) In the interest of sound financial management, direct grants for rescEU capacities during the transitional period should be awarded on the basis of an annual work programme.

⁽¹⁾ OJ L 347, 20.12.2013, p. 924.

- (9) With the entry into force on 21 March 2019 of Decision (EU) 2019/420 of the European Parliament and of the Council ⁽²⁾, the rules on addressing temporary shortcomings in extraordinary disasters laid out in Commission Implementing Decision 2014/762/EU ⁽³⁾ have become obsolete. For reasons of consistency, Chapter 7 of Implementing Decision 2014/762/EU should be deleted.
- (10) The measures provided for in this Decision are in accordance with the opinion of the committee referred to in Article 33(1) of Decision No 1313/2013/EU,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down rules for the implementation of Decision No 1313/2013/EU as regards:

- (a) the initial composition of rescEU in terms of capacities and its quality requirements;
- (b) the financing of capacities during the transitional period referred to in Article 35 of Decision No 1313/2013/EU.

Article 2

The initial composition of rescEU

- 1. rescEU shall consist of aerial forest firefighting capacities.
- 2. The aerial forest firefighting capacities referred to in paragraph 1 shall include:
 - (a) aerial forest firefighting capacities using airplanes;
 - (b) aerial forest firefighting capacities using helicopters.
- 3. The quality requirements for the capacities referred to in paragraph 2 are set out in the Annex.

Article 3

Financial arrangements for the rescEU capacities referred to in Article 35 of Decision No 1313/2013/EU

- 1. The Commission shall define in the annual work programme the criteria for awarding direct grants to cover the costs referred to in Article 35 of Decision No 1313/2013/EU which are necessary to ensure rapid access to capacities corresponding to those referred to in Article 2.
- 2. The costs referred to in Article 35 of Decision No 1313/2013/EU shall include stand-by costs, including if applicable, costs related to maintenance, costs related to staff, costs related to training, including the training of crew and technical staff, costs related to warehousing, costs related to insurance, as well as other costs necessary to ensure the effective availability of such capacities.

Article 4

Amendment to Implementing Decision 2014/762/EU

Chapter 7 of Implementing Decision 2014/762/EU is deleted.

⁽²⁾ Decision (EU) 2019/420 of the European Parliament and of the Council of 13 March 2019 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism (OJ L 77 I, 20.3.2019, p. 1).

⁽³⁾ Commission Implementing Decision 2014/762/EU of 16 October 2014 laying down rules for the implementation of Decision No 1313/2013/EU of the European Parliament and of the Council on a Union Civil Protection Mechanism and repealing Commission Decisions 2004/277/EC, Euratom and 2007/606/EC, Euratom (OJ L 320, 6.11.2014, p. 1).

*Article 5***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 8 April 2019.

For the Commission
Christos STYLIANIDES
Member of the Commission

ANNEX

QUALITY REQUIREMENTS FOR RESCEU CAPACITIES

1. Aerial forest firefighting capacities using airplanes

Tasks	— Contribute to the extinction of large forest and vegetal fires by performing aerial firefighting.
Capacities	— 2 airplanes with a minimum capacity of 3 000 litres each or 1 airplane with a minimum capacity of 8 000 litres ⁽¹⁾ . — Ability to perform continuous operations.
Main components	— Airplane. — Minimum of two crews. — Technical staff. — Field maintenance kit. — Communication equipment allowing air-to-air and air-to-ground communication.
Self-sufficiency	— Equipment storage and maintenance of the equipment of the module; — Equipment for the communication with the relevant partners, notably those in charge of the coordination on site.
Deployment	— Availability for departure maximum 3 hours after the acceptance of the offer in the case of a rapid intervention response ⁽²⁾ . — Ability to be deployed in a range of 2 000 km within maximum 24 hours.

⁽¹⁾ Such requirements may be subject to review based on possible developments on the market of aerial forest firefighting capacities, including in relation to the availability of spare parts.

⁽²⁾ Rapid intervention response is a response operation lasting maximum one day including the flight to and from the site where the rescEU capacity is positioned.

2. Aerial forest firefighting capacities using helicopters

Tasks	— Contribute to the extinction of large forest and vegetal by performing aerial firefighting.
Capacities	— 1 helicopter with a minimum capacity of 3 000 litres ⁽¹⁾ — Ability to perform continuous operations.
Main components	— Helicopter with minimum two crews. — Technical staff. — Water bucket or releasing kit. — 1 maintenance set. — 1 spare parts set. — Rescue hoists. — Communication equipment allowing air-to-air and air-to-ground communication.
Self-sufficiency	— Equipment storage and maintenance of the equipment of the module; — Equipment for the communication with the relevant partners, notably those in charge of the coordination on site.

Deployment	<ul style="list-style-type: none">— Availability for departure maximum 3 hours after the acceptance of the offer in the case of a rapid intervention response ⁽²⁾.— Ability to be deployed in a range of 2 000 km within maximum 24 hours.
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⁽¹⁾ For the purposes of implementing Article 35 of Decision No 1313/2013/EU and when justified based on assessment of regional vulnerability, aerial forest firefighting capacities using helicopters may be composed of maximum 3 helicopters with a total minimum capacity of 3 000 litres.

⁽²⁾ Rapid intervention response is a response operation lasting maximum one day including the flight to and from the site where the rescEU capacity is positioned.

DECISION (EU) 2019/571 OF THE SINGLE RESOLUTION BOARD**of 28 March 2019****on discharge in respect of the implementation of the budget and on the closure of the accounts of the Single Resolution Board for the financial year 2017 (SRB/PS/2019/02)**

THE SINGLE RESOLUTION BOARD IN ITS PLENARY SESSION,

- having regard to Article 50(1)(b) and 63(8) of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 ⁽¹⁾ ('the SRM Regulation'),
- having regard to Article 103, 104 and 105 of the SRB Financial Regulation,
- having regard to the final Annual Accounts of the SRB for the financial year 2017 as approved in its meeting of 21-22 June 2018,
- having regard to the Annual Activity Report of the SRB for the financial year 2017 as adopted in its meeting of 21-22 June 2018,
- having regard to the Court of Auditors' Annual Report comprising the statement of assurance on the reliability of the accounts and the legality and regularity of the underlying transactions and sound financial management for the financial year 2017, together with the SRB's replies,
- having regard to the Court of Auditors' special report 2017, No 23 'Single Resolution Board: Work on a challenging Banking Union task started, but still a long way to go',
- having regard to the Auditors' Report pursuant to Article 92(4) of Regulation (EU) No 806/2014 on any contingent liabilities (whether for the Single Resolution Board, the Council, the Commission or otherwise), arising as a result of the performance by the Single Resolution Board, the Council and the Commission of their tasks under this Regulation for the financial year 2017, together with the replies of the SRB, the Council and the Commission.

HAS DECIDED TO:

1. Grant the Chair of the SRB discharge in respect of the implementation of the SRB's budget for the financial year 2017;
2. Approve the closure of the accounts of the SRB for the financial year 2017;
3. Set out its observations in the motion below;
4. Instruct the Chair of the Single Resolution Board to notify this Decision to the Council, the Commission and the Court of Auditors, to arrange for its publication in the *Official Journal of the European Union* (L series), and on the website of the SRB.

Done at Madrid, 28 March 2019.

For the Single Resolution Board

Klaus KUMPFMÜLLER

Plenary Member

⁽¹⁾ OJ L 225, 30.7.2014, p. 1.

CORRIGENDA**Corrigendum to Agreement establishing the EU-LAC International Foundation**

(Official Journal of the European Union L 288 of 22 October 2016)

The publication of Agreement establishing the EU-LAC International Foundation is to be considered null and void.

