

COMMISSION IMPLEMENTING REGULATION (EU) 2023/453**of 2 March 2023**

extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2017/141 on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China to imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, consigned from Malaysia, whether declared as originating in Malaysia or not

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⁾ ('the basic Regulation'), and in particular Article 13 thereof,

Whereas:

1. PROCEDURE**1.1. Existing measures**

- (1) In January 2017, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of certain stainless steel tube and pipe butt-welding fittings ('SSTPF' or 'fittings') originating in the People's Republic of China ('the PRC' or 'China') and Taiwan by Commission Implementing Regulation (EU) 2017/141 ⁽²⁾, as amended by Commission Implementing Regulation (EU) 2017/659 ⁽³⁾. The anti-dumping duties in force range between 30,7 % and 64,9 % for imports originating in the PRC, and between 5,1 % to 12,1 % for imports originating in Taiwan. The investigation that led to these duties was initiated in October 2015 ('the original investigation') ⁽⁴⁾.
- (2) In January 2022, the Commission initiated an expiry review of the existing measures in accordance with Article 11(2) of the basic Regulation by publishing a notice in the *Official Journal of the European Union* ⁽⁵⁾. This review is still on-going.

1.2. Request

- (3) The Commission received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of SSTPF originating in China by imports of SSTPF consigned from Malaysia, whether declared as originating in Malaysia or not, and to make such imports subject to registration ('the request').
- (4) The request was lodged on 25 April 2022 by the Defence Committee of the Stainless steel butt-welding Fittings industry of the European Union ('the applicant').
- (5) The request contained sufficient evidence of a change in the pattern of trade involving exports from China and Malaysia to the Union that had taken place following the imposition of measures on SSTPF originating in China.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2017/141 of 26 January 2017 imposing definitive anti-dumping duties on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ L 22, 27.1.2017, p. 14).

⁽³⁾ Commission Implementing Regulation (EU) 2017/659 of 6 April 2017 amending Implementing Regulation (EU) 2017/141 imposing definitive anti-dumping duties on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ L 94, 7.4.2017, p. 9).

⁽⁴⁾ Notice of initiation of an anti-dumping proceeding concerning imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ C 357, 29.10.2015, p. 5).

⁽⁵⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan (OJ C 40, 26.1.2022, p. 1).

- (6) Moreover, the request provided evidence showing that it is unlikely that this change stems from a practice, process or work for which there is sufficient due cause or economic justification other than the imposition of the duty. Indeed, the applicant claimed that genuine production of the product under investigation in Malaysia was limited to only two producers whose combined exports to the Union had been consistently much lower than the volumes of the product under investigation exported from Malaysia to the Union since the imposition of measures on the product concerned. According to the evidence provided by the applicant, the change appeared to stem from the transshipment of the product concerned originating in the PRC via Malaysia to the Union. The applicant submitted evidence putting in doubt the existence of actual production facilities of Chinese-owned companies in Malaysia. In addition, the applicant provided evidence that Chinese producers were openly proposing to change the origin of the product concerned from Chinese to Malaysian.
- (7) Furthermore, the request contained sufficient evidence showing that the practice, process or work was undermining the remedial effects of the existing anti-dumping measures in terms of quantities and prices. Significant volumes of imports of the product under investigation appeared to have entered the Union market. In addition, there was sufficient evidence that such imports of SSTPF were made at injurious prices.
- (8) Finally, the request contained sufficient evidence that SSTPF consigned from Malaysia were exported at dumped prices in relation to the normal value previously established for SSTPF originating in China.

1.3. Product concerned and product under investigation

- (9) The product concerned by the possible circumvention is tube and pipe butt-welding fittings, of austenitic stainless steel grades, corresponding to AISI types 304, 304L, 316, 316L, 316Ti, 321 and 321H and their equivalent in the other norms, with a greatest external diameter not exceeding 406,4 mm and a wall thickness of 16 mm or less, with a roughness average (Ra) of the internal surface not less than 0,8 micrometres, not flanged, whether or not finished, classified on the date of entry into force of Implementing Regulation (EU) 2017/141 under CN codes ex 7307 23 10 and ex 7307 23 90 (TARIC codes 7307 23 10 15, 7307 23 10 25, 7307 23 90 15, 7307 23 90 25) and originating in the PRC ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (10) The product under investigation is the same as that defined in the previous recital, but consigned from Malaysia, whether declared as originating in Malaysia or not, currently falling under the same CN codes as the product concerned (TARIC codes 7307 23 10 35, 7307 23 10 40, 7307 23 90 35, 7307 23 90 40) ('the product under investigation').
- (11) The investigation showed that SSTPF exported from China to the Union and SSTPF consigned from Malaysia, whether originating in Malaysia or not, have the same basic physical and chemical characteristics and have the same uses, and are therefore considered as like products within the meaning of Article 1(4) of the basic Regulation.
- (12) Pantech Steel Industries Sdn. Bhd ('PSI'), one of the companies of the Pantech Group, contacted the Commission to make sure that one of their product types – high frequency long bends – is not included in the original product definition. Upon analysis of the provided description of the product and consultation with the applicant, the Commission confirmed that high frequency long bends were not included in the original product definition.
- (13) Paul Meijering Metalen B.V. (PMM B.V.), a Union importer, disagreed with the product scope of the investigation. It submitted comments on this regard and also on initiation and requested a hearing with the Commission services. The hearing was held on 7 July 2022. At the hearing, the Commission explained that the purpose of this investigation was to determine whether there is circumvention via Malaysia. There was no legal basis to revise the scope of the measures in the context of this investigation. The product scope was established in the original investigation that showed that all fittings within the product definition are like products.

1.4. Initiation

- (14) Having determined, after having informed the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 13(3) of the basic Regulation, the Commission initiated the investigation and made imports of SSTPF consigned from Malaysia, whether declared as originating in Malaysia or not, subject to registration, by Commission Implementing Regulation (EU) 2022/894 ⁽⁶⁾ ('the initiating Regulation') on 8 June 2022.
- (15) The initiating Regulation stated that, should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned in recital (7) thereof, be identified in the course of the investigation, the investigation may also cover these practices.

1.5. Comments on initiation

- (16) PMM B.V. pointed out that there was a discrepancy between the exports from Malaysia to the Union for year 2017, and the corresponding imports into the Union from Malaysia in the request. It also disagreed with the applicant's allegation that the only explanation for the difference between exports from China to Malaysia and the exports from Malaysia to the Union was transshipment. Finally, it pointed to missing references in the request.
- (17) At the hearing mentioned in recital (13), the Commission explained that it carried out its examination of the request in accordance with Article 13(3) of the basic Regulation and came to the conclusion that the requirements for initiation of an investigation were met, i.e. that there was sufficient evidence to initiate the investigation. According to Article 13(3) of the basic Regulation, a request shall contain such information as is reasonably available to the applicant. The legal standard of evidence required for the purpose of initiating an investigation ('sufficient' evidence) is different from that which is necessary for the purpose of final determination of the existence of circumvention.
- (18) The difference in the statistics for 2017, or the allegations of transshipment based on the difference in statistics between the PRC and Malaysia, did not change the fact that the request showed a clear change in the pattern of trade between the PRC, Malaysia and the Union. The applicant also provided evidence of transshipment practices.
- (19) The Commission however explained that the purpose of the investigation is to uncover whether the change in the pattern of trade, including that between China and Malaysia, is due to practices that constitute circumvention according to Article 13 of the basic Regulation, and not limited to transshipment.
- (20) In view of the above, the request contained sufficient evidence regarding the factors set out in Article 13(1) of the basic Regulation to warrant the initiation of the investigation in accordance with Article 13(3).

1.6. Investigation period and reporting period

- (21) The investigation period covered the period from 1 January 2014 to 31 December 2021 ('the investigation period' or 'IP'). Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of measures on the product concerned, and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the period from 1 January 2021 to 31 December 2021 ('the reporting period' or 'RP') in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of dumping.

⁽⁶⁾ Commission Implementing Regulation (EU) 2022/894 of 7 June 2022 initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2017/141 on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China by imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, consigned from Malaysia, whether declared as originating in Malaysia or not, and making such imports subject to registration (OJ L 155, 8.6.2022, p. 36).

1.7. Investigation

- (22) The Commission officially informed the authorities of China and Malaysia, the known exporting producers in those countries, the Union industry and the known importers in the Union of the initiation of the investigation.
- (23) In addition, the Commission asked the Mission of Malaysia to the European Union to provide it with the names and addresses of exporting producers and/or representative associations that could be interested in cooperating in the investigation in addition to the Malaysian exporting producers which had been identified in the request by the applicant. The mission of Malaysia provided a list to the Commission. The Commission contacted all companies at initiation.
- (24) Exemption claim forms for the producers/exporters in Malaysia, questionnaires for the producers/exporters in China, and for importers in the Union were made available on DG TRADE's website.
- (25) Four Malaysian exporting producers submitted exemption claim forms. These were:
- MAC Pipping Materials Sdn. Bhd ('MAC')
 - Pantech Stainless And Alloy Industries Sdn. Bhd ('Pantech')
 - SP United Industry Sdn. Bhd ('SPI')
 - TP Inox Sdn. Bhd ('TP')
- (26) In addition, four Malaysian companies, related to Pantech or SPI, submitted questionnaire replies.
- (27) Moreover, questionnaire replies were submitted by 6 Union importers. One of those companies did not import SSTPF from Malaysia so its reply was not analysed further. The Commission used the questionnaire replies of importers to cross check the trade flows and names of suppliers from Malaysia.
- (28) In the process of verification of information and statistics provided by the applicant and the cooperating Malaysian companies, the Commission held on spot consultations with Malaysian Authorities, namely with the Ministry of Trade and Industry, Royal Customs, Ministry of Finance and representatives of Klang and Penang Free Trade Zones.
- (29) Furthermore, pursuant to Article 16 of the basic Regulation, the Commission carried out verification visits at the premises of the following companies:
- Exporting producers in Malaysia
- MAC Pipping Materials Sdn. Bhd, Klang, Malaysia
 - Pantech Stainless and Alloy Industries Sdn. Bhd, Jahor, Malaysia
 - SP United Industry Sdn. Bhd, Nilai, Malaysia
 - TP Inox Sdn. Bhd, Pulau Pinang, Malaysia
- Traders, importers and raw material suppliers related to the exporting producers in Malaysia
- Kanzen Tetsu Sdn. Bhd, Klang, Malaysia
 - Kentzu Steel Sdn. Bhd., Kuala Lumpur, Malaysia
 - Pantech Corporation Sdn. Bhd, Jahor, Malaysia
 - Pantech Galvanizing Sdn. Bhd, Jahor, Malaysia
- (30) The Commission carried out remote crosschecks of the following companies:
- Domestic traders related to producers in Malaysia
- Pantech (Kuantan) Sdn. Bhd, Kuantan, Malaysia

— Panaflo Controls Pte. Ltd, Singapore

- (31) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that the non-submission of all relevant information or the submission of incomplete, false or misleading information might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.
- (32) A hearing was held on 7 July 2022 with the Union importer PMM B.V., as explained in recitals (13) and (16) to (19). Following disclosure, hearings with MAC and PMM B.V. were held on 8 and 12 December 2022 respectively.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (33) In accordance with Article 13(1) of the basic Regulation, the following elements should be analysed in order to assess possible circumvention:
- whether there was a change in the pattern of trade between the PRC/Malaysia and the Union,
 - if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the anti-dumping measures in force,
 - if there is evidence of injury or the remedial effects of the anti-dumping measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and
 - whether there is evidence of dumping in relation to the normal values previously established for the product concerned.
- (34) The request alleged transshipment of the product concerned from Malaysia to the Union (see recital (6)).
- (35) With regard to transshipment, the investigation did not find evidence that any of the four co-operating exporting producers, which accounted for the entirety of the exports to the Union in the RP (see recital (39) below), were involved in such practices. The Commission compared data reported by the four cooperating companies with statistics, which showed that they made up for the vast majority of exports of SSTPF to the Union for most of the investigation period and the totality of those exports in the reporting period. The investigation established that none of the four companies was involved in transshipment. Their purchases of SSTPF from the PRC were minimal and were sold domestically in Malaysia. Therefore, this allegation could not be confirmed by this investigation.
- (36) However, as mentioned in recital (5), the request contained sufficient evidence of a change in the pattern of trade involving exports from China and Malaysia to the Union that had taken place following the imposition of measures on SSTPF originating in China. Concretely, the request provided evidence, based on official statistics, of an increase of imports of SSTPF from Malaysia in the Union and a parallel increase of imports of SSTPF from China into Malaysia ⁽⁷⁾, constituting a change in the pattern of trade as required by Article 13 of the basic Regulation. Moreover, as noted in recital (6), the request provided evidence showing that, based on what is known about the genuine production in Malaysia, it is unlikely that this change stems from a practice, process or work for which there is sufficient due cause or economic justification other than the imposition of the duty. According to the request, the change stemmed from transshipment, and this allegation was backed by sufficient evidence, concretely offers from Malaysian companies openly proposing to provide Chinese SSTPF changing the origin so as to avoid anti-dumping duties ⁽⁸⁾. Whilst, as noted in Recital (35), the investigation found no evidence that Malaysian companies actually acted on the alleged proposal to re-sell Chinese SSTPF, it confirmed that a change in the pattern of trade took place. In view of the evidence, in particular the known genuine production capacity in Malaysia, it was unlikely that such change occurred due to a practice, process or work for which there is sufficient due cause or economic justification. The Commission therefore continued the investigation.

⁽⁷⁾ Request, point 43, page 8 and point 55, page 12.

⁽⁸⁾ Request, point 62, page 14.

- (37) The investigation concerned all practices covered by Article 13 of the basic Regulation (see recital (15)), therefore the Commission also analysed assembly operations of the companies in question on the basis of use of Chinese raw materials or semi-finished products.
- (38) With regard to assembly operations, the Commission specifically analysed whether the criteria set out in Article 13(2) of the basic Regulation were met, in particular:
- whether the assembly/completion operation started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation and whether the parts concerned are from the country subject to measures, and
 - whether the parts constitute 60 % or more of the total value of the parts of the assembled product and whether the value added to the parts brought in, during the assembly or completion operation, was lower than 25 % of the manufacturing costs.

2.2. Cooperation

- (39) As stated in recital (25), four exporting producers in Malaysia requested to be exempted from the measures, if extended to Malaysia. They co-operated during the entire proceeding by submitting exemption claim forms, by providing replies to deficiency letters and by agreeing to on-spot verifications. The level of cooperation from the Malaysian exporting producers was high, as their aggregated reported export volumes of SSTPF to the Union in their submitted exemption claim forms accounted for the entirety of the total Malaysian import volumes during the reporting period, as reported in the EUROSTAT import statistics.

2.3. Change in the pattern of trade

2.3.1. Imports of SSTPF into the Union

- (40) Table 1 shows the development of imports of SSTPF from China and Malaysia into the Union in the investigation period.

Table 1

Union imports of SSTPF in the investigation period (tonnes)

	2014	2015	2016	2017	2018	2019	2020	RP
China	3 018	3 121	1 412	1 008	523	693	708	719
<i>Index (base=2014)</i>	100	103	47	33	17	23	23	24
Malaysia	297	314	382	502	1 120	1 414	1 290	1 626
<i>Index (base=2014)</i>	100	106	129	169	377	476	434	547

Source:

2014 and 2015: original investigation (without UK).

2016: Eurostat (imports at CN level were adjusted to TARIC level based on 2017 data).

2017 to RP: Eurostat (TARIC level).

- (41) The total volume of the Union's imports of SSTPF from Malaysia increased more than five times in the investigation period, from 297 tonnes in 2014 to 1 626 tonnes in the RP.
- (42) At the same time, the Union's imports from China decreased by 76 %, from 3 018 tonnes in 2014 to 719 tonnes in the RP.
- (43) As the Commission did not find any evidence of transshipment by the four cooperating exporting producers, Malaysian import volumes of product under investigation from China were not analysed.

2.3.2. Malaysian imports of parts (raw-materials and semi-finished products) from China

- (44) The main input materials for the production of SSTPF are welded pipes and tubes and seamless pipes and tubes. These input materials are then further processed to produce welded and seamless fittings accordingly. Additionally, seamless fittings in the form of caps are produced from plates. Furthermore, one of the cooperating companies was also using baffle plates for the production of welded fittings of large diameters. Finally, one of the cooperating companies was also importing during part of the IP semi-finished products (pipe connectors) for further processing.
- (45) Table 2 shows the development of Malaysian imports of the parts used for the manufacture of SSTPF from China, based on the verified data of the cooperating companies. The Commission compared these figures with the Malaysian import statistics obtained from the Malaysian authorities and those available in the Global Trade Atlas (GTA) ⁽⁹⁾ database. However, the figures reported by the companies were found more reliable in the pattern of trade analysis than the import statistics. The raw materials in question can be imported into Malaysia under several 10-digit customs codes and they can be used also in downstream sectors other than manufacturing of SSTPF. At cooperating exporting producers' level, and given the high cooperation, the Commission could trace the final use of the parts and whether these were used for subsequent export of SSTPF to the Union. Consequently, the Commission decided to rely upon the verified information provided by the cooperating companies.

Table 2

Imports into Malaysia of raw materials from China in the investigation period (tonnes) ⁽¹⁰⁾

	2014	2015	2016	2017	2018	2019	2020	RP
China	[200 – 300]	[300 – 400]	[580 – 660]	[280 – 360]	[800 – 900]	[1 500 – 1 600]	[1 950 – 2 050]	[2 400 – 2 500]
<i>Index (base=2014)</i>	100	134	241	120	336	625	801	977

Source: Verified companies data.

- (46) The figures in Table 2 present aggregated volumes of imports of all those raw-materials/semi-finished products imported from China by the cooperating Malaysian producers, which cover 100 % of Malaysian exports of SSTPF to the Union in the reporting period.
- (47) Table 2 shows that Malaysian imports of raw materials/semi-finished products from China substantially increased throughout the investigation period, almost 10 times. This increase was especially visible in the period 2018-RP.
- (48) The significant increase in import volumes of raw materials from China to Malaysia indicated an increasing demand for such input materials in Malaysia, which could, at least in part, be explained by the increase in the production and exports of SSTPF from Malaysia to the Union during the investigation period.

2.3.3. Conclusion on the change in the pattern of trade

- (49) The increase of exports of SSTPF from Malaysia to the Union, together with the increase in Chinese exports of parts to Malaysia over the same period, constitute a change in the pattern of trade between China, Malaysia and the Union within the meaning of Article 13(1) of the basic anti-dumping Regulation.

⁽⁹⁾ <https://connect.ihsmarkit.com/gta/home>.

⁽¹⁰⁾ The figures are given in ranges as for the years 2014-2017 they refer to only two companies.

- (50) Following disclosure, PMM B.V. indicated that antidumping measures against SSTPF originating in China were imposed in January 2017 while EU imports from Malaysia were already rising between 2014 and 2017.
- (51) The company also observed that the increase of Malaysian imports of inputs from China in the IP was much higher than the increase of Malaysian exports of fittings to the Union. According to the PMM B.V. this means that Malaysian producers simply increased production of SSTPF, not necessarily having the Union market as a target.
- (52) However, it should be noted that the investigation leading to the imposition of the original measures was initiated in October 2015. As the initiation of the antidumping proceeding may in itself have an effect on the behaviour of economic operators, and to have a complete picture and properly compare the trade flows before the initiation of the investigation with those after that and after the imposition of the duty, the Commission decided to start the IP of the current circumvention investigation from 1 January 2014. Indeed, a rise of imports from Malaysia was already visible between 2014 and 2017. However, rise in volume of those imports accelerated between 2017 and the RP, that is, after the imposition of the duty as provided for in Article 13(1) of the basic Regulation.
- (53) Exactly the same pattern could be observed in the Malaysian imports of raw materials from China. The fact that the increase in imports of Chinese stainless steel pipes into Malaysia does not match ‘one-to-one’ with the increase of Malaysian exports of SSTPF to the Union does not change the finding that the latter increased more than five times in the IP, which, together with the almost tenfold increase of imports of inputs from the PRC into Malaysia, constitutes a change in the pattern of trade in the sense of Article 13(1) of the basic Regulation. Moreover, as pipes imported from China are not only used for the production of fittings, there was no ‘one-to-one’ match.
- (54) Following disclosure, MAC also claimed that the Commission failed to analyse or qualify the change in the pattern of trade. In its view, the fact that imports of raw materials from the PRC into Malaysia increased almost 10 times, while Union imports of SSTPF from Malaysia only increased more than five times, implies that necessarily, only about half of the raw materials imported into Malaysia from China ended up in SSTPF exported to the Union. MAC further claimed that given that the two cooperating exporters already found to be genuine Malaysian producers imported only a very minor percentage of their raw materials from China but also increased their exports to the Union after imposition of the SSTPF duty, and given that the verified sales data of MAC confirmed that nearly 50 % by weight of MAC’s SSTPF sales went to markets other than the Union, the weight of the Commission’s ‘change in the pattern of trade’ finding would appear to fall principally on TP and in any event the finding is not adequately reasoned or based on consistent evidence.
- (55) The claim was rejected. First, at country-wide level, based on official statistics and verified data from the cooperating companies, the investigation has established that, whilst imports of SSTPF from the PRC into the Union decreased significantly, there were significant increases of both imports of inputs from the PRC into Malaysia and Union imports of SSTPF from Malaysia in the investigation period. Such evidence clearly proves that increasing demand for such input materials in Malaysia could, at least in part, be explained by the increase in the production and exports of SSTPF from Malaysia to the Union during the investigation period (see recital (48)). Second, even following MAC’s argument that only about half of the raw materials imported into Malaysia from China ended up in SSTPF exported to the Union, there would still be a change in the pattern of trade in the sense of Article 13(1) of the basic Regulation. Third, besides analysing the change in the pattern of trade at country-wide level, the Commission also analysed it at the level of MAC and TP only, based on their own data as verified, and there are also significant, parallel increases (see Table 3 below). The bulk of both increases falls principally on MAC, as TP only started operations in the second half of 2020 (see recital (89)). Further, most of MAC’s exports to the Union in the investigation period were made from parts imported from the PRC, as the company imported almost 100 % of its raw materials from China (see recital (58)). Therefore, at country-wide level the investigation showed a clear change in the pattern of trade. Moreover, the investigation at a company level, based on verified data from the company, found MAC to be one of the main contributors to that change. MAC did not offer any different analysis, reasoning or qualification, nor suggested what other evidence the Commission should have used.

2.4. Practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (56) The Commission first analysed whether the operations of the cooperating companies started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation, and whether the parts concerned were from the country subject to measures.
- (57) The cooperating companies imported raw materials and parts from China in the IP and thus possibly performed assembly/completion operations in Malaysia, before shipping the SSTPF to the Union.
- (58) MAC and TP started their operations after the imposition of the measures on China in January 2017 (in 2018 and 2020 respectively). They imported almost 100 % of their raw materials from China ⁽¹¹⁾.
- (59) Furthermore, both companies' sales of the SSTPF to the Union and imports of raw materials from China significantly increased from the moment of the companies' set up, with a peak in the RP.
- (60) Table 3 shows the trends on the basis of aggregated figures for both companies with regard to their exports of the SSTPF to the Union and their imports of raw-materials/semi-finished products from China in the period 2018-RP ⁽¹²⁾.

Table 3

MAC and TP export and import indicators (year 2018=100)

	2018	2019	2020	RP
Exports of SSTPF to EU	100	527	654	813
Imports of RM from China	100	366	440	608

Source: verified companies' data.

- (61) The situation of the other two companies (Pantech and SPI) was completely different. Both companies were producers of SSTPF even before 2014. The applicants in their request identified both companies as genuine producers ⁽¹³⁾. Their exports to the Union increased after the imposition of measures, but the investigation confirmed that they were genuine producers (see Section 2.5 below on the value of parts test). Only seamless pipes, that constituted a minor percentage of their raw materials/parts, were imported from China over the IP, and subsequently used for production of SSTPF exported to the Union.
- (62) Article 13(1) of the basic Regulation requires a link between the practice, process or work in question and the change of the pattern of trade, as the latter must 'stem' from the former. It is therefore the practice, process or work leading to the change of the pattern of trade, which needs to have a sufficient due cause or economic justification other than the imposition of the duty, in order not to be considered circumvention within the meaning of Article 13(1) of the basic Regulation.
- (63) Even though there might have been other reasons to set up the company in Malaysia than the measures in place, i.e. to supply the Malaysian domestic market, other elements strongly point, as far as MAC and TP are concerned, to a change in the pattern of trade in connection with the imposition of the duties:

— the companies were established after imposition of the original measures;

⁽¹¹⁾ In the first year (2018) of its activity and in the RP MAC had minor purchases of plates also from Malaysia.

⁽¹²⁾ Due to confidentiality reasons only an index is provided as the figures concern only two companies.

⁽¹³⁾ Request, point 60, page 12.

- the operation substantially increased since the two companies represented 8 % of Malaysian exports of SSTPF to the Union in 2018 and 47 % of these exports in the RP;
- their sales to the Union were higher than their combined domestic and third country sales, showing that they clearly targeted the Union market. One of these companies was solely selling to the Union.
- (64) Moreover, TP is a wholly-owned subsidiary of the Chinese company Sinotube, which in turn is part of the Tsingshan Group, a Chinese steel giant producing a wide variety of steel products, including SSTPF.
- (65) In light of all these elements, the Commission concluded that there was insufficient due cause or economic justification other than the imposition of the duty, for the processing operations of MAC and TP in the two production sites ⁽¹⁴⁾ in Malaysia. The change in the pattern of trade was a result of the fact that the operation started and then substantially increased after the original measures were imposed.
- (66) Following disclosure, MAC claimed that there had been sufficient due cause and economic justification for its establishment in late 2017 and the growth of its production operations and international exports in the subsequent years.
- (67) Concretely, MAC claimed that the rationale for the establishment of the company is essentially a business opportunity that had nothing to do with the imposition of the duties in the original investigation. It took over the business of a genuine producer (KT Fittings) and switched the focus of its operation to production from seamless pipes from China. According to its submission, MAC took over that business to carry out the level of processing sufficient to qualify for Malaysian origin under the Union's non-preferential rules of origin. Since KT Fittings was not subject to anti-dumping duties, by taking over its predecessor's machinery, production site and client list, the new management allegedly had justified reasons to believe that MAC's future sales would be free of any 'EU SSTPF duty'. The shift from production from welded pipes to seamless pipes was allegedly due this market being dominated by two other, vertically-integrated Malaysian producers (Pantech and SPI). In MAC's view, all this constituted due cause and economic justification under Article 13(1) of the basic Regulation, and the fact that MAC was established in 2017, after the initiation of the original investigation, was coincidental.
- (68) Moreover, MAC argued that the disclosure raised no doubts about MAC's full production capability and actual production of fittings from its verified purchases of raw materials needed by any genuine producer of SSTPF. As regards both MAC's production capability and actual full line production from raw materials, there was no difference with the set-up of Pantech and SPI.
- (69) MAC also claimed that there was no factual similarity between MAC and TP, and that the statement as regards MAC targeting the Union market was factually inaccurate. The 52 % by weight (or 54 % by value) of MAC's sales figure for the Union could not be deemed a 'targeting' of the Union market.
- (70) Also PMM B.V. in its comments on disclosure highlighted the fact that MAC is a 'continuation' of the company KT Fittings and as such 'a genuine producer that produced fittings well before the investigation period'. An identical comment was submitted by Dacapo Stainless B.V. ('DS B.V.'), another Union importer.
- (71) At the outset, the Commission recalled that it verified on-spot, among other factors, the actual production, production capacity and purchases of inputs of MAC, and that the established facts regarding those factors were not disputed. It follows from the above that, under Article 13(2) of the basic Regulation, the investigation established a difference between MAC and SPI and Pantech. As established in recitals (87), (98) and (99), 99,99 % of the parts used by MAC in their production of SSTPF were from the PRC, while for Pantech and SPI the share was below 10 % and 30 % respectively. Regarding the factual similarity between MAC and TP the investigation established that both companies were engaged in a similar practice in that they both imported most of the inputs from the PRC, added limited value to them, and exported the resulting fittings to the Union. Moreover, findings with regard to MAC are based on its actual activities not on what MAC could have hypothetically done with its machinery and production site.

⁽¹⁴⁾ Accounting in RP already for almost 40 % of Malaysian exports to the Union.

- (72) As stated in recital (62), article 13(1) of the basic Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It is therefore the practice, process or work leading to the change of the pattern of trade, which needs to have a sufficient due cause or economic justification other than the imposition of the duty, in order not to be considered a circumvention within the meaning of Article 13(1) of the basic Regulation.
- (73) There may be legitimate reasons, such as availability of trained workforce and assets, for establishing a company. However, what matters is not only its establishment but the way the company in question operates. In other words, if the activity of the company - its practice, process or work – is the reason for the change of the pattern of trade, the economic justification and due cause for that practice must be examined under Article 13(1).
- (74) As explained in recital (87), the investigation found the practice in which MAC is involved to be an assembly operation within the meaning of Article 13(2) of the basic Regulation. The Company essentially bought Chinese seamless pipes, added little value to transform them into SSPTF and sold them on the Union market. Moreover, as discussed in recitals (57) to (60), this practice was found to be responsible for the change of the pattern of trade.
- (75) Regarding the economic justification and due cause, it should be noted that, just like TP, MAC was established after the imposition of the duties. Moreover, as acknowledged in the submission, unlike its predecessor – KT Fittings – MAC focused its operation on the production from Chinese seamless pipes. Indeed, unlike in the case described in Commission Implementing Regulation (EU) 2017/2093⁽¹⁵⁾, referred to by MAC, the investigation found no business model based on sales to the Union of Malaysian SPTF made virtually exclusively from Chinese parts which predates the imposition of the duties. Moreover, according to its submissions, MAC was established based on the expectation that it would achieve a level of processing sufficient to confer Malaysian non-preferential origin and that it would be able to source raw materials from the PRC by relying on previous relationships with a Chinese supplier. The rationale for MAC's operations was thus to be able to use almost exclusively Chinese parts, add little value and export to the Union products with Malaysian origin, without paying the anti-dumping duty on imports from the PRC. Indeed, as MAC stated in its comments on disclosure, obtaining Malaysian non-preferential origin was cause for the establishment of the company, and was advertised by them and required by their clients.
- (76) Finally, the Commission was not provided with information regarding the operations of KT fittings prior to the establishment of MAC. However, neither the fact that MAC took over the machinery, personnel, management experience and client base of KT fittings nor the fact that it did not target the Union market exclusively, could change the conclusions of the investigation regarding MAC.
- (77) Consequently, MAC failed to demonstrate that there was sufficient due cause or economic justification other than the imposition of the duty for its practice in question.
- (78) Following disclosure, MAC claimed that its processing of Chinese pipes further gives rise to a change in the tariff headings of all the raw materials and thereby confers Malaysian origin for MAC's SPTF under the EU's relevant 'specific' origin rules. According to MAC, EU rules of origin are to be taken into account in EU anti-circumvention investigations.

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2017/2093 of 15 November 2017 terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and terminating the registration of such imports imposed by Commission Implementing Regulation (EU) 2017/272 (OJ L 299, 16.11.2017, p. 1).

- (79) The legal basis for an anti-circumvention investigation is Article 13 of the basic Regulation, and not customs legislation regarding origin. Indeed, the Court of Justice of the European Union has held that the sole purpose of a Regulation extending an anti-dumping duty is to ensure the effectiveness of that duty and to prevent its circumvention ⁽¹⁶⁾. The case-law has clarified that the use of ‘from’ rather than ‘originating in’ in Article 13 of the basic Regulation implies that ‘the EU legislature has deliberately chosen to distance itself from rules of origin under customs law and that, therefore, the concept of “from” [...] possesses an autonomous and distinct meaning from that of the concept of “origin” under customs law’ ⁽¹⁷⁾. This claim was therefore rejected.
- (80) Following disclosure, PMM B.V. commented on certain findings of the investigation concerning TP. Concretely, the company indicated that TP started its operations almost six years after the initiation of the original investigation which allegedly does not qualify for circumvention as defined in Article 13(2) of the basic Regulation. Furthermore, PMM B.V. observed that in 2022 TP sold only 50 % of its fittings to the Union, so it was no longer targeting solely the Union market as found by the Commission in the RP.
- (81) First, it should be stressed that neither PMM B.V. nor their legal representative were empowered to represent TP in this procedure, and that TP did not send any submission challenging the findings of the investigation following disclosure. Second, PMM B.V. referred in its submission to confidential correspondence with a ‘director/general manager of TP’ whom the Commission did not find listed on the board of directors in the financial statements of TP. Third, company specific post-RP data could not be taken into account as they could not be verified. Finally, TP started its operations in the second half of 2020 (see recital (89)), so the requirement of Article 13(2) of the basic Regulation was clearly met as the operation both started and substantially increased since the initiation of the original investigation, in 2015.
- (82) PMM B.V. also claimed that both TP and MAC were not assembling but manufacturing, and therefore Article 13(2) of the basic Regulation was not applicable in their case, as it does not cover modifying and working raw materials to form another product, as in the case of SSTPF. To support that claim they also referred to recital (20) of the basic Regulation. In their view, the mention of ‘mere assembly’ in that recital means that the term must be interpreted narrowly.
- (83) The Commission noted that the basic Regulation does not define the terms ‘assembly operation’ or ‘completion operation’. However, the way Article 13(2) of the basic Regulation is constructed favours a broad interpretation of the term ‘assembly operation’ as, according to Article 13(2)(b), it explicitly is also meant to encapsulate ‘completion operation’. It follows that ‘assembly operation’ within the meaning of article 13(2) is meant to cover not only operations that consist of assembling parts of a composite article, but may also involve further processing i.e. completion of a product. Indeed, when interpreting Article 13(2) of the basic Regulation, the Court of Justice has held that ‘pursuant to settled case-law, in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part’ ⁽¹⁸⁾.
- (84) Moreover, recital (20) of the basic Regulation reads ‘Union legislation should contain provisions to deal with practices, including mere assembly of goods in the Union or a third country, which have as their main aim the circumvention of anti-dumping measures’. This wording rather suggests a broad interpretation of Article 13(2) so that all practices with the main aim of circumventing the duties, i.e. ‘mere’ assembly and other practices, are covered.
- (85) The investigation showed that the operations carried out by MAC and TP met all the requirements of Article 13(2) of the basic Regulation for an assembly operation to constitute circumvention. PMM B.V. did not offer any evidence to the contrary. Consequently, the Commission rejected the claim.

⁽¹⁶⁾ Judgment of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, EU:C:2019:717, para. 96 and the case-law cited.

⁽¹⁷⁾ Judgment of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, EU:C:2019:717, para. 90.

⁽¹⁸⁾ Judgment of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 82 and the case-law cited.

2.5. Value of parts and value added

- (86) Article 13(2)(b) of the basic Regulation states that, as far as assembly or completion operations are concerned, a condition to establish circumvention is that the parts from the countries subject to measures constitute 60 % or more of the total value of the parts of the assembled product and that the added value to the parts brought in, during the assembly or completion operation, is less than 25 % of the manufacturing cost.

MAC and TP

- (87) For MAC, in the RP 99,99 % of all parts used by the company were from China. The value added to the raw materials was below 15 % of the manufacturing cost.
- (88) For TP, all the parts used by the company in the production of fittings in the RP were imported from China.
- (89) TP started its operations in the second half of 2020. Its capacity utilisation as reported was below 5 % in 2020 and below 25 % in the RP. However, the company incorrectly allocated full depreciation of machinery and full rental cost (land and buildings) as the value added to the parts brought in to the extremely low production quantity.
- (90) The Commission thus adjusted the two above-mentioned cost elements to reasonably reflect the value added in the context of the low capacity utilisation of the company during the RP.
- (91) In addition, the Commission reduced the cost of production (and, in turn, the added value) by the verified income from sales of scrap generated in the production of SSTPF.
- (92) Finally, an adjustment for the stock variation of work in progress was applied. This adjustment enabled to isolate the cost of production linked to the quantity of finished goods produced in the RP and to eliminate the cost of raw material and processing linked to the goods, which were not yet finished at the end of the RP. The company itself did not keep records of work in progress. The Commission was, however, able to estimate the stock variation of work in progress based on the verified stock movements of raw materials and finished goods. The respective inventory reports were collected during the on-spot verification.
- (93) After the adjustments described in recitals (89) to (92), the added value established for TP was below 18 % of the cost of manufacturing.
- (94) Following disclosure, PMM B.V. (again on behalf of an ‘unknown’ director/general manager of TP as explained in recital (81) above) requested detailed disclosure of the above added value calculation.
- (95) However, the calculation in question was already disclosed to TP as part of its sensitive specific disclosure. TP did not submit any comments in this regard.
- (96) The Commission therefore concluded that, for MAC and TP, the parts purchased from China constituted 60 % or more of the total value of the parts of assembled product, and that the value added to the parts brought in, during the assembly or completion operation, was less than 25 % of the manufacturing cost, as required by Article 13(2)(b) of the basic Regulation for these operations to constitute circumvention.

Pantech and SPI

- (97) Both companies produced seamless fittings (standard⁽¹⁹⁾ and caps) and welded fittings. There are three kinds of raw materials/parts used in this production: seamless pipes for production of standard seamless fittings, plates for production of caps and welded pipes for production of standard welded fittings.

⁽¹⁹⁾ In this case, ‘standard’ refers to seamless fittings produced from seamless pipes and tubes, such as elbows, tees and reducers.

- (98) Pantech is vertically integrated in its production of welded fittings i.e. the company produced its own welded pipes. The plates the company used for production of caps were also own-produced (slicing of welded pipes) or mainly procured from local Malaysian producers ⁽²⁰⁾. The company imported from China 100 % of the seamless pipes. However, production of seamless fitting was a small percentage of the activity of the company. Accordingly, the parts imported from China accounted in the RP for less than 10 % of all parts used in the total production of SSTPF.
- (99) Similar to Pantech, SPI was also using in its production its own welded pipes (purchased from a related Malaysian producer). Plates were also procured domestically, while seamless pipes were 100 % imported from China. Taking into account the company's production structure, parts imported from China accounted in the RP for less than 30 % of all parts used in the total production of SSTPF.
- (100) Therefore, the parts from the country subject to measures constitute much less than 60 % of the total value of parts for Pantech and SPI.
- (101) Moreover, for both companies these operations already took place before the imposition of the measures and, in addition, did not only target specifically the Union market. Therefore, the operations carried out by Pantech and SPI did not constitute circumvention as provided for in Article 13(2) of the basic Regulation

2.6. Undermining the remedial effect of the anti-dumping duty

- (102) In accordance with Article 13(1) of the basic Regulation, the Commission examined whether the imports of the product under investigation, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (103) The quantities of SSTPF that were exported into the Union by MAC and TP increased significantly in absolute volumes during the investigation period and represented around 6 % of the Union consumption during the RP. Consumption in the Union was estimated as over 12 000 tonnes resulting from adding all imports of SSTPF from all origins, amounting to over 4 000 tonnes, to the Union sales as provided by the applicant for the purpose of this investigation, amounting to over 8 000 tonnes.
- (104) Regarding prices, the Commission compared the average non-injurious price as established in the original investigation, adjusted for inflation, with the weighted average export CIF prices determined on the basis of the information provided by MAC and TP, duly adjusted to include post clearance costs. This price comparison showed that both companies substantially (by more than 50 %) undersold the Union prices in the RP. Moreover, the current import prices of MAC and TP also undercut the Union prices provided by the applicant in the request for year 2021, and are also below the cost of production of the Union industry in the same year ⁽²¹⁾.
- (105) The Commission therefore concluded that the existing measures were undermined in terms of quantities and prices by the imports from Malaysia by MAC and TP.
- (106) Following disclosure, PMM B.V. indicated that the quantities exported by MAC and TP to the Union could not possibly undermine the remedial effect of the measures, as these quantities represented only 6 % of the Union consumption during the RP.
- (107) Furthermore, PMM B.V. and DS B.V. challenged the Commission's undercutting and underselling findings with regard to MAC and TP export prices. They based their claims on a comparison of their purchase invoices from Malaysian exporters and Union producers. Moreover, they claimed that those prices could not be compared, as Malaysian fittings and those produced in the Union were of different standards and are not interchangeable.

⁽²⁰⁾ Pantech imported minor quantities of plates from China in 2015 and 2018.

⁽²¹⁾ Request, Sections C.3.1 to C.3.3.

- (108) Regarding quantities, PMM B.V. provided no argumentation why 6 % could not be considered to undermine the remedial effect of the measures, it merely stated ‘in their view 6 % is not undermining in terms of volume because it is too little to speak of undermining’. In any case, the Commission considered that 6 % market share was not insignificant in terms of volume. On the contrary, this volume of imports that was found to be circumventing the measures was almost as high as the total market share of Taiwan in the original investigation. This was sufficient to conclude that such volumes were causing injury to the Union industry and resulted in the imposition of measures against Taiwan.
- (109) Second, the Commission made its undercutting and underselling calculations on the basis of full sets of data verified at the premises of the companies which submitted questionnaires/exemption forms. The Union importers did not have access to these figures. The calculations were fully disclosed to the Malaysian exporters. None of them submitted any comments in this regard. Furthermore, none of the two Union importers challenging the Commission calculations provided questionnaire replies in the course of the investigation. Thus, the figures they submitted after disclosure could not be verified by the Commission.
- (110) Finally, there is no legal basis to look at the definition of product scope and interchangeability of different product types under Article 13 of the basic Regulation. On the contrary, according to Article 13 of the basic Regulation, to establish circumvention the Commission must determine that the ‘remedial effects of the duty are being undermined in terms of prices and/or quantities’. The duty referred to in Article 13 of the basic Regulation is the original anti-dumping duty. Such duty was established on the basis of the product scope in the original investigation ⁽²²⁾. Therefore, the assessment of whether its effects are being undermined must be carried out based on the same scope.

2.7. Evidence of dumping

- (111) In accordance with Article 13(1) of the basic Regulation, the Commission also examined whether there was evidence of dumping in relation to the normal values previously established for the like product.
- (112) The Commission compared the average export prices of SSTPF from Malaysia in the RP, based on the verified data of MAC and TP, to the normal values established for China in the original anti-dumping investigation, adjusted for inflation.
- (113) The comparison of normal values and export prices showed that the SSTPF exported by MAC and TP were exported at dumped prices during the reporting period.
- (114) Following disclosure, PMM B.V. repeated its argumentation with regard to the lack of interchangeability of the Malaysian and Union-produced fittings regarding the dumping calculations.
- (115) This claim was rejected on the same basis as that explained in recital (110). Indeed, according to Article 13 of the basic Regulation, to establish circumvention the Commission must determine that there is evidence of dumping in relation to the normal values previously established for the like or similar products. The normal value established in the original investigation was based on the original product scope, that included fittings of different standards.

3. MEASURES

- (116) Based on the above findings, the Commission concluded that the anti-dumping duties imposed on imports of SSTPF originating in the PRC were being circumvented by imports of the product under investigation consigned from Malaysia by MAC and TP.

⁽²²⁾ That established that products with different standards share the same specific characteristics and are interchangeable. See recitals (52) to (60) of Commission Implementing Regulation (EU) 2017/141 (OJ L 22, 27.1.2017, p. 14).

- (117) Given that the level of cooperation was high, covering all the exports to the Union in the RP, that the Commission concluded that two of the companies are genuine Malaysian producers not involved in circumvention practices and therefore were granted exemptions, and that no other company in Malaysia requested an exemption, the Commission concluded that the findings on circumvention practices in respect of the two circumventing companies should be extended to all imports from Malaysia, with the exception of those from genuine Malaysian producers.
- (118) Therefore, in accordance with Article 13(1) of the basic Regulation, the anti-dumping measures in force on imports of SSTPF originating in China should be extended to imports of the product under investigation.
- (119) Pursuant to Article 13(1), second paragraph of the basic Regulation, it is appropriate to extend the duty established in Article 1(2) of Implementing Regulation (EU) 2017/141, as amended by Implementing Regulation (EU) 2017/659 for ‘all other companies’, which is a definitive anti-dumping duty of 64,9 % applicable to the net, free-at-Union-frontier price, before customs duty.
- (120) Pursuant to Article 13(3) of the basic Regulation, which provides that any extended measure should apply to imports that entered the Union under registration imposed by the initiating Regulation, duties are to be collected on those registered imports of the product under investigation in accordance with the findings made in this investigation.

4. REQUESTS FOR EXEMPTION

- (121) As described above, MAC and TP were found to be involved in circumvention practices. Therefore, an exemption could not be granted to these companies pursuant to Article 13(4) of the basic Regulation.
- (122) The investigation established that the two other co-operating exporting producers, Pantech and SPI, were genuine producers of SSTPF in Malaysia, and not engaged in circumvention practices. These two exporting producers are vertically integrated, were well established on the market before imposition of the original measures, and imported only limited amounts of raw-materials from China.
- (123) Therefore, Pantech and SPI should be exempted from the extension of measures.
- (124) The application of exemptions should be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty mentioned in recital (119).
- (125) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the exemptions, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the exemption is justified, in compliance with customs law.

5. DISCLOSURE

- (126) On 30 November 2022, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment.
- (127) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Implementing Regulation (EU) 2017/141, as amended by Implementing Regulation (EU) 2017/659, on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China, is hereby extended to imports of tube and pipe butt-welding fittings, of austenitic stainless steel grades, corresponding to AISI types 304, 304L, 316, 316L, 316Ti, 321 and 321H and their equivalent in the other norms, with a greatest external diameter not exceeding 406,4 mm and a wall thickness of 16 mm or less, with a roughness average (Ra) of the internal surface not less than 0,8 micrometres, not flanged, whether or not finished, currently classified under CN codes ex 7307 23 10 and ex 7307 23 90 consigned from Malaysia, whether declared as originating in Malaysia or not (TARIC codes 7307 23 10 35, 7307 23 10 40, 7307 23 90 35, 7307 23 90 40).

2. The extension of the duty mentioned in paragraph 1 does not apply to the companies listed below:

Country	Company	TARIC additional code
Malaysia	Pantech Stainless And Alloy Industries Sdn. Bhd	A021
Malaysia	SPI United Sdn. Bhd	A022

3. The application of exemptions granted to the companies specifically mentioned in paragraph 2 of this Article or authorised by the Commission in accordance with Article 4(2) of this Regulation shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to this Regulation. If no such invoice is presented, the anti-dumping duty as imposed by paragraph 1 of this Article shall apply.

4. The extended duty is the anti-dumping duty of 64,9 % applicable to 'all other companies' in the PRC (TARIC additional code C999).

5. The duty extended by paragraphs 1 and 4 of this Article shall be collected on imports registered in accordance with Article 2 of Implementing Regulation (EU) 2022/894.

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

Article 2

Customs authorities are directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2022/894, which is hereby repealed.

Article 3

The exemption requests submitted by MAC Pipping Materials Sdn. Bhd and TP Inox Sdn. Bhd are rejected.

Article 4

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G Office:
CHAR 04/39
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) 2017/141, as amended by Implementing Regulation (EU) 2017/659, from the duty extended by Article 1.

Article 5

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, 2 March 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

- (1) the name and function of the official of the entity issuing the commercial invoice;
- (2) the following declaration: 'I, the undersigned, certify that the (volume) of (product under investigation) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct';
- (3) date and signature.
