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(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1694/2002
of 27 September 2002
imposing definitive safeguard measures against imports of certain steel products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3285/94 of 22 December 1994 on common rules for imports and repealing Regulation (EC) No 518/94 ⁽¹⁾, as last amended by Council Regulation (EC) No 2474/2000 ⁽²⁾, and in particular Articles 7 and 16 thereof,

Having regard to Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) 3420/83 ⁽³⁾, as last amended by Regulation (EC) No 1138/98 ⁽⁴⁾, and in particular Articles 6 and 15 thereof,

After consultations within the Advisory Committee established under Article 4 of Regulation (EC) No 3285/94 and of Regulation (EC) No 519/94 respectively,

Whereas:

PROCEDURE

- (1) On 6 March 2002, certain Member States ('the Member States concerned') informed the Commission that trends in imports appeared to call for safeguard measures; submitted information containing the evidence available as determined on the basis of Article 10 of Regulation (EC) No 3285/94 and Article 8 of Regulation (EC) No 519/94; and requested the Commission to impose provisional safeguard measures and to open a safeguard investigation.
- (2) The Member States concerned claimed that there had been recent substantial increases in imports of certain steel products and that the closure of the US market implied by US trade defence measures not only substantially denied the Community producers an important outlet for their exports, but also created the conditions for a huge diversion of steel trade from the US to the European Community ('the Community'). They claimed that steel destined for the US would be re-directed to the Community. This could lead to a dramatic increase in the existing high level of imports at low prices, exacerbating the already serious disruption on the Community steel market due to previous increased imports which threatened serious injury to the Community producers.
- (3) The Member States concerned advised that the Community producers had submitted relevant information and urged the adoption of Community safeguard measures as a matter of urgency because any delay in their adoption would cause damage which it would be difficult to repair.
- (4) The Commission informed all Member States of the alleged situation and consulted with them on the terms and conditions of imports, import trends and the serious injury or threat thereof to each of the sectors concerned, and the various aspects of the economic and commercial situation with regard to the Community products in question.

⁽¹⁾ OJ L 349, 31.12.1994, p. 53.

⁽²⁾ OJ L 286, 11.11.2000, p. 1.

⁽³⁾ OJ L 67, 10.3.1994, p. 89.

⁽⁴⁾ OJ L 159, 3.6.1998, p. 1.

- (5) On 28 March 2002, the Commission initiated an investigation relating to serious injury or threat thereof to the Community producers of products like or directly competing with certain imported steel products. The 21 steel products covered by the investigation are (1) non alloy hot rolled coils, (2) non alloy hot rolled sheets and plates, (3) non alloy hot rolled narrow strip, (4) alloy hot rolled flat products, (5) cold rolled sheets, (6) electrical sheets (other than GOES), (7) metallic coated sheets, (8) organic coated sheets, (9) tin mill products, (10) quarto plates, (11) wide flats, (12) non alloy merchant bars and light sections, (13) alloy merchant bars and light sections, (14) rebars, (15) stainless bars and light shapes, (16) stainless wire rod, (17) stainless steel wire, (18) fittings (<609,6 mm), (19) flanges (other than of stainless steel), (20) gas pipes and (21) hollow sections.
- (6) On the same day, on the basis of information gathered and verified prior to the initiation, provisional measures were imposed on 15 of the steel products covered by the investigation. These are the product numbers 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 17, 18 and 19 referred to in recital (5) above.
- (7) The Commission proceeded to a full investigation in relation to each of the 21 products. The Commission officially advised the exporting producers and importers as well as their representative associations known to be concerned, the representatives of exporting countries and the Community producers. The Commission sent questionnaires to all these parties and to those who made themselves known within the time limits set in the Notice of Initiation. Pursuant to Articles 5 of Council Regulation (EC) No 519/94 and 6 of Council Regulation (EC) No 3285/94 the Commission also gave parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (8) Certain exporting producers, Community producers and importers submitted comments in writing. All interested parties who requested a hearing within the time limit set and who indicated that they were likely to be affected by the result of the proceeding and that there were particular reasons why they should be heard, were granted such a hearing. The oral and written comments submitted by the parties were considered and taken into account in reaching the definitive findings. The Commission sought and verified all the information which it deemed necessary for the purpose of a definitive determination. Verification visits were carried out at the premises of 30 Community producers, 12 exporting producers and 2 importers.
- (9) The results of the investigation in relation to product numbers 1, 2, 3, 4, 5, 18 and 19 are set out below. The results of the investigation in relation to the remaining products are set out in a separate regulation relating to those products.

RESULTS OF THE INVESTIGATIONS

1. PRODUCT 1: HOT ROLLED COILS

1.1. *Product Concerned and Like or Directly Competing Product*

1.1.1. Product Concerned

- (10) The product concerned is certain flat rolled products of iron or non-alloy steel, of a width of 600mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled (hereinafter referred to as 'hot rolled coils'). The product concerned is currently classified under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10, 7208 39 90.
- (11) Hot rolled coils are generally obtained in steel mills by hot rolling semi-finished steel products after the final rolling pass or after pickling or continuous annealing. Hot rolled coils are wound into a regular coil.
- (12) Hot rolled coils can be of various grades and dimensions. The vast majority of imports from third countries consist of 'structural steels' (such as S235 and S275 according to Euronorm EN 10025) and 'mild steels' (such as DD11, DD12, DD13 according to EN10011 and 'Deutsche Industrie Norm' DIN 1614/1). Each of the relevant CN codes listed above corresponds to a specific product type as differentiated by width and thickness within the above ranges.

- (13) The product concerned is also classified into two distinct categories according to its finish: black hot rolled coils, which are the basic product, and pickled hot rolled coils, which, after being hot rolled, go through an additional surface treatment called pickling. The distinction between black coils and pickled coils is also reflected in the structure of the Combined Nomenclature as coils classified under the two categories belong to specific and separate CN codes.
- (14) Hot rolled coils are used as a pre-material for manufacturing other steel products (wide and narrow strips, all cold rolled products, tubes, etc.).
- (15) Notwithstanding the fact that each CN code corresponds to a distinguishable type of hot rolled coil, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of hot rolled coils form one single product falling under the relevant CN codes listed above.

1.1.2. Like Or Directly Competing Products

- (16) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as 'the like product') is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of hot rolled coils which alleged that certain types of hot rolled coil imported into the Community were not produced by the Community producers and therefore should not be considered as 'like' the product concerned.
- (17) The Commission examined these submissions in detail, and took into account in particular the following findings of the investigation:
 - (a) the imported product and the Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;
 - (b) the imported product and the Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;
 - (c) the imported product and the Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;
 - (d) the imported product and the Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.
- (18) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are 'like or directly competing'.

1.2. Increased Imports

- (19) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause or threaten to cause, serious injury to the Community producers. In this respect, the Commission has focused on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sales (excluding 'captive use') and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.

Product 1

Hot rolled coils

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (tonnes)	22 943 397	22 894 274	22 544 897	23 178 301	22 501 555

IMPORT DATA

	1997	1998	1999	2000	2001
Total imports (including agreement countries)					
Volume (in tonnes)	3 281 808	4 817 109	3 847 708	4 829 175	5 011 290
Rate of increase (in %)		46,8 %	- 20,1 %	25,5 %	3,8 %
Market share (in %)	14,3 %	21,0 %	17,1 %	20,8 %	22,3 %
Ratio between imports and total production (in %)	4,9 %	7,4 %	5,8 %	7,2 %	8,0 %
Ratio between imports and production sold (in %)	14,8 %	23,7 %	18,6 %	23,8 %	25,8 %
Unit prices (in euro/tonne)	242	221	223	290	254

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	4 049 459	4 332 409	4 338 442	4 920 233

- (20) In the period prior to the Asian crisis ⁽¹⁾, imports were more or less constant at around 2,4m tonnes (1995: 2,26m tonnes, 1996: 2,39m tonnes). As a result of the Asian crisis, between 1997 and 1998, imports increased by around 47 % whilst their average price fell by nearly 9 %. Relative to total Community production, imports increased from around 5 % to around 7 %, whilst relative to production sold, they increased from 14,8 % to 23,7 %. However, the Commission considers that the level of imports in 1998 was non representative due to the extremely low prices practised by Asian producers and the resulting influx of imports.
- (21) In the following year, as the effects of the Asian crisis began to recede, imports fell back to more normal levels albeit somewhat higher than in 1997 but their average price remained depressed. In 1999, imports also fell relative to total production and to production sold on the free market. Nevertheless, comparing 1997 and 1999, a progression in import penetration by imports can be observed in absolute terms, and relative to production destined for sales and total production.

⁽¹⁾ The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

- (22) Between 1999 and 2000, there was an increase in imports from 3,85m tonnes to 4,83m tonnes, an increase of 0,98m tonnes or 25 %. Over the same period, production destined for sales fell slightly (from 20,7mt to 20,3mt) so that the increase relative to free market production was 28 %. Total production increased by nearly 2 % in 2000, reflecting an increase in production for captive use, so that the increase in imports relative to total production was smaller, at 24 %.
- (23) Between 2000 and 2001, imports increased further to 5,01 million tonnes (an increase of about 0,18m tonnes or 4 %). In 2001, production destined for sales contracted by a further 4,2 % to 19,45m tonnes so that, relative to production sold on the free market, imports increased by around 8 %. Total production also fell in 2001 (by 5,05m tonnes or 7,5 %), reflecting a decrease in production for captive use and in production sold on the free market, so that the increase in imports relative to total production was around 11 %.
- (24) The price of the product concerned fell between 1997 and 1998, and remained at a depressed level in 1999. The fall in 1998 and continuing price depression in 1999 appear to have resulted from the Asian crisis. Prices rose in 2000 (to 290 EUR/tonne) but fell again in 2001 (by 13 %). The Commission notes that, although prices increased in 2000, the increase in imports (both absolute and relative to production) continued in 2001 against a background of falling prices. The average price of imports fell from 290 EUR/tonne in 2000 to 254 EUR/tonne in 2001. The Commission also notes that the further increase in imports to the Community occurred at a time when the euro was relatively weak by comparison to the US dollar and, during which prices in the US for hot rolled coils were between 30 % and 40 % higher than prices for that product in the Community.

1.2.1. Two year moving average

- (25) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that, whilst between 1997/98 and 1999/00, imports in any two year period fluctuated between 4,05m tonnes and 4,34m tonnes, between 1999/00 and 2000/01 they increased by over 13 % from 4,34m tonnes to 4,92m tonnes.

1.2.2. Market share of imports

- (26) The market share of imports increased steeply between 1997 and 1998 as a result of the Asian crisis, before falling back to 17,1 % in 1999, representing an increase of around 19 % relative to 1997. From 2000 onwards, the market share of imports increased to 20,8 % and then 22,3 % — increases of around 22 % and 7 % respectively.

1.2.3. Conclusion

- (27) Whilst imports increased sharply in 1998, the Commission considers that that increase was exceptional and cannot be considered to represent part of the normal development of imports. This is also reflected in the fact that imports declined substantially in 1999. Leaving aside 1998, the annual rate of growth in imports between 1997 and 1999 was 8,6 % in absolute terms (9,2 % relative to total production and 13 % relative to production sold on the free market). By contrast between 1999 and 2000, the annual rate of growth in imports in absolute terms was 25 % (24 % relative to total production and 28 % relative to production sold on the free market). By each measure, the annual rate of growth of imports was more than twice as high between 1999 and 2000 than in the previous period with a further increase in 2001. It should be noted that the high level of imports according to the utilisation of the quota set at the provisional stage appears to be confirmed for 2002.
- (28) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.

- (29) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years, in particular bearing in mind that the increase in imports in 1998, must be considered non representative.

1.3. Unforeseen Developments

1.3.1. Increased use of trade defence instruments by the US

- (30) From 1998 onwards, in reaction to the Asian crisis, the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO and some of the methodologies used have been declared to be WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (31) The table below shows the annual number of anti-dumping and countervailing duty final determinations for one or more countries made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty final determinations	Countervailing duty final determinations
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (32) In the course of 2001, the US also announced further broadly based action in the steel sector. In January 2001, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July 2001, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.
- (33) These actions, had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001, and culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

1.3.2. Increased use of TDIs by the US — relating to the product concerned

- (34) In relation to hot rolled coils, the US imposed 14 anti-dumping measures (including one suspension agreement) at high levels of duty and 6 countervailing duty measures between 1999 and 2001. In particular, in July 1999, the US imposed anti-dumping duties of between 41,27 % and 43,40 % on imports of the product concerned originating in Brazil. In September 2000, the US imposed anti-dumping duties of between 40,6 % and 44,59 % and countervailing duties of 41,69 % (some of which applied cumulatively) on imports of the product concerned originating in Argentina. In November 2000, the US imposed anti-dumping duties of between 64,20 % and 90,83 % on imports of the product concerned originating in China. Also in November 2000, the US imposed anti-dumping duties of between 36,53 % and 44,40 % and countervailing duties of between 8,28 % and 31,89 % (some of which applied cumulatively) on imports of the product concerned originating in India.

- (35) By 15 March 2002, in relation to hot rolled coils, the US had in force anti-dumping measures against exporters in 14 countries and countervailing measures against exporters in 6 countries. The countries concerned by these proceedings were Argentina, Brazil, China, India, Indonesia, Japan, Kazakhstan, the Netherlands, Romania, Russia, South Africa, Taiwan, Thailand and Ukraine. In each case, after an anti-dumping or countervailing measure has been taken, US imports of the product concerned from that country have declined. In addition, the dramatic fall in US imports in 2001 occurred in a year in which not only were 14 anti-dumping and 6 countervailing measures relating to the product concerned in place, but at the start of which the US opened a steel investigation under section 223 of the US Trade Act of 1974 and in the middle of which the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974.
- (36) Between 1999 and 2001, US imports decreased from 5,40m tonnes to 2,56m tonnes. In the same period imports to the Community increased from 3,8m tonnes to 5m tonnes, an increase of 32 %.
- (37) The Commission has also determined that an effect of the US reducing imports of hot rolled coils to its market was to increase imports to the Community market. On the basis of the available information, the Commission has determined that there is a correlation in time between the increased and extensive use of TDIs by the US in recent years, the dramatic reduction in US imports of hot rolled coils between 2000 and 2001, and the increase in Community imports of that product in that period. The Community was the principal export market for hot rolled coils in 2001. Both the Community and US markets have the same types of industrial users. Many of the exporters affected by the US TDIs have also exported to the Community for a number of years. At the same time as US imports fell dramatically, imports into the Community grew to record levels notwithstanding a fall in GDP growth, production and consumption in the Community in 2001.
- (38) This increased and extensive use of trade defence instruments, a number of which were found to be WTO incompatible, could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

1.3.3. Decrease In Imports to the US

- (39) The table below shows imports of goods classified within Harmonised System Code (HSC) 720810, 720825, 720826, 720827, 720836, 720837, 720838, 720839 (which include the product concerned and the like product) to the US for the period 1997 to 2001.

Year	Imports of the product concerned to the US (tonnes)
1997	5 508 649
1998	9 906 857
1999	5 403 479
2000	6 368 045
2001	2 562 747

Source: Global Trade Atlas

- (40) Imports to the US increased between 1997 and 1998, before falling back to just below 1997 levels in 1999. Between 1999 and 2000, they increased to around 6,4 million tonnes. Between 2000 and 2001, imports fell very sharply, by around 60 %.
- (41) The decrease in the level of imports of hot rolled coils to the US can be explained, primarily, by reference to the direct effect of the measures referred to in paragraphs (21) to (26) above on exporters whose goods became subject to anti-dumping and/or countervailing duties; but also by the indirect dissuasive effect of those measures and the investigations on all exporters of the product concerned to the US.

- (42) The table below illustrates the effect of particular anti-dumping/countervailing measures on exports of the product concerned from certain countries.

Country	Date of imposition of AD measures	Exports to the US (volume in tonnes)	
		2000	2001
India	November 2000	745 000	46 000
Taiwan	November 2000	648 000	38 000
China	November 2000	434 000	36 000
Romania	November 2000	369 000	52 000
Indonesia	November 2000	235 000	10 000
Thailand	November 2000	212 000	14 000

1.4. Definition of the Community Producers

- (43) Total Community production of hot rolled coils is around 68 million tonnes per annum. The Community steel companies which cooperated fully in the investigation are:

- Aceralia Corporacion Siderurgica, Spain;
- Cockerill Sambre SA, Belgium;
- Arbed Sidmar NV, Belgium;
- Sollac SA, France;
- Stahlwerke Bremen GmbH, Germany;
- EKO Stahl GmbH, Germany;
- Corus Strip UK, UK;
- Corus Staal BV, The Netherlands;
- Rautaruukki Oyj, Finland;
- Riva Ilva SpA, Italy;
- Salzgitter AG Stahl & Technologie, Germany;
- SSAB Tunplatt AB, Sweden;
- Thyssen Krupp Stahl AG, Germany.

- (44) These companies are all members of the European Confederation of the Iron and Steel Industry ('Eurofer'). They accounted for around 91,4 % of the total Community production of the product concerned, and represent a major proportion of total Community production within the meaning of Article 5(3)(c) of Regulation (EC) No 3285/94 and Article 15(1) of Regulation (EC) No 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

1.5. Serious Injury

1.5.1. Introduction

- (45) In order to determine whether there is serious injury to the Community producers of the like product, i.e. a significant overall impairment in the position of the Community producers, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of production capacity, production, capacity utilisation, employment, productivity, cash flow, return on capital employed, captive use, stocks, consumption, sales, market share, price, undercutting and profitability for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.

- (46) The investigation has demonstrated that hot rolled coils can follow one of two distinct destinations. They can either be sold as hot rolled coils or used internally to make other products. It was found that around 69 % of the hot rolled coils manufactured by the Community producers are used internally (i.e. they are further processed by these producers in an integrated process, often on the same production line, hereinafter referred to as 'captive use'). These hot rolled coils follow an internal process of downstream processing for which invoices are not normally issued.
- (47) The remaining production is sold as hot rolled coils to both related and unrelated customers at market prices on the Community market (hereinafter referred to as the 'free market'). Imports of hot rolled coils are also sold on the free market. The main purchasers on the free market are independent cold rolling mills, tube makers, steel service centres, steel merchants and stockholders. Both the hot rolled coils sold by the Community industry and imported hot rolled coils are sold to the same types of customers and are used for the same purposes. The sale of hot rolled coils on the free market is supported by the issuing of commercial invoices.
- (48) The investigation demonstrated that there is a clear distinction between hot rolled coils destined for captive use and those destined for the free market. Hot rolled coils destined for captive use were found not to be directly affected by the imports. By contrast, production destined for sales was in direct competition with the imports.
- (49) In order to provide as complete a picture as possible of the situation of the Community producers, the Commission has obtained and analysed data both for hot rolled coils destined for captive use and those destined for the free market. Because the free market sales are in competition with the imported products concerned, the Commission focused its attention on the free market. While it has, to the extent possible, combined free market and captive data, it has also split the analysis between free market and captive use, where necessary and possible.

1.5.2. Analysis of the Whole Activity for the Product Concerned

1.5.2.1. Production capacity and Capacity utilisation

	1997	1998	1999	2000	2001
Capacity (tonnes)	78 500 000	78 500 000	78 500 000	78 500 000	78 500 000
Capacity Utilisation (%)	85,2 %	83,4 %	84,3 %	85,9 %	79,4 %

- (50) The investigation showed that there were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation.
- (51) Capacity utilisation remained relatively stable between 1997 and 2000 (varying between 83,4 % and 85,9 %) but fell by nearly 8 % in 2001 (to 79,4 %). The steel industry requires to achieve a high level of capacity utilisation to make profits, and this sharp fall in capacity utilisation reflects the fall in production.

1.5.2.2. Total Community Production

	1997	1998	1999	2000	2001
Production (tonnes)	66 892 420	65 474 371	66 184 419	67 414 844	62 361 216

- (52) Total Community production fell between 1997 and 1998, but partially recovered in 1999 and reached a peak in 2000 in line with the increase in demand. In 2001, production fell as sales and captive use declined. In this respect, reference is made to the analysis of imports in relation to product 5, the largest of the downstream products.

1.5.2.3. Employment

	1997	1998	1999	2000	2001
Employment (end of period)	34 814	34 644	32 731	32 583	31 181

- (53) Employment in relation to the product concerned was more or less stable in 1997 and 1998. It fell by nearly 2300 (6,6 %) between 1998 and 1999 amidst reports of plant closures, but stabilised in 2000. Employment fell by a further 1 400 (4,3 %) in 2001, and loss of employment was particularly felt in 2001 due to further plant closures. Employment is expected to fall further in 2002, and this expectation was to some extent confirmed by the closure of one facility in the UK which occurred in the second quarter of 2002.

1.5.2.4. Productivity

	1997	1998	1999	2000	2001
Productivity (tonne/employee)	1 921	1 890	2 045	2 069	2 000

- (54) Productivity remained stable at around 1 900 tonnes/employee in 1997 and 1998 before climbing to over 2 000 tonnes/employee in 1999. It remained stable at about this level throughout 2000 and 2001.

1.5.2.5. Cash Flow

	1997	1998	1999	2000	2001
Cash Flow (index)	100	60	- 10	67	36

- (55) Cash flow could only be examined at the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

1.5.2.6. Return on Capital Employed (ROCE)

	1997	1998	1999	2000	2001
ROCE	10,5 %	14,3 %	4,7 %	7,4 %	1,6 %

- (56) ROCE could only be examined on the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.
- (57) It was not found to be relevant to analyse consumption, sales volume, market share, unit prices, profitability and stocks under this heading because a complete analysis of these indicators was only relevant to the free market.

1.5.3. Analysis of the Free Market

1.5.3.1. Consumption

	1997	1998	1999	2000	2001
Consumption (tonnes)	22 943 397	22 894 274	22 544 897	23 178 301	22 501 555

- (58) Consumption of hot rolled coils in the Community was established on the basis of the total sales made by the Community producers on the free market and total imports of the product concerned into the Community as reported by Eurostat.
- (59) Between 1997 and 1999, consumption in the Community declined by nearly 2 % from 22,9m tonnes to 22,5m tonnes. Between 1999 and 2000, it grew by 2,8 % to reach its highest level for the five year period (23,2m tonnes), before falling back to 22,5m tonnes in 2001 (a fall of 3 %). The fall in consumption between 2000 and 2001 is examined under other factors to determine whether, and if so, to what extent, it contributed to the serious injury suffered by the Community producers.

1.5.3.2. Sales volume

	1997	1998	1999	2000	2001
Sales volume in the Community (tonnes)	19 661 589	18 077 165	18 697 189	18 349 126	17 490 265

- (60) Sales of the like product in the Community fell from 19,66m tonnes to 18,08m tonnes between 1997 and 1998 before recovering to 18,70m tonnes in 1999. Thereafter, between 1999 and 2000, sales of the like product again fell, this time by 2 %. Between 2000 and 2001, sales fell by a further 4 %, reaching a five year low of 17,49m tonnes in 2001. This reflects the increasing dominance of imports in a declining market.

1.5.3.3. Market share

	1997	1998	1999	2000	2001
Market share (%)	85,7 %	79,0 %	82,9 %	79,2 %	77,7 %

- (61) The Community producers market share fell from 85,7 % to 79 % between 1997 and 1998 as a result of the significant increase in imports from the South East Asia in 1998 that occurred as a result of the Asian crisis. In order to regain most of that lost market share the following year (1999), the Community producers had no choice but to respond to the price decreases initiated by imports by cutting their own prices. However, since 1999, the Community producers market share has declined substantially, to 79,2 % in 2000 and 77,7 % in 2001. This demonstrates the increasing market penetration of imports in that period, which has occurred despite the fact that Community producers lowered their prices by 8 % between 2000 and 2001. The combination of the fall in prices and loss of market share to imports had a dramatic effect on the profitability of the Community producers as discussed below.

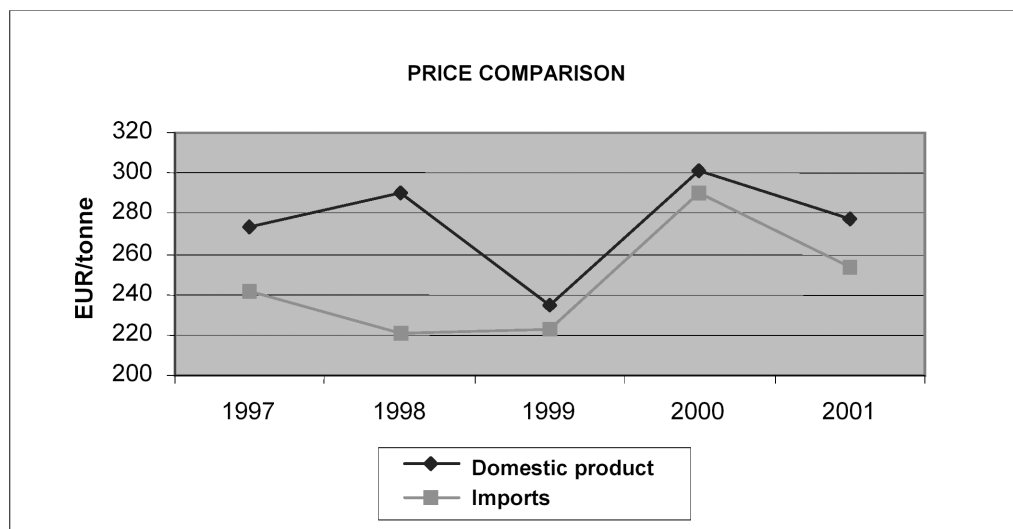
1.5.3.4. Price of like product and undercutting

	1997	1998	1999	2000	2001
Unit prices of Community sales (EUR/tonne)	273	290	235	301	277

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Unit prices of Community sales (EUR/tonne)	283	277	277	270	254

- (62) The average price of the like product rose between 1997 and 1998 before falling to a five-year low of 235 EUR/tonne in 1999. Prices recovered in 2000, but fell again (by 8 %) to 277 EUR/tonne in 2001. This trend is further confirmed because quarterly prices from Q1 2001 to Q1 2002 show a fall from 283 EUR/tonne to 254 EUR/tonne in the price of the Community product.

- (63) In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 3,9 % in 2001.
- (64) The Commission notes that, throughout the whole period of the investigation, the price of imports was clearly below the price of the Community product. The graph illustrates that the sharp increase in imports at low prices in 1998 forced the Community producers to reduce their prices in 1999, leading to a sharp reduction in profitability and the losses sustained by the Community producers in 1999. In 2000, increased consumption and more normal market conditions enabled the Community producers to increase their prices and their profitability. However, the sharp increase in imports in that year, led to a fall in prices in 2001. That sharp increase continued into 2001 and its continued effect is seen in the fall in the price of the Community product.



1.5.3.5. Profitability

	1997	1998	1999	2000	2001
Net profit/loss on Community sales (%)	6,3 %	9,4 %	- 6,5 %	10,8 %	- 3,1 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Net profit/loss on Community sales (%)	1,1 %	- 3,0 %	- 3,2 %	- 8,2 %	- 10,9 %

- (65) The profitability of the Community producers sales in the Community varied significantly in the five-year period under consideration. The lowest profitability was recorded in 1999, and the highest in 2000. In 2001, as imports increased to their highest level in the five-year period, the average price of imports fell to 254 EUR/tonne and the average price of the Community product fell to 277 EUR/tonne. This is mirrored in the undercutting of 3,9 % found for 2001. This fall in prices taken together with the fall in sales volume led the Community producers profitability to fall from 10,8 % to -3,1 %. This trend is further confirmed because quarterly data for Q1 2001 to Q1 2002, shows that the profitability of the Community producers sales on the Community market fell from 1,1 % to -10,9 %.

- (66) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by sudden sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 17,5 %.

1.5.3.6. Stocks

	1997	1998	1999	2000	2001
Closing stock (tonnes)	3 059 191	2 872 418	3 780 685	4 353 854	4 521 801

- (67) Stock levels fell slightly in 1998, but then increased significantly in 1999 and again (though more modestly) in 2000 and 2001. The increase in stock between 1998 and 1999 coincided with a fall in captive use and appears to be chiefly attributable to that fall. However, despite the recovery in captive use in the following year (2000), stock levels continued to grow. They grew further in 2001 as both production destined for sales and captive use declined.

1.5.4. Analysis of Captive Use

	1997	1998	1999	2000	2001
Captive use (tonnes)	44 685 095	45 361 899	44 633 623	46 702 238	42 785 150

- (68) Some indicators relating to captive use have been shown in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market, i.e., sales prices, stocks and profitability, the data received is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for hot rolled coils, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market. Therefore, this analysis focuses on production for captive use and examines if its trend is comparable to those of the free and total markets.
- (69) Production for captive use increased by nearly 700 000 tonnes between 1997 and 1998 before falling back to 44,6m tonnes in 1999. Captive use increased between 1999 and 2000, from 44,6 to 46,7m tonnes (an increase of 4,7 %). This allowed the Community producers to increase total production in 2000 despite a fall in production sold in the free market. In 2001, however, captive use fell. Together with the fall in production sold on the free market, this led to a fall in total production to 62,4m tonnes in 2001 (a fall of over 7 % from 2000).

1.5.5. Conclusion

- (70) The data shows that while production capacity remained stable and there is a slight increase in productivity, overall, there is negative development for capacity utilisation, production, employment, and negative elements can as well be observed for cash flow and ROCE. Overall, the free market data shows, before the background of a decline in consumption and an increase in stocks, negative developments for sales, market share, prices and profitability. The data for captive use has demonstrated that a similar trend was identified in respect of captive use. These findings were indeed supported by the analysis of the whole activity for the product concerned.

- (71) In particular, the Commission notes that whilst, in 2001, as imports reached their highest level for five years (5m tonnes), the Community producers' sales volume in the Community reached its lowest level for five years (17,49m tonnes) and profitability fell rapidly. This occurred against the background of a concurrent fall in production sold on the free market, consumption and falling prices. Against such a background, imports could have been expected to fall, but instead they rose for the second consecutive year.
- (72) The effect of this combination of factors on the Community producers is reflected in the economic indicators. The Community producers have lost market share, which reached its lowest level for five years in 2001. Capacity utilisation has fallen sharply in 2001, and with it productivity. Employment has also fallen and is expected to fall further in 2002. The overall effect of the falls in production, Community sales volume and prices was to reduce the profitability of the Community producers and plunge them into a loss-making situation in 2001. These trends are confirmed by the continuing deterioration in prices and profitability between Q1 2001 and Q1 2002.
- (73) Taking account of all of these factors and relying, in particular, on its analysis of the free market activities, the Commission concludes that the Community producers have suffered serious injury.

1.6. Causation

- (74) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:
- The injurious effects of factors considered to be causing injury have been distinguished from each other,
 - These injurious effects have been attributed to the factors which are causing them, and,
 - After having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

1.6.1. Effect of increased imports

- (75) The market for hot rolled coils is a transparent one as regards sources of supply, customers and prices. As hot rolled coils are essentially a commodity product, the product concerned and the like product compete mainly on price.
- (76) In the period 1999 to 2001, the market share of imports grew from 17,1 % of the market to 22,3 %, whilst the market share of the Community producers fell from 82,9 % to 77,7 %. Over the same period, imports have grown from 18,6 % to 25,8 % of production sold on the free market. Thus, imports have also increased relative to production, at the expense of the Community producers.
- (77) As to prices, between 2000 and 2001, the average unit price of the imported product on the Community market fell from 290 to 254 EUR/tonne. The average unit price of the Community product fell from 301 to 277 EUR/tonne. In this transparent market, price undercutting had a decisive impact. The effect of the fall in the average unit price of the like product alone on the Community producers Community sales revenue would have been a reduction of 8 % (EUR 440m) in 2001. Taking account of the simultaneous fall in sales volume the actual fall in sales revenue in the Community was EUR 678m. Fixed costs represent a material proportion of total costs. Therefore, the reduction in sales revenues created a disproportionately higher fall in profits, and, in 2001, the Community producers made a loss of -3,1 %. This fall in prices and profitability furthermore must be seen in the context of a number of plant closures and ensuing reduction in employment.

- (78) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

1.6.2. Effect of changes in consumption

- (79) The Commission examined the injurious effects of the fall in consumption between 2000 and 2001. That fall has to be considered in the context of the overall trend during the 5 year period under investigation. Consumption decreased from 22,9m tonnes in 1997 to 22,5m tonnes in 1999, but then grew by 634 000 tonnes to 23,2m tonnes in 2000, before falling back some 677 000 tonnes to 22,5m tonnes in 2001.
- (80) In this particular case, the Commission considers that the apparent rise in consumption in 2000 was largely due to the large increase in imports and stocks in that year. For this reason, the trend movements present a more accurate picture. Although consumption fell between 2000 and 2001, overall during the five year period consumption fell by 442 000 tonnes or 2 %. This represents an average rate of decline of 0,4 % per annum.
- (81) In examining this question in this particular case account has to be taken of the reaction of all market participants to the trend fall in consumption. In this respect, it was found that while Community producers were forced to reduce their sales in the Community by roughly 900 000 tonnes in 2001 compared to 2000, imports moved sharply in the other direction. No economic justification was established which could explain the sharp rise in imports. For example, no exporter claimed that this was due to lower production costs.
- (82) As regards price effects, a fall in consumption of only 0,4 % per annum should not normally lead to substantial price effects if production is quickly adjusted to the needs of the market. In this respect, the Community producers appear to have reacted by reducing both production and sales to a greater extent than that necessary to be in line with the falls in consumption.
- (83) Similarly, if price pressure is reduced then the injurious effects which stem from low prices would also be kept in check. The most important factor here is profit, where any fall would have been minimised if prices had not fallen substantially. Therefore, it is reasonable to conclude that in the absence of the sharp rise in imports at low prices, the fall in consumption would not have led to a substantial fall in profits.
- (84) Nevertheless, even if all market participants acted responsibly and adjusted their production, the Community producers would still have sold less. Consumption in 2001 was at the same level as in 1999 (i.e. 22,5m tonnes). In 2000, consumption increased by 600 000 tonnes only to fall back to the 1999 level in 2001. The Community producers' sales, however, decreased in 2000 compared to 1999 by 350 000 tonnes despite the enormous increase in consumption. At the same time, imports increased in 2000 by 1 000 000 tonnes compared to 1999. Imports therefore took the entire increase in consumption and considerably more. In 2001, consumption fell back to the 1999 levels and the Community producers' sales fell by roughly 900 000 tonnes whereas imports continued to increase. In terms of the trend fall in consumption, the Community producers fall in sales should have been approximately 70 000 tonnes per annum.
- (85) For the reasons given above, it is concluded that there is a significant, but not substantial, link between the fall in consumption and the injurious effects observed.

1.6.3. Effect of changes in captive use

- (86) The Commission has also examined the effects of the development of captive use of hot rolled coils. This was more or less stable between 1997 and 1999 (44,6 million tonnes), but rose considerably in 2000 (46,7 million tonnes) and then fell in 2001 (42,8 million tonnes). The trend fall over the period was approximately 2 million tonnes. The Commission noted that this trend fall corresponded with the market conditions for the intermediate and finished products.
- (87) The further data received in respect of captive use is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for hot rolled coils, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market.
- (88) The fall in captive use thus has caused injurious effects in terms of production, which in turn has affected capacity utilisation, and ultimately profitability. However, the fall in prices and revenues suffered by Community producers on the free market was created by low priced imports and bears little or no relation to the fall in captive use.

1.6.4. Effect of changes in export performance

- (89) The Commission also examined the effects of a fall in exports.

	1997	1998	1999	2000	2001
Exports (tonnes)	2 535 803	2 252 734	1 994 922	1 952 276	1 958 549

- (90) Between 1997 and 1999, the volume of Community producers' exports of hot rolled coils fell from 2,54m tonnes to 1,94m tonnes. Between 1999 and 2001, exports remained relatively stable, with a decrease in 2000 and a small increase in 2001. Over the five year period, exports decreased by approximately 580 000 tonnes, although most of this occurred between 1997 and 1999. Since 1999, exports have been stable. Therefore, in the most recent period between 2000 and 2001 they have not contributed to the injurious effects. In this respect, as the injury resulting from a fall in exports mainly occurred in the early part of the 5 year period it has to be viewed as less significant than if it had occurred in the latter part of the 5 year period.
- (91) For the reasons given above, it is concluded that there is some link between the fall in exports and the injurious effects observed in the earlier part of the 5 year period.

1.6.5. Effect of any excess capacity

- (92) The Commission has further examined whether injurious effects may have resulted from excess capacity amongst the Community producers. There were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation, and capacity utilisation always remained above or very slightly below 80 %. Therefore, no correlation between capacity and the injurious effects was observed.

1.6.6. Effect of restructuring

- (93) The Commission further examined the injurious effects of the costs of restructuring which the Community producers have undergone in recent years. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

1.6.7. Attribution of injurious effects

- (94) The serious injury suffered by the Community producers took the form mainly of reduced sales and worsening financial losses. The Commission identified that four factors contributed to the injury apart from the increase in imports: decline in consumption, decline in captive use, decline in exports, and ongoing rationalisation efforts.
- (95) First of all, there was a small decline in consumption of approximately 0,4 % per annum, although the fall was more pronounced in 2001 compared to 2000. However, the development of imports did not follow this consumption pattern at all and the Commission considers that the small decline in consumption did not play a significant role either in volume or prices.
- (96) As to the decline in captive use observed in particular between 2000 and 2001, this has had a negative impact primarily in terms of volume. Thus, it bears no significant relation to the fall in prices and revenues suffered by the Community producers on the free market.
- (97) The Commission also examined the decline in exports by the Community producers over the five year period. There was a decline over the earlier part of the five year period. However, in the latter part of the period, when serious injury was sustained, exports were stable. Therefore, the development in exports had a significantly lesser impact on the Community producers in the period 2000/01 compared to the surge in imports.
- (98) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports.
- (99) The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports, which not only increased much faster than the increase in consumption in 2000 but continued to increase during the fall in consumption in 2001.

1.6.8. Conclusion

- (100) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

1.7. Further Developments

- (101) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers could be expected to seriously worsen should imports continue at their current level or increase.

1.7.1. The US steel safeguard measures

- (102) It is recalled that on 5 March 2002, the US imposed safeguard measures against certain steel products including hot rolled carbon flat products. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 30 % *ad valorem* in the first year, 24 % in the second year and 18 % in the third year. The measures do not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

1.7.2. Trade diversion arising from US steel safeguard measures

- (103) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US.
- (104) In 2001, the US imported 2 562 747 tonnes of goods classified within the same HSC codes as the product concerned. The principal exporters to the US of these products were the Netherlands (13 %/340 000 tonnes), France (13 %/320 000 tonnes), Korea (11 %/270 000 tonnes), Canada (9 %/240 000 tonnes), Turkey (9 %/230 000 tonnes), Mexico (9 %/230 000 tonnes) and Australia (9 %/230 000 tonnes). India, China, Taiwan, Indonesia, Thailand, Ukraine, Russia, South Africa, Brazil, Germany and Japan have also been important suppliers to the US market in recent years.
- (105) Total exports to the US in 2001 from countries affected by the US safeguard measures (excluding producers in the Community and in those countries excluded from the US safeguard measures insofar as it relates to these products) amounted to around 1 million tonnes. Certain products produced by certain suppliers have also been excluded from the US measures, but these quantities are not considered to be significant.
- (106) The Commission then examined the likelihood that the restricted access to the US market as a result of safeguard action taken by the US would lead to increased exports to the Community. The Commission investigated the capacity situation of the cooperating exporting producers. It was found that they had increased their capacity from its level between 1997 and 1999 of around 123m tonnes to 140,4m tonnes in 2001. None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.
- (107) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (108) The potential trade which, in the absence of definitive measures, could be diverted to the Community as a result of the US measures therefore amounts to 1 million tonnes. There are reasons why this potential may not be wholly realized, e.g. the current high levels prices of domestic prices in the US which may result in a somewhat higher than expected level of imports despite the existence of 30 % duties as well as the fact that third country producers may be able to partially offset the loss of the US market by selling more on their domestic markets. This may be particularly true to a degree for those countries which have taken protective measures to counteract the US safeguard action. Producers may also increase their stocks for a period of time.
- (109) However, a very substantial potential for increased exports to the Community will still prevail. The increase which took place in 2001 had many causes as already identified in the analysis of serious injury and all of these still apply and can be expected to continue to push imports higher. Moreover, there is now the new element of the US safeguard action which manifestly leaves a substantial amount of production for which producers are under enormous pressure to find buyers. In these circumstances, it can reasonably be assumed that in the absence of definitive measures the very minimum trade diversion that would occur would be between 25 % and 50 % of the amount calculated above (1m tonnes) which could be diverted from the US market. In all likelihood, it would be greater but it is considered prudent to base this analysis on a conservative basis.

- (110) It is also relevant that in 2001, the major export markets for hot rolled coils was the Community (5mt). This compares to Korea (4,2mt), the US (2,6mt), China (2,3mt), Japan (1,7mt) and Turkey (1,6mt). This reflects that fact that the Community was, and following recent measures, remains, one of the most open markets in the world. The recent appreciation of the euro relative to the US dollar and other major currencies increases the attractiveness of imports relative to Community production in the short and medium term.

1.7.3. Reduction in Community exports arising from the US steel safeguard measures

- (111) An immediate effect of US measures has been to reduce sharply the Community exports of hot rolled coils to the US. The imposition of 30 % *ad valorem* duties will largely stop these exports though some small volumes may occur due to the current high level of prices in the US which can result in duties being worth paying at least to sell any excess stock. After taking account to the extent possible of the exclusions granted by the US since the imposition of measures that Community exports to the US, which were around 820 000 tonnes in 2001, will fall significantly as a result of the US measures.
- (112) It is also likely that Community exports to other third markets will also fall both because the all producers worldwide will find it more difficult to export both because of the US measures and the defensive safeguard actions taken by other third countries and the Community to avoid diversion to their own markets.

1.7.4. Projected effects of US measures

- (113) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures as well as the effect of these measures on Community exports. In this respect, the Commission has found that in the absence of Community safeguard measures, imports will inevitably rise substantially with the result that the state of the Community industry will show a very serious and substantial decline. Given the extremely fragile state of the Community producers any significant rise in imports would have extremely serious consequences. The expected rise of between 250 000 to 500 000 tonnes would immediately lead to a further substantial reduction in the sales of the Community producers and these reduced sales would very quickly lead to serious negative consequences for the other indicators which identify the state of the industry.
- (114) The continued fall in Community exports will also significantly contribute to the worsening state of the Community producers. It is estimated that since the US measures were taken that Community exports fell substantially and this position is likely to be maintained or even deteriorate in the coming months.
- (115) The projected increase in imports and the projected fall in Community exports would substantially worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would immediately lead to a further sharp fall in sales and prices, with consequent negative effects on production, increased unit costs and increased losses. In fact, the overall negative impact would be greatly magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

1.7.5. Conclusion

- (116) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that, without definitive measures, the likely further substantial increase in imports would substantially aggravate the situation of the Community producers. Moreover, this situation will be worsened by a significant fall in Community exports as a result of US measures.

Product 1

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (in tonnes)	78 500 000	78 500 000	78 500 000	78 500 000	78 500 000
Utilisation rate of capacity (in %)	85,2 %	83,4 %	84,3 %	85,9 %	79,4 %
Opening stocks (in tonnes)	2 928 346	3 059 191	2 872 418	3 780 685	4 353 854
Total production (in tonnes)	66 892 420	65 474 371	66 184 419	67 414 844	62 361 216
Purchases (in tonnes)	120 911	30 654	49 582	161 965	40 695
Total sales (in tonnes)	22 197 392	20 329 899	20 692 111	20 301 403	19 448 814
Captive use (in tonnes)	44 685 095	45 361 899	44 633 623	46 702 238	42 785 150
Closing stock (in tonnes)	3 059 191	2 872 418	3 780 685	4 353 854	4 521 801
Sales volume outside the EU (in tonnes)	2 535 803	2 252 734	1 994 922	1 952 276	1 958 549
Sales volume in the EU (in tonnes)	19 661 589	18 077 165	18 697 189	18 349 126	17 490 265
Unit prices of EU sales (EUR/tonne)	273	290	235	301	277
Net profit/loss on EU sales (in %)	6,3 %	9,4 %	- 6,5 %	10,8 %	- 3,1 %
Market share (%)	85,7 %	79,0 %	82,9 %	79,2 %	77,7 %
Employment (end of period)	34 814	34 644	32 371	32 583	31 181
Productivity (tonne/employee)	1 921	1 890	2 045	2 069	2 000

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	4 761 821	4 761 127	4 179 049	3 788 269	4 689 210
Unit prices (in Euro/tonne)	283	277	277	270	254
Profitability (in %)	1,1 %	- 3,0 %	- 3,2 %	- 8,2 %	- 10,9 %

Price undercutting in 2001 =	3,9 %
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Price underselling in 2001 =	17,5 %
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Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

91,4 %

2. PRODUCT 2 — NON ALLOY HOT ROLLED SHEETS AND PLATES

2.1. *Product Concerned and Like or Directly Competing Product*

2.1.1. Product Concerned

- (117) The product concerned is certain flat rolled products of iron or non-alloy steel, of a width of 600mm or more, not clad, plated or coated, not in coils, not further worked than hot-rolled
- with patterns in relief, or,
 - other than with patterns in relief, of a thickness of 4,75mm or more but not exceeding 10mm and of a width less than 2050 mm, other than rolled on four faces or in a closed box pass and of a width not exceeding 1250 mm, or,
 - other than with patterns in relief, of a thickness of 3mm or more but less than 4,75 mm other than rolled on four faces or in a closed box pass and of a width exceeding 1250 mm and of a thickness of 4 mm or more, or,
 - other than with patterns in relief, of a thickness of less than 3 mm
- (hereinafter referred to as hot rolled sheets and plates). The product concerned is currently classified under CN codes 7208 40 10, 7208 40 90, 7208 52 99, 7208 53 90, 7208 54 10, 7208 54 90.
- (118) Hot rolled sheets and plates are generally obtained in steel mills by hot rolling semi-finished steel products after the final rolling pass or after pickling or continuous annealing.
- (119) Notwithstanding the fact that each CN code corresponds to a distinguishable type of hot rolled sheets and plates, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of hot rolled sheets and plates form one single product falling under the relevant CN codes listed above.

2.1.2. Like Or Directly Competing Products

- (120) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as the like product) is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of hot rolled sheets and plates which alleged that certain types of hot rolled sheets and plates imported into the Community were not produced by the Community producers and therefore should not be considered as like the product concerned.
- (121) The Commission examined these submissions in detail and took into account in particular the following findings of the investigation:
- (a) the imported product and Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;
 - (b) the imported product and Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;
 - (c) the imported and Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;
 - (d) the imported and Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer;
- (122) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are like or directly competing.

2.2. *Increased Imports*

- (123) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause serious injury to Community producers. In this respect, the Commission has focused on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sales (excluding captive use) and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.

Product 2**Non-alloy hot rolled sheets and plates**

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (tonnes)	2 038 964	2 291 736	2 469 281	2 220 950	2 209 059

IMPORT DATA

	1997	1998	1999	2000	2001
Total imports (including agreement countries)					
Volume (in tonnes)	417 598	511 040	477 067	533 107	572 133
Rate of increase (in %)		22,4 %	- 6,6 %	11,7 %	7,3 %
Market share (in %)	20,5 %	22,3 %	19,3 %	24,0 %	25,9 %
Ratio between imports and total production (in %)	19,0 %	21,2 %	18,5 %	23,0 %	26,2 %
Ratio between imports and production sold (in %)	23,0 %	25,8 %	22,1 %	28,9 %	32,0 %
Unit prices (in Euro/tonne)	264	248	246	305	229

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	464 319	494 054	505 087	552 620

- (124) In the period prior to the Asian crisis ⁽¹⁾, imports were more or less constant at around 400 000 tonnes (1996: 387 176 tonnes, 1997: 417 598 tonnes). However, as a result of the Asian crisis, between 1997 and 1998, imports increased by 22 % whilst their average price fell by nearly 6 %. Total Community production and production destined for sales also increased in 1998, so that, relative to production destined for sales, imports increased from 22,9 % to 25,8 %, whilst relative to total production, they increased from 19 % to 21,2 %. However, the Commission considers that the level of imports in 1998 was non representative due to the extremely low prices practised by Asian producers and the resulting influx of imports.

⁽¹⁾ The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

- (125) In the following year, as the effects of the Asian crisis began to recede, imports fell back by around 7 % although they remained higher in absolute terms than in 1997. In relative terms (compared to production destined for sales and total production), imports returned to around 1997 levels, although the price of imports remained depressed.
- (126) Between 1999 and 2000, there was an increase in imports from 477 067 tonnes to 533 107 tonnes, an increase of 56 000 tonnes or 12 %. Over the same period, production destined for sales fell by over 14 %, from 2,16mt to 1,85mt. In consequence, imports increased relative to production destined for sales from 22,1 % to 28,9 %, an increase of 30 %. As a result of the fall in production destined for sales and a rise in captive use, total Community production fell from 2,58mt to 2,32mt. Imports increased from 18,5 % to 23 % of total production.
- (127) Between 2000 and 2001, imports increased to 572 133 tonnes (a further increase of about 39 000 tonnes or 7,3 %). In 2001, production destined for sales declined by a further 3 % to 1,79m tonnes so that, relative to production sold on the free market, imports increased by 11 %. Total Community production also fell in 2001 (by 133 000 tonnes or 6 %), reflecting a decrease in production for captive use and production sold on the free market, so that the increase in imports relative to total Community production was 14 %.
- (128) The price of the product concerned fell between 1997 and 1998, and remained at a depressed level in 1999. The fall in 1998 and continuing price depression in 1999 appear to have resulted from the Asian crisis. Prices rose by 24 % to 305 EUR/tonne in 2000, but fell by 25 % in 2001. The Commission notes that, although prices increased in 2000, the increase in imports (both absolute and relative to production) continued in 2001 against the background of a sharp fall in prices. The average price of imports fell from 305 EUR/tonne in 2000 to 229 EUR/tonne in 2001. The Commission also notes that the further increase in imports to the Community occurred at a time when the euro was relatively weak by comparison to the US dollar and, during which, prices in the US for hot rolled steel and plate were between 30 % and 40 % higher than prices for hot rolled sheets and plates in the Community.

2.2.1. Two year moving average

- (129) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that, whilst between 1997/98 and 1999/00, imports in any two year period fluctuated between 464 319 tonnes and 505 087 tonnes (i.e. 484 703 tonnes +/- 4 %); between 1999/00 and 2000/01 they increased by over 9 % from 505 087 tonnes to 552 620 tonnes.

2.2.2. Market share of imports

- (130) The market share of imports increased slightly between 1997 and 1998, before falling back to 19,3 % in 1999, representing a slight fall in market share relative to 1997. In 2000 and 2001, the market share of imports increased significantly, to 24 % and then 25,9 % — increases of 24 % and 8 % respectively.

2.2.3. Conclusion

- (131) Whilst imports increased sharply in 1998, the Commission considers that that increase was exceptional and cannot be considered to represent part of the normal development of imports. This is also reflected in the fact that imports declined in 1999. Leaving aside 1998, the annual rate of growth in imports between 1997 and 1999 was 7 % in absolute terms (and negative relative to total production and to relative to production destined for sales). By contrast between 1999 and 2000, the annual rate of growth in imports in absolute terms was 12 % (24 % relative to total Community

production and 28 % relative to production destined for sales). By each measure, the annual rate of growth of imports was higher between 1999 and 2000 than in the previous period, and between 2000 and 2001, notwithstanding that imports had reached a peak in 2000, they continued to grow at a higher rate than in the period 1997 to 1999. It should be noted that the high level of imports according to the utilisation of the quota set at the provisional stage appears to be confirmed for 2002.

- (132) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.
- (133) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years, in particular bearing in mind that the increase in imports in 1998, must be considered non representative.

2.3. Unforeseen Developments

2.3.1. Increased use of trade defence instruments by the US

- (134) From 1998 onwards, in reaction to the Asian crisis, the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO and some of the methodologies used have been declared to be WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (135) The table below shows the annual number of anti-dumping and countervailing duty final determinations for one or more countries made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty final determinations	Countervailing duty final determinations
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (136) In the course of 2001, the US also announced further broadly based action in the steel sector. In January 2001, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July 2001, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.
- (137) These actions, had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001, and culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

2.3.2. Increased use of TDIs by the US — relating to the product concerned

- (138) In relation to hot rolled steel and plate (being the US product categories of which hot rolled sheets and plates form part), the US imposed 19 anti-dumping measures at high levels of duty (including one suspension agreement) and 10 countervailing duty measures between 1999 and 2001. In particular, in February 1999, the US imposed anti-dumping duties of between 10,78 % and 67,14 % on imports of the product concerned originating in Japan; and anti-dumping duties and countervailing duties of between 10,21 % and 52,14 % (some of which applied cumulatively) on imports of the product concerned originating in Indonesia. In July 1999, the US imposed anti-dumping duties of between 41,27 % and 42,12 % on imports of the product concerned originating in Brazil. In September 2000, the US imposed anti-dumping duties and countervailing duties of between 40,6 % and 44,59 % (some of which applied cumulatively) on imports of the product concerned originating in Argentina. In November 2000, the US imposed anti-dumping duties of between 64,20 % and 90,83 % on imports of the product concerned originating in China. Also in November 2000, the US imposed anti-dumping duties and countervailing duties of between 8,28 % and 44,4 % (some of which applied cumulatively) on imports of the product concerned originating in India.
- (139) By 15 March 2002, in relation to hot rolled steel and plate, the US had in force anti-dumping measures against exporters in 17 countries and countervailing measures against exporters in 9 countries. The countries concerned by these proceedings were Argentina, Brazil, China, France, India, Indonesia, Italy, Japan, Kazakhstan, the Netherlands, Romania, Russia, South Africa, South Korea, Taiwan, Thailand and Ukraine. In each case, after an anti-dumping or countervailing measure has been taken, US imports of the product concerned from that country have declined. In addition, the dramatic fall in US imports in 2001 occurred in a year in which not only were 19 anti-dumping and 10 countervailing measures relating to the product concerned in place, but at the start of which the US opened a steel investigation under section 223 of the US Trade Act of 1974 and in the middle of which the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974.
- (140) Between 1999 and 2001, US imports decreased from 6,61m tonnes to 3,63m tonnes. In the same period imports to the Community of hot rolled sheets and plates increased from 477 067 tonnes to 572 133 tonnes, an increase of 20 %.
- (141) The Commission has also determined that an effect of the US reducing imports of hot rolled steel and plate to its market was to increase imports of hot rolled sheets and plates to the Community market. On the basis of the available information, the Commission has determined that there is a correlation in time between the increased and extensive use of TDIs by the US in recent years, the dramatic reduction in US imports of hot rolled steel and plate between 2000 and 2001, and the increase in imports to the Community of hot rolled sheets and plates in that period. The Community was an important export market for hot rolled sheets and plate in 2001. Both the Community and US markets have the same types of industrial users. Many of the exporters affected by the US TDIs have also exported to the Community for a number of years. At the same time as US imports fell dramatically, imports into the Community grew to record levels notwithstanding a fall in GDP growth, production and consumption in the Community in 2001.
- (142) This increased and extensive use of trade defence instruments, a number of which were found to be WTO incompatible, could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

2.3.3. Decrease In Imports to the US

- (143) The table below shows imports to the US of those products which the US categorises as hot rolled steel (including plate in coils) and plate (including cut to length plate and clad plate) for the period 1997 to 2001. Hot rolled sheets and plates are classifiable within these US product categories.

Year	Imports of the product concerned to the US (tonnes)
1997	7 065 153
1998	12 240 826
1999	6 606 789
2000	7 568 511
2001	3 630 657

Source: Global Trade Atlas

- (144) Imports to the US increased between 1997 and 1998, before falling back to just below 1997 levels in 1999. Between 1999 and 2000, they increased to around 7,6 million tonnes. However, between 2000 and 2001, imports fell by over 52 % to 3,6m tonnes.
- (145) The decrease in the level of imports of hot rolled steel and plate to the US can be explained, primarily, by reference to the direct effect of the measures referred to above on exporters whose goods became subject to anti-dumping and/or countervailing duties; but also by the indirect dissuasive effect of those measures and the investigations on all exporters of the product concerned to the US.
- (146) The table below illustrates the effect of particular anti-dumping/countervailing measures on exports to the US of hot rolled steel (including plate in coils) and plate (including cut to length plate and clad plate) from certain countries.

Country	Date of imposition of AD measures	Exports to the US (volume in tonnes)	
		2000	2001
India	November 2000	751 000	57 000
Taiwan	November 2000	653 000	46 000
China	November 2000	578 000	120 000
South Korea	November 2000	883 000	452 000
Indonesia	November 2000	235 000	12 000
Thailand	November 2000	253 000	32 000

2.4. Definition of the Community Producers

- (147) Total Community production of the product concerned is around 2,4 million tonnes per annum. The Community steel companies which cooperated fully in the investigation are:
- Cockerill Sambre SA, Belgium
 - Sidmar NV, Belgium
 - Sollac SA, France
 - EKO Stahl GmbH, Germany
 - Corus Strip UK, UK
 - Corus Staal BV, The Netherlands
 - Rautaruukki Oyj, Finland
 - Riva/Ilva SPA, Italy
 - Salzgitter AG Stahl & Technologie, Germany
 - SSAB Tunnplat AB, Sweden

— Thyssen Krupp Stahl AG, Germany and

— Voest Alpine Stahl GmbH, Austria

- (148) These companies are all members of the European Confederation of the Iron and Steel Industry (Eurofer). They accounted for around 93 % of the total Community production of the product concerned, and represent a major proportion of total Community production within the meaning of Article 5(3)(c) of 3285/94 and Article 15(1) of 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

2.5. *Serious Injury*

2.5.1. Introduction

- (149) In order to determine whether there is serious injury to the Community producers of the like product, i.e. a significant impairment in the position of the Community producers, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of production capacity, production, capacity utilisation, employment, productivity, cash flow, return on capital employed, captive use, stocks, consumption, sales, market share, price, undercutting and profitability for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.
- (150) The investigation has demonstrated that the product concerned can follow one of two distinct destinations. They can either be sold or used internally to make other products. It was found that around 17 % of the product concerned manufactured by the Community producers are used internally (i.e. they are further processed by these producers in an integrated process, often on the same production line, hereinafter referred to as captive use). These products follow an internal process of downstream processing for which invoices are not normally issued.
- (151) The remaining production is sold at market prices on the Community market (hereinafter referred to as the free market). Imports of the product concerned are also sold on the free market. The main purchasers on the free market are independent cold rolling mills, tube makers, steel service centres, steel merchants and stockholders. Both the product concerned sold by the Community industry and by importers are sold to the same types of customers and is used for the same purposes. The sale of the product concerned on the free market is supported by the issuing of commercial invoices.
- (152) The investigation demonstrated that there is a clear distinction between the product concerned destined for captive use and those destined for the free market. The product concerned destined for captive use was found not to be directly affected by the imports. By contrast, production destined for sales was in direct competition with the imports.
- (153) In order to provide as complete a picture as possible of the situation of the Community producers, the Commission has obtained and analysed data both for hot rolled sheets and plates destined for captive use and those destined for the free market. Because the free market sales are in competition with the imported products concerned, the Commission focussed its attention on the free market. While it has, to the extent possible, combined free market and captive data, it has also split the analysis between free market and captive use, where necessary and possible.

2.5.2. Analysis of the Whole Activity for the Product Concerned

2.5.2.1. Production capacity and Capacity utilisation

	1997	1998	1999	2000	2001
Capacity (tonnes)	3 500 000	3 600 000	3 600 000	3 600 000	3 600 000
Capacity Utilisation (%)	63 %	67 %	72 %	64 %	61 %

- (154) The investigation showed that there were no significant changes in overall estimated theoretical production capacity, which remained at about 3,6m tonnes throughout the period of the investigation.
- (155) Capacity utilisation increased steadily at a rate of around 7 % between 1997 and 1999, before falling back to 64 % in 2000. Capacity utilisation then fell to its lowest level in the five year period, in 2001 (61 %). The Commission notes that the fall in captive use and in exports between 2000 and 2001 contributed to this fall in capacity utilisation. However, whilst captive use fell by 64 000 tonnes and exports fell by 9 000 tonnes (in total, 2,7 % of production in 2000), capacity utilisation fell by 5 %. The steel industry requires to achieve a high level of capacity utilisation to make profits, and the fall in capacity utilisation reflects the fall in production in 2001.

2.5.2.2. Total Community Production

	1997	1998	1999	2000	2001
Production (tonnes)	2 193 175	2 406 637	2 580 125	2 317 395	2 184 078

- (156) Total Community production rose from 2,19m tonnes to 2,41m tonnes between 1997 and 1998 and on to 2,58m tonnes in 1999, encouraged by healthy growth in consumption in the Community market (which increased by about 430 000 tonnes, or 21 %, between 1997 and 1999). Thereafter, total Community production fell by 10 % in 2000 and by a further 6 %, in 2001 due to the combination of falling consumption and increasing imports. This reflects the increasing dominance of imports in 2000 and 2001, which were growing in absolute terms in a shrinking market.

2.5.2.3. Employment

	1997	1998	1999	2000	2001
Employment (end of period)	6 461	6 699	6 489	6 229	5 942

- (157) Employment in relation to the like product grew between 1997 and 1998 in response to increasing consumption but then fell back in 1999 as efficiency gains were realised. It fell by 260 between 1999 and 2000, and then by a further 290 in 2001 and this was reflected in reports of job losses and closures. It is expected to fall further in 2002, and these predictions are to some extent confirmed by the closure of at least one plant in the UK in the second quarter of 2002.

2.5.2.4. Productivity

	1997	1998	1999	2000	2001
Productivity (tonne/employee)	339	359	398	372	368

- (158) Productivity increased between 1997 and 1999 as a result of a combination of increased production and improved efficiency allowing a reduction in the workforce in 1999. However, due to the fall in production in 2000, notwithstanding a concurrent fall in employment, productivity fell from 398 tonnes per employee to 372 tonnes per employee in 2000. A further fall in production in 2001 caused a further fall in productivity, but Community producers were able to prevent productivity falling below 368 tonnes per employee as a result of the effect of job cuts both in 2000 and early in 2001.

2.5.2.5. Cash Flow

	1997	1998	1999	2000	2001
Cash Flow (index)	100	17	- 22	149	- 9

- (159) Cash flow could only be examined at the level of the cooperating companies which produced the like product rather than in relation to the like product itself. This indicator was therefore seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

2.5.2.6. Return on Capital Employed (ROCE)

	1997	1998	1999	2000	2001
ROCE	7,1 %	11,9 %	4,8 %	9,1 %	3,1 %

- (160) ROCE could only be examined on the level of the cooperating companies which produced the like product rather than in relation to the like product itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

2.5.3. Analysis of the Free Market

2.5.3.1. Consumption

	1997	1998	1999	2000	2001
Consumption (tonnes)	2 038 964	2 291 736	2 469 281	2 220 950	2 209 059

- (161) Consumption of hot rolled sheets and plates in the Community was established on the basis of the total sales made by the Community producers on the free market and total imports of the product concerned into the Community as reported by Eurostat.
- (162) Between 1997 and 1999, consumption in the Community increased from 2,04m tonnes to 2,47m tonnes. It fell to 2,22m tonnes in 2000 (a fall of 10 %) and remained at about that level in 2001. The fall in consumption between 1999 and 2000 is examined under other factors to determine whether, and if so, to what extent, it contributed to the serious injury suffered by the Community producers.

2.5.3.2. Sales volume

	1997	1998	1999	2000	2001
Sales volume in the Community (tonnes)	1 621 366	1 780 696	1 992 214	1 687 843	1 636 926

- (163) Sales of the like product in the Community rose from 1,62m tonnes to 1,78m tonnes between 1997 and 1998 and on to 1,99m tonnes in 1999, encouraged by growing consumption. Thereafter, sales of the like product fell in 2000 and 2001, by 15 % and 3 % respectively. This decline was faster than the rate of decline in consumption, and reflects the increasing dominance of imports in a declining market in 2000, and in a stagnant market in 2001.

2.5.3.3. Market share

	1997	1998	1999	2000	2001
Market share (%)	79,5 %	77,7 %	80,7 %	76,0 %	74,1 %

- (164) The Community producers' market share fell from 79,5 % to 77,7 % between 1997 and 1998 as a result of the significant increase in imports from the South East Asia in 1998 that occurred as a result of the Asian crisis. The Community producers were forced to cut prices in the following year (1999) in order to regain market share, and in fact managed to marginally increase their market share. However, since 1999, the Community producers' market share has fallen significantly, to 76 % in 2000 and 74,1 % in 2001. At the same time the market share of imports increased from 19,3 % in 1999 to 24 % in 2000 and 25,9 % in 2001. This demonstrates the increasing market penetration of imports in that period, which has occurred despite the fact that Community producers lowered their prices by 8 % between 2000 and 2001.

2.5.3.4. Price of like product and undercutting

	1997	1998	1999	2000	2001
Unit prices of Community sales (EUR/tonne)	321	347	286	363	334

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Unit prices of Community sales (EUR/tonne)	343	331	333	330	315

- (165) The average price of the like product increased between 1997 and 1998 to 347 EUR/tonne but then fell to 286 EUR/tonne in 1999 as Community producers fought to regain market share. Prices recovered in 2000, but fell again (by 8 %) to 334 EUR/tonne in 2001. This trend is further confirmed because quarterly prices from Q1 2001 to Q1 2002 show a fall from 343 EUR/tonne to 315 EUR/tonne in the price of the Community product.
- (166) In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 27,9 % in 2001.

2.5.3.5. Profitability

	1997	1998	1999	2000	2001
Net profit/loss on Community sales (%)	5,7 %	10,5 %	- 3,7 %	8,5 %	- 1,6 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Net profit/loss on Community sales (%)	2,5 %	- 2,3 %	- 3,2 %	- 4,6 %	- 8,5 %

- (167) The profitability of the Community producers' sales in the Community varied significantly in the five-year period under consideration. Their lowest profitability was recorded in 1999, when Community producers were forced to cut prices to regain market share from imports, which had increased. The highest was recorded in 1998.
- (168) In 2001, as imports increased to their highest level in the five-year period, the average price of imports fell to 229 EUR/tonne and the average price of the Community product fell to 334 EUR/tonne. This fall in the price of the Community product taken together with the fall in sales volume led the Community producers profitability to fall from 8,5 % to -1,6 %, and this negative trend appears to be continued in 2002. This trend is further confirmed because quarterly data for Q1 2001 to Q1 2002, shows that the profitability of the Community producers' sales on the Community market fell from 2,5 % to -8,5 %.
- (169) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by sudden sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 56 %.

2.5.3.6. Stocks

	1997	1998	1999	2000	2001
Closing stocks (tonnes)	167 389	215 337	232 342	265 431	289 264

- (170) Stock levels increased significantly throughout 1997 and 1998 as the predicted increase in demand in 1998 was absorbed to a greater degree than expected by the significant increase in imports in that year. This stock over-hang was in part responsible for the fall in prices in 1999. Production again outstripped consumption in 2000 leading to a further increase in stocks to 232 342 tonnes. However, despite a significant reduction in Community production in 2000, stock levels continued to climb as imports increased their market share by 24 % in a single year.
- (171) A further reduction in Community production in 2001 (over 120 000 tonnes greater than the reduction in consumption in that year), also saw stock levels increase, reaching 289 264 tonnes or 13 % of Community consumption in 2001 (compared to 8 % in 1997). This was due to the significant increase in market share taken by imports in 2001.

2.5.4. Analysis of Captive Use

	1997	1998	1999	2000	2001
Captive use (tonnes)	317 941	375 788	405 835	437 013	372 850

- (172) Some indicators relating to captive use have been shown in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market (i.e., sales prices, stocks and profitability), the data received is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for hot rolled sheets and plates. Nevertheless, there is no evidence that it was more profitable to produce for captive use than for the free market. Therefore, this analysis focuses on production for captive use and examines whether its trend is comparable to those of the free and total markets.

- (173) Production for captive use increased by nearly 120 000 tonnes between 1997 and 2000. This contributed to the increase in total Community production between 1997 and 1999 (from 2,19mt to 2,58mt), and reduced the effect of the fall in production sold in the free market in 2000. In 2001, captive use fell by 64 000 tonnes or 15 %. Although the fall in production destined for sales was the largest factor, this fall in captive use contributed to a fall in total Community production to 2,18m tonnes in 2001 (a fall of 6 % from 2000).

2.5.5. Conclusion

- (174) The data shows that while production capacity remained stable and there is a slight increase in productivity, overall, there is negative development for capacity utilisation, production, employment, productivity, and negative elements can also be observed for cash flow and ROCE.
- (175) Overall, the free market data shows, in general terms, and before the background of a decline in consumption and an increase in stocks, negative developments for sales, market share, prices and profitability.
- (176) The data for captive use demonstrates that, notwithstanding an increase in 2000, a similar trend was identified in respect of captive use, and these findings were supported by the analysis of the whole activity for the product concerned.
- (177) In particular, the Commission notes that, in 2001, as imports reached their highest level for five years (572 133 tonnes), the Community producers' Community sales reached their lowest level for five years (1,64m tonnes), their profitability declined rapidly and they became loss making. This occurred against the background of a concurrent fall in production sold on the free market, captive use and consumption. Against such a background, imports could have been expected to fall, but instead they rose for the third consecutive year.
- (178) The effect of the increase in imports on the Community producers is reflected in the performance indicators. The Community producers have lost market share, which reached its lowest level for five years in 2001. Capacity utilisation has also fallen in 2001 to its lowest level for five years and so too has productivity despite substantial job losses in both 2000 and 2001. By 2001, employment had reached its lowest level for the five-year period, and it is expected to fall further. The overall effect of the falls in production, Community sales volume and prices was to reduce the profitability of the Community producers and create a loss-making situation in 2001. The Community producers are suffering significant losses. These trends are confirmed by the continuing deterioration in prices and profitability from Q1 2001 to Q1 2002.
- (179) Taking account of all of these factors and relying, in particular, on its analysis of the free market activities, the Commission concludes that the Community producers have suffered serious injury.

2.6. Causation

- (180) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:
- the injurious effects of factors considered to be causing injury have been distinguished from each other,
 - these injurious effects have been attributed to the factors which are causing them; and,
 - after having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

2.6.1. Effect of increased imports

- (181) The market for hot rolled sheets and plates is a transparent one as regards sources of supply, customers and prices. As hot rolled sheets and plates are essentially a commodity product, the product concerned and the like product compete mainly on price. The increase in imports has had injurious effects in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.
- (182) In the period 1999 to 2000, the market share of imports grew from 19,3 % of the market to 24 %. Over the same period, imports have grown from 22,1 % to 28,9 % of production destined for sales. Further, in the period 2000 to 2001, the market share of imports increased to 25,9 % and 32 % of production destined for sales. Thus, imports have also increased relative to production, at the expense of the Community producers.
- (183) As to prices, between 2000 and 2001, the average unit price of the product concerned on the Community market fell from 305 to 229 EUR/tonne. The average unit price of the like product fell from 363 to 334 EUR/tonne. In this transparent market, price undercutting had a decisive impact. The effect of the fall in the average unit price of the like product alone on the Community producers' Community sales revenue would have been a reduction of 8 % (EUR 45m) in 2001. Taking account of the simultaneous fall in sales volume, the actual fall in turnover in the Community was EUR 66m. Fixed costs represent a material proportion of the Community producers' overheads. Thus, the reduction in sales revenues created a disproportionately higher fall in profitability, which fell to -1,6 % in 2001. This fall in prices and profitability furthermore must be seen in the context of a number of plant closures and ensuing reduction in employment.
- (184) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

2.6.2. Effect of changes in consumption

- (185) The Commission examined the injurious effects of the fall in consumption between 2000 and 2001. That fall has to be considered in the context of the overall trend during the 5 year period under investigation. Consumption increased from 2,04m tonnes in 1997 to 2,47m tonnes in 1999, before falling back some 260 000 tonnes to 2,2m tonnes in 2000, and remaining about that level in 2001.
- (186) In this particular case, the Commission considers that the apparent rise in consumption in 1999 was largely due to the building of stocks in response to the low prices in that year. For this reason, the trend movements present a more accurate picture. Although consumption fell between 1999 and 2000, overall during the five year period consumption actually increased by 170 000 tonnes or 8 %. This represents an average rate of increase of 1,6 % per annum. In terms of the overall trend in consumption, the Community producers' sales should have increased over the five year period but in fact they were stagnant.
- (187) In examining this question in this particular case account has to be taken of the reaction of all market participants to the trend fall in consumption. In this respect, it was found that while Community producers were forced to reduce their sales in the Community by roughly 51 000 tonnes in 2001 compared to 2000, imports moved sharply in the other direction. No economic justification was established which could explain the sharp rise in imports. For example, no exporter claimed that this was due to lower production costs.
- (188) As regards price effects, a modest increase in consumption should not normally lead to substantial price effects. Neither should a modest fall in consumption of the type which occurred between 1999 and 2000. Similarly, if price pressure is reduced then the injurious effects which stem from low prices would also be kept in check. The most important factor here is profit, where any fall would have been minimised if prices had not fallen substantially. Therefore, it is reasonable to conclude that in the absence of the sharp rise in imports at low prices, the fall in consumption would not have led to a substantial fall in profits.

- (189) Nevertheless, even if all market participants acted responsibly and adjusted their production, the Community producers would still have sold less in 2000 compared to 1999. Consumption in 2001 was slightly above the average for 1997 and 1998 (i.e. 2,16m tonnes). In 1999, consumption increased by 180 000 tonnes only to fall back to the 1999 level in 2001. In 2001, consumption fell back to the 1997/8 levels and the Community producers' sales fell by roughly 300 000 tonnes whereas imports continued to increase. Between 1999 to 2001, whilst consumption fell by 10 %, the Community producers' sales in the Community fell by 18 %.
- (190) For the reasons given above, it is concluded that there is a significant, but not substantial, link between the fall in consumption between 1999 and 2000 and the injurious effects observed.

2.6.3. Effect of changes in captive use

- (191) The Commission has also examined the effects of the development of captive use of hot rolled sheets and plates. This increased between 1997 and 2000 from 317 941 tonnes to 437 013 tonnes, but fell in 2001 to 372 850. The Commission noted that this fall corresponded with the market conditions for the intermediate and finished products.
- (192) Some indicators relating to captive use have been shown in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market, i.e., sales prices, stocks and profitability, the further data received in respect of captive use is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for hot rolled sheets and plates, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market.
- (193) The fall in captive use in 2001 thus has caused injurious effects in terms of production, which in turn has affected capacity utilisation, fixed costs per unit and ultimately profitability. However, the fall in prices and revenues suffered by Community producers on the free market was created by low priced imports and bears little or no relation to the fall in captive use.

2.6.4. Effect of export performance

- (194) The Commission also examined the effects of whether the serious injury was caused by a fall in exports.

	1997	1998	1999	2000	2001
Exports (tonnes)	196 354	202 206	165 070	159 450	150 469

- (195) Between 1997 and 1999, the volume of Community producers' exports of hot rolled sheets and plates to third countries fell from 196 354 tonnes to 165 070 tonnes. Between 1999 and 2001, exports remained relatively stable, with a decrease of only 15 000 tonnes in the two year period. Thus, over the five year period, exports decreased by approximately 46 000 tonnes, although most of this occurred between 1997 and 1999. Since 1999, exports have fallen by only 15 000 tonnes or 0,7 % of total sales by the Community producers. Therefore, in the most recent period, between 2000 and 2001, exports have not contributed to any appreciable extent to the injurious effects. In this respect, as the injury resulting from a fall in exports mainly occurred in the early part of the 5 year period it has to be viewed as less significant than if it had occurred in the latter part of the 5 year period.
- (196) For the reasons given above, it is concluded that there is some link between the fall in exports and the injurious effects observed particularly in the earlier part of the 5 year period.

2.6.5. Effect of any excess capacity

- (197) The Commission has further examined whether injurious effects may have resulted from the serious injury caused by excess capacity amongst the Community producers. There were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation. Therefore, no correlation between capacity and the injurious effects was observed.

2.6.6. Effect of restructuring

- (198) The Commission further examined whether the injurious effects of the costs of restructuring which the Community producers have undergone in recent years have caused the serious injury. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

2.6.7. Attribution of injurious effects

- (199) The serious injury suffered by the Community producers took the form mainly of reduced sales and worsening financial losses. The Commission identified that four factors contributed to the injury apart from the increase in imports: decline in consumption, decline in captive use, decline in exports, and ongoing rationalisation efforts.
- (200) First of all, the decline in consumption of approximately 10 % between 1999 and 2000. However, the development of imports did not follow this consumption pattern at all and the Commission considers that the decline in consumption did not play a significant role either in volume or prices.
- (201) As to the decline in captive use observed in particular between 2000 and 2001, this has had a negative impact primarily in terms of volume. Thus, it bears no significant relation to the fall in prices and revenues suffered by the Community producers on the free market.
- (202) The Commission also examined the decline in exports by the Community producers over the five year period. There was a decline over the earlier part of the five year period. However, in the latter part of the period, when serious injury was sustained, the fall in exports was insignificant in the context of the Community producers' total sales. Therefore, the development in exports had an insignificant impact on the Community producers in the period 2000/01 compared to the surge in imports.
- (203) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports.
- (204) The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports, which increased in 2000 as consumption fell and thereafter continued to increase in the face of stagnant consumption in 2001.

2.6.8. Conclusion

- (205) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

2.7. Further Developments

- (206) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers could be expected to seriously worsen should imports continue at their current level or increase.

2.7.1. The US steel safeguard measures

- (207) It is recalled that on 5 March 2002, the US imposed safeguard measures against certain steel products including hot rolled steel and plate. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 30 % *ad valorem* in the first year, 24 % in the second year and 18 % in the third year. The measures do not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

2.7.2. Trade diversion arising from US steel safeguard measures

- (208) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US.
- (209) In 2001, the US imported 3,63 million tonnes of hot rolled steel and plate, of which at least 255 000 tonnes fall within the definition of the product concerned.
- (210) Total exports to the US of the product concerned in 2001 from countries affected by the US safeguard measures (excluding producers in the Community and in those countries excluded from the US safeguard measures insofar as it relates to hot rolled steel and plate) amounted to over 200 000 tonnes. Certain products produced by certain suppliers have also been excluded from the US measures, but these quantities are not considered to be significant in the case of hot rolled steel and plate.
- (211) The Commission then examined the likelihood that the restricted access to the US market as a result of safeguard action taken by the US would lead to increased exports to the Community. The Commission investigated the capacity situation of the cooperating exporting producers. It was found that they had increased their capacity from its level of around 12,2m tonnes in 1999 to 13,2m tonnes in 2001. None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.
- (212) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (213) The potential trade which, in the absence of definitive measures, could be diverted to the Community as a result of the US measures therefore amounts to over 200 000 tonnes. There are reasons why this potential may not be wholly realized, e.g. the current high levels prices of domestic prices in the US which may result in a somewhat higher than expected level of imports despite the existence of 30 % duties as well as the fact that third country producers may be able to partially offset the loss of the US market by selling more on their domestic markets. This may be particularly true to a degree for those countries which have taken protective measures to counteract the US safeguard action. Producers may also increase their stocks for a period of time.
- (214) However, a very substantial potential for increased exports to the Community will still prevail. The increase which took place in 2001 had many causes as already identified in the analysis of serious injury and all of these still apply and can be expected to continue to push imports higher. Moreover, there is now the new element of the US safeguard action which manifestly leaves a substantial amount of production for which producers are under enormous pressure to find buyers. In these circumstances, it can reasonably be assumed that in the absence of definitive measures the very minimum trade diversion that would occur would be between 25 % and 50 % of the amount calculated above (200 000 tonnes) which could be diverted from the US market. In all likelihood, it would be greater but it is considered prudent to base this analysis on a conservative basis.

- (215) It is also relevant that in 2001, the major export markets for the product concerned was the Community (572 133 tonnes). This compares to Russia (258 738 tonnes), the US (255 144 tonnes), China (209 980 tonnes) and Turkey (99 341 tonnes). This reflects that fact that the Community was, and following recent measures, remains, one of the most open markets in the world. The recent appreciation of the euro relative to the US dollar and other major currencies increases the attractiveness of imports relative to Community production in the short and medium term.

2.7.3. Reduction in Community exports arising from the US steel safeguard measures

- (216) An immediate effect of US measures has been to reduce sharply the Community exports of hot rolled sheets and plates to the US. The imposition of 30 % *ad valorem* duties will largely stop these exports though some small volumes may occur due to the current high level of prices in the US which can result in duties being worth paying at least to sell any excess stock. Taking account to the extent possible of the exclusions granted by the US since the imposition of measures, Community exports to the US, which were around 20 000 tonnes in 2001, will fall as a result of the US measures.
- (217) It is also likely that Community exports to other third markets will also fall both because the all producers world-wide will find it more difficult to export both because of the US measures and the defensive safeguard actions taken by other third countries and the Community to avoid diversion to their own markets.

2.7.4. Projected effects of US measures

- (218) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures as well as the effect of these measures on Community exports Community. In this respect, the Commission has found that in the absence of Community safeguard measures, imports will inevitably rise substantially with the result that the state of the Community industry will show a very serious and substantial decline. Given the extremely fragile state of the Community producers any significant rise in imports would have extremely serious consequences. The expected rise of between 50 000 and 100 000 tonnes would immediately lead to a further substantial reduction in the sales of the Community producers and these reduced sales would very quickly lead to serious negative consequences for the other indicators which identify the state of the industry.
- (219) The continued fall in Community exports will also significantly contribute to the worsening state of the Community producers. It is estimated that since the US measures were taken that Community exports have fallen and this position is likely to be maintained or even deteriorate in the coming months.
- (220) The projected increase in imports and the projected fall in Community exports would substantially worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would immediately lead to a further sharp fall in sales and prices, with consequent negative effects on production, increased unit costs and increased losses. In fact, the overall negative impact would be greatly magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

2.7.5. Conclusion

- (221) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that the likely further substantial increase in imports would significantly aggravate the situation of the Community producers. Moreover, this situation will be worsened by a fall in Community exports as a result of US measures.

Product 2

Non alloy hot rolled sheets and plates (continued)

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (in tonnes)	3 500 000	3 600 000	3 600 000	3 600 000	3 600 000
Utilisation rate of capacity (%)	63 %	67 %	72 %	64 %	61 %
Opening stocks (in tonnes)	109 875	167 389	215 337	232 342	265 431
Total production (in tonnes)	2 193 175	2 406 637	2 580 125	2 317 395	2 184 078
Purchases (in tonnes)	0	0	0	0	0
Total sales (in tonnes)	1 817 720	1 982 901	2 157 285	1 847 294	1 787 395
Captive use (in tonnes)	317 941	375 788	405 835	437 013	372 850
Closing stock (in tonnes)	167 389	215 337	232 342	265 431	289 264
Sales volume outside the EU (in tonnes)	196 354	202 206	165 070	159 450	150 469
Sales volume in the EU (in tonnes)	1 621 366	1 780 696	1 992 214	1 687 843	1 636 926
Unit prices of EU sales (Euro/tonne)	321	347	286	363	334
Net profit/loss on EU sales (in %)	5,7 %	10,5 %	- 3,7 %	8,5 %	- 1,6 %
Market share (%)	79,5 %	77,7 %	80,7 %	76,0 %	74,1 %
Employment (end of period)	6 461	6 699	6 489	6 229	5 942
Productivity (tonne/employee)	339	359	398	372	368

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	452 189	444 231	382 515	357 993	353 998
Unit prices (in Euro/tonne)	343	331	333	330	315
Profitability (in %)	2,5 %	- 2,3 %	- 3,2 %	- 4,6 %	- 8,5 %

Price undercutting in 2001 =	27,9 %
Price underselling in 2001 =	56,0 %

Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

92,8 %

3. PRODUCT 3 — NON ALLOY HOT ROLLED NARROW STRIPS

3.1. *Product Concerned and Like or Directly Competing Product*

3.1.1. Product Concerned

(222) The product concerned is flat rolled products of iron or non-alloy steel, of a width less than 600mm,

— not clad, plated or coated, not further worked than hot rolled, other than rolled on four faces or in a closed box pass and of a width exceeding 150 mm and a thickness of not less than 4 mm, not in coils and without patterns in relief, or,

— clad, but not further worked than clad

(hereinafter referred to as hot rolled narrow strips). The product concerned is currently classified under CN codes 7211 14 10, 7211 14 90, 7211 19 20, 7211 19 90, 7212 60 11, 7212 60 19, 7212 60 91.

(223) Hot rolled narrow strips are generally obtained in steel mills by hot rolling semi-finished steel products after the final rolling pass or after pickling or continuous annealing.

(224) Hot rolled narrow strips can be of various grades and dimensions. Notwithstanding the fact that each CN code corresponds to a distinguishable type of hot rolled narrow strips, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of hot rolled narrow strips form one single product falling under the relevant CN codes listed above.

3.1.2. Like Or Directly Competing Products

(225) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as the like product) is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of hot rolled narrow strips which alleged that certain types of hot rolled narrow strips imported into the Community were not produced by the Community producers and therefore should not be considered as like the product concerned.

(226) The Commission examined these submissions in detail and took into account in particular the following findings of the investigation:

(a) the imported product and Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;

(b) the imported product and Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;

(c) the imported and Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;

(d) the imported and Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.

(227) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are 'like or directly competing'.

3.2. *Increased Imports*

- (228) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause or threaten to cause, serious injury to the Community producers. In this respect, the Commission has focused on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sales (excluding 'captive use') and total Community production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.

Product 3**Non-alloy hot rolled narrow strips**

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (in tonnes)	2 139 438	2 196 904	2 234 572	2 239 916	2 129 442

IMPORT DATA

	1997	1998	1999	2000	2001
Total imports (including agreement countries)					
Volume (in tonnes)	85 864	129 697	146 345	176 854	214 414
Rate of increase (in %)		51,0 %	12,8 %	20,8 %	21,2 %
Market share (in %)	4,0 %	5,9 %	6,5 %	7,9 %	10,1 %
Ratio between imports and total production (in %)	3,1 %	4,7 %	5,5 %	6,4 %	8,4 %
Ratio between imports and production sold (in %)	3,6 %	5,4 %	6,1 %	7,4 %	9,8 %
Unit prices (in Euro/tonne)	44	232	208	302	239

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	107 781	138 021	161 600	195 634

- (229) In the period prior to the Asian crisis, imports were below 110 000 tonnes (1996: 108 512 tonnes, 1997: 85 864 tonnes). As a result of the Asian crisis, between 1997 and 1998, imports increased by over 50 %. Total Community production and production destined for sales increased marginally in 1998, so that, relative to production sold on the free market, imports increased from 3,6 % to 5,4 %, whilst relative to total production, they increased from 3,1 % to 4,7 %.

- (230) In the following year, the rate of growth of imports fell back to around 13 %, but imports continued to increase notwithstanding a fall in prices to 208 EUR/tonne. In relative terms (compared to production destined for sales and total production), imports also increased, to 5,5 % of total Community production and 6,1 % of production destined for sales. The larger increase recorded relative to total Community production reflects the fact that a decline in captive use contributed to a decline in total Community production in 1999, notwithstanding a slight increase in production destined for sales in that year. It is noted that after imports had increased sharply in 1998 due to the Asian crisis, they became established at that level in 1999 despite the fall in prices in that year because exporters were able to retain their enlarged customer base and increase sales.
- (231) Between 1999 and 2000, there was an increase in imports from 146 345 tonnes to 176 854 tonnes, an increase of almost 21 %. Over the same period, production destined for sales was more or less stable, so that relative to production sold on the free market, there was an increase from 6,1 % to 7,4 % (or around 21 %). As a result partly of an increase in captive use and exports, total Community production increased from 2,65mt to 2,78mt, so that imports increased from 6,4 % to 8,4 % of total production.
- (232) Between 2000 and 2001, imports increased to 214 414 tonnes (a further increase of about 37 000 tonnes or 21 %). In 2001, production destined for sales declined by 7 % to 1,92m tonnes so that, relative to production sold on the free market, imports increased by over 32 % (to 9,8 % of production sold on the free market). Total Community production also fell in 2001 (by 232 000 tonnes or 8 %), reflecting a marginal decrease in production for captive use, a drop in exports and a fall in production sold on the free market. The increase in imports relative to total Community production was over 31 %.
- (233) The price of the product concerned rose slightly between 1997 and 1998, but fell in 1999 to 208 EUR/tonne due to oversupply caused by the increase in imports in 1998 which appears to have resulted from the Asian crisis. Prices rose to 302 EUR/tonne in 2000 but fell by over 20 % in 2001. The Commission notes that, although prices increased in 2000, the increase in imports (both absolute and relative to production) continued in 2001 against a background of falling prices. The average price of imports fell from 302 EUR/tonne in 2000 to 239 EUR/tonne in 2001. The Commission also notes that the further increase in imports to the Community occurred at a time when the euro was relatively weak by comparison to the US dollar and, during which prices in the US for hot rolled narrow strips were between 30 % and 40 % higher than prices for that product in the Community.

3.2.1. Two year moving average

- (234) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that imports increased by over 21 % towards the end of the period.

3.2.2. Market share of imports

- (235) The market share of imports increased in each year of the investigation period, increasing from 4,0 % in 1997 to 10,1 % in 2001. From 2000 to 2001, the market share of imports increased by nearly 28 %.

3.2.3. Conclusion

- (236) Whilst imports increased sharply in 1998, the Commission considers that that increase was exceptional and cannot be considered to represent part of the normal development of imports.
- (237) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.

- (238) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years, in particular bearing in mind that the increase in imports in 1998, must be considered non representative.

3.3. Unforeseen Developments

3.3.1. Increased use of trade defence instruments by the US

- (239) From 1998 onwards, in reaction to the Asian crisis, the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO and some of the methodologies used have been declared to be WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (240) Table below shows the annual number of anti-dumping and countervailing duty final determinations for one or more countries made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty final determinations	Countervailing duty final determinations
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (241) In the course of 2001, the US also announced further broadly based action in the steel sector. In January, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.
- (242) These actions, had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001, and culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

3.3.2. Increased use of TDIs by the US — relating to the product concerned

- (243) In relation to hot rolled steel and plate (being the US product categories of which hot rolled narrow strips form part), the US imposed 19 anti-dumping measures (including one suspension agreement) and 10 countervailing duty measures between 1999 and 2001. In particular, in February 1999, the US imposed anti-dumping duties of between 10,78 % and 67,14 % on imports of the product concerned originating in Japan; and anti-dumping duties and countervailing duties of between 10,21 % and 52,14 % (some of which applied cumulatively) on imports of the product concerned originating in Indonesia. In July 1999, the US imposed anti-dumping duties of between 41,27 % and 42,12 % on imports of the product concerned originating in Brazil. In September 2000, the US imposed anti-dumping duties and countervailing duties of between 40,6 % and 44,59 % (some of which applied cumulatively) on imports of the product concerned originating in Argentina. In November 2000, the US imposed anti-dumping duties of between 64,20 % and 90,83 % on imports of the product concerned originating in China. Also in November 2000, the US imposed anti-dumping duties and countervailing duties of between 8,28 % and 44,4 % (some of which applied cumulatively) on imports of the product concerned originating in India.

- (244) By 15 March 2002, in relation to hot rolled steel and plate, the US had in force anti-dumping measures against exporters in 17 countries and countervailing measures against exporters in 9 countries. The countries concerned by these proceedings were Argentina, Brazil, China, France, India, Indonesia, Italy, Japan, Kazakhstan, the Netherlands, Romania, Russia, South Africa, South Korea, Taiwan, Thailand and Ukraine. In each case, after an anti-dumping or countervailing measure has been taken, US imports of the product concerned from that country have declined. In addition, the dramatic fall in US imports in 2001 occurred in a year in which not only were 19 anti-dumping and 10 countervailing measures relating to the product concerned in place, but at the start of which the US opened a steel investigation under section 223 of the US Trade Act of 1974 and in the middle of which the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974.
- (245) Between 1999 and 2001, US imports decreased from 6,61m tonnes to 3,63m tonnes. In the same period imports to the Community increased from 146 345 tonnes to 214 414 tonnes, an increase of 20 %.
- (246) The Commission has also determined that an effect of the US reducing imports of hot rolled steel and plate to its market was to increase imports of hot rolled narrow strips to the Community market. On the basis of the available information, the Commission has determined that there is a correlation in time between the increased and extensive use of TDIs by the US in recent years, the dramatic reduction in US imports of hot rolled steel and plate between 2000 and 2001, and the increase in Community imports of hot rolled narrow strips in that period. The Community was a major export market for hot rolled narrow strips in 2001. Both the Community and US markets have the same types of industrial users. Many of the exporters affected by the US TDIs have also exported to the Community for a number of years. At the same time as US imports fell dramatically, imports into the Community grew to record levels notwithstanding a fall in GDP growth, production and consumption in the Community in 2001.
- (247) This increased and extensive use of trade defence instruments, a number of which were found to be WTO incompatible, could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

3.3.3. Decrease In Imports to the US

- (248) The table below shows imports of hot rolled steel (including plate in coils) and plate (including cut to length plate and clad plate) to the US for the period 1997 to 2001. Hot rolled narrow strips are classifiable within these US product categories.

Year	Imports of the product concerned to the US (tonnes)
1997	7 065 153
1998	12 240 826
1999	6 606 789
2000	7 568 511
2001	3 630 657

Source: Global Trade Atlas

- (249) Imports to the US increased between 1997 and 1998, before falling back to just below 1997 levels in 1999. Between 1999 and 2000, they increased to around 7,6 million tonnes. However, between 2000 and 2001, imports fell by over 52 %.

- (250) The decrease in the level of imports of hot rolled steel and plate to the US can be explained, primarily, by reference to the direct effect of the measures referred to paragraphs (21) to (26) above on exporters whose goods became subject to anti-dumping and/or countervailing duties; but also by the indirect dissuasive effect of those measures and the investigations on all exporters of the product concerned to the US.
- (251) The table below illustrates the effect of particular anti-dumping/countervailing measures on exports to the US of hot rolled steel (including plate in coils) and plate (including cut to length plate and clad plate) from certain countries.

Country	Date of imposition of AD measures	Exports to the US (volume in tonnes)	
		2000	2001
India	November 2000	751 000	57 000
Taiwan	November 2000	653 000	46 000
China	November 2000	578 000	120 000
South Korea	November 2000	883 000	452 000
Indonesia	November 2000	235 000	12 000
Thailand	November 2000	253 000	32 000

3.4. Definition of the Community Producers

- (252) Total Community production of hot rolled narrow strips is around 3,5 million tonnes per annum. The Community steel companies which cooperated fully in the investigation are:
- Corus Strip UK, UK;
 - Corus Staal BV, the Netherlands;
 - Rautaruukki Oyj, Finland;
 - Riva/Ilva SPA, Italy;
 - Salzgitter AG Stahl & Technologie, Germany;
 - Sollac SA, France;
 - SSAB Tunnpilat AB, Sweden;
 - Thyssen Krupp Stahl AG, Germany; and
 - Voest Alpine Stahl GmbH, Austria.
- (253) These companies are all members of the European Confederation of the Iron and Steel Industry ('Eurofer'). They accounted for around 72 % of the total Community production of the product concerned. They represent a major proportion of total Community production within the meaning of Article 5(3)(c) of Regulation (EC) No 3285/94 and Article 15(1) of Regulation (EC) No 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

3.5. Serious Injury

- (254) In order to determine whether there is serious injury to the Community producers of the like product, i.e. a significant overall impairment in the position of the Community producers, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of production capacity, production, capacity utilisation, employment, productivity, cash flow, return on capital employed captive use, stocks, consumption, sales, market share, price, undercutting and profitability for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.
- (255) The investigation has demonstrated that the product concerned can follow one of two distinct destinations. They can either be sold or used internally to make other products. It was found that around 17 % of the product concerned manufactured by the Community producers are used internally (i.e. they are further processed by these producers in an integrated process, often on the same production line, hereinafter referred to as 'captive use'). These products follow an internal process of downstream processing for which invoices are not normally issued.

- (256) The remaining production is sold at market prices on the Community market (hereinafter referred to as the 'free market'). Imports of the product concerned are also sold on the free market. The main purchasers on the free market are independent cold rolling mills, tube makers, steel service centres, steel merchants and stockholders. Both the product concerned sold by the Community industry and importers is sold to the same types of customers and is used for the same purposes. The sale of the product concerned is supported by the issuing of commercial invoices.
- (257) The investigation demonstrated that there is a clear distinction between the product concerned destined for captive use and those destined for sales. The product concerned destined for captive use were found not to be directly affected by the imports. By contrast, production destined for sales was in direct competition with the imports.
- (258) In order to provide as complete a picture as possible of the situation of the Community producers, the Commission has obtained and analysed data both for hot rolled narrow strips destined for captive use and those destined for sales. Because Community production destined for sales is in competition with the imported product concerned, the Commission focused their attention on the free market. While it has, to the extent possible, combined free market and captive data, it has also split the analysis between free market and captive use, where necessary and possible.

3.5.1. Analysis of the Whole Activity for the Product Concerned

3.5.1.1. Production capacity and Capacity utilisation

	1997	1998	1999	2000	2001
Capacity (tonnes)	3 810 000	3 810 000	3 810 000	3 810 000	3 800 000
Capacity Utilisation (%)	72 %	73 %	69 %	73 %	67 %

- (259) The investigation showed that there were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation.
- (260) Capacity utilisation was reasonably stable in 1997 and 1998 (at 72 %/73 %) but fell in 1999 as a result of the fall in production. Capacity utilisation recovered to its previous level in 2000 due to a return to previous levels of production but fell to its lowest level for the five year period in 2001 (67 %). The Commission notes that the fall in exports, and fall in captive use, between 2000 and 2001, contributed to this fall in capacity utilisation. However, whilst captive use fell by 9 000 tonnes and exports fell by 41 000 tonnes (in total, about 1,3 % of production in 2000), capacity utilisation fell by over 8 %.

3.5.1.2. Total Community Production

	1997	1998	1999	2000	2001
Production	2 736 501	2 763 332	2 646 967	2 784 800	2 553 066

- (261) Total Community production remained stable in 1997 and 1998 before falling in 1999 due to a combination of an increase in imports, and falls in stocks, exports and captive use. In 2000, production recovered to just above its previous levels despite increased imports due to increased exports and captive use and restocking. However, it fell in 2001, as, despite a fall of 5 % in consumption, imports took a greater share of the Community market in absolute terms.
- (262) Production sold on the free market was more or less stable between 1997 and 2000, although it followed a slight upward curve in the first two years before falling slightly in the third. Thereafter, production destined for sales fell between 2000 and 2001, by 148 000 tonnes or 7 %, due to the combination of falling exports and falling Community sales. This shows the increasing dominance of

imports in a declining market in 2001. Throughout the investigation period, Community exports of hot rolled narrow strips accounted for about one eighth of production sold on the free market. Community exports fell from a peak of 330 618 tonnes in 1997 to 273 737 tonnes in 2001. The fall in production for export is further examined under 'other factors' to determine its effect on the situation of the Community producers.

3.5.1.3. Employment

	1997	1998	1999	2000	2001
Employment (end of period)	8 852	9 082	8 727	8 310	7 812

- (263) Employment in relation to the like product peaked in 1998 when production was highest. A combination of efficiency gains in 1999 and 2000, and reduced production in 2001 lead to falls in employment in each of these years. Employment fell by around 500 (or 6 %) between 2000 and 2001 and this was reflected in reports of job losses and closures. It is expected to fall further in 2002, and these predictions are to some extent confirmed by the closure of at least one plant in the UK in the second quarter of 2002.

3.5.1.4. Productivity

	1997	1998	1999	2000	2001
Productivity (tonne/employee)	309	304	303	335	327

- (264) Productivity remained stable from 1997 to 1999 at around 303 to 309 EUR/tonne. It increased to 335 EUR/tonne in 2000 as the Community producers reduced employment in response to efficiency gains. However, it fell in 2001 as, despite a reduction in employment, the fall in production led to lower efficiency. Assuming no further fall in production, productivity is expected to stabilise in 2002 as the effect of job losses in the latter part of 2001 feed through fully.

3.5.1.5. Cash Flow

	1997	1998	1999	2000	2001
Cash Flow (index)	100	63	- 20	55	67

- (265) Cash flow could only be examined at the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001.

3.5.1.6. Return on Capital Employed (ROCE)

	1997	1998	1999	2000	2001
ROCE	11,2 %	16,7 %	9,9 %	12,6 %	7,8 %

- (266) ROCE could only be examined on the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

3.5.1.7. Other indicators

- (267) It was not found to be relevant to analyse consumption, sales volume, market share, unit prices, profitability and stocks under this heading because a complete analysis of these indicators was only relevant to the free market.

3.5.2. Analysis of the Free Market

3.5.2.1. Consumption

	1997	1998	1999	2000	2001
Consumption (tonnes)	2 139 438	2 196 904	2 234 572	2 239 916	2 129 442

- (268) Consumption of hot rolled narrow strips in the Community was established on the basis of the total sales made by the Community producers on the free market and total imports of the product concerned into the Community as indicated in the Eurostat import statistics and the exporting producers' replies to the questionnaires.
- (269) Between 1997 and 1999, consumption in the Community increased from 2,14m tonnes to 2,23m tonnes. It remained stable in 2000, but fell back to 2,13m tonnes in 2001. The fall in consumption between 2000 and 2001 is examined under other factors to determine whether, and if so, to what extent, it contributed to the serious injury suffered by the Community producers.

3.5.2.2. Sales volume

	1997	1998	1999	2000	2001
Sales volume in the Community (tonnes)	2 053 574	2 067 207	2 088 227	2 063 062	1 915 028

- (270) Sales of the like product in the Community rose from 2,05m tonnes to 2,07m tonnes between 1997 and 1998 and on to 2,09m tonnes in 1999, encouraged by some growth in consumption. Thereafter, sales of the like product fell in 2000 (to 2,06m tonnes) and 2001 more sharply in 2001 (to 1,92m tonnes). The fall in Community sales of the like product in 2001 was 7 %, somewhat higher than the 5 % decline in consumption. This reflects the increasing dominance of imports in a market in which consumption had fallen in 2001.

3.5.2.3. Market share

	1997	1998	1999	2000	2001
Market share (%)	96,0 %	94,1 %	93,5 %	92,1 %	89,9 %

- (271) The Community producers' market share fell from 96,0 % to 94,1 % between 1997 and 1998 as a result of the increase in imports from the South East Asia in 1998 that occurred as a result of the Asian crisis. Despite price cuts the following year (1999), they continued to lose market share, although at a slower rate. Between 1999 and 2000, the Community producers' market share fell again, and this occurred again between 2000 and 2001. The Community producers' market share fell to 89,9 %, 6,1 percentage points lower than its level at the beginning of the investigation period. It is noted that the loss of market share between 2000 and 2001 continued at an increased rate despite the fact that Community producers lowered their prices in that period.

3.5.2.4. Price of like product and undercutting

	1997	1998	1999	2000	2001
Unit prices of Community sales (EUR/tonne)	334	347	298	359	343

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2001
Unit prices of Community sales (EUR/tonne)	349	342	341	337	332

- (272) The average price of the like product increased between 1997 and 1998 to 347 EUR/tonne but then fell to 298 EUR/tonne in 1999 as Community producers fought to regain market share. Prices recovered in 2000, but fell again (by 4,5 %) to 343 EUR/tonne in 2001. This trend is further confirmed because quarterly prices from Q1 2001 to Q1 2002 show a fall from 349 EUR/tonne to 332 EUR/tonne in the price of the Community product.
- (273) In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 26,7 % in 2001.

3.5.2.5. Profitability

	1997	1998	1999	2000	2001
Net profit/loss on Community sales (%)	2,3 %	5,8 %	- 3,2 %	5,5 %	- 1,7 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2001
	1,6 %	- 1,9 %	- 2,8 %	- 5,2 %	- 8,5 %

- (274) The profitability of the Community producers' sales in the Community varied significantly in the five-year period under consideration. Their lowest profitability was recorded in 1999, when, Community producers cut prices in an attempt to regain market share from imports. The highest was recorded in 1998. In 2001, as imports increased to their highest level in the five-year period, the average price of imports fell to 239 EUR/tonne and the average price of the Community product fell to 343 EUR/tonne. This fall in the price of the Community product taken together with the fall in sales volume led the Community producers' profitability to fall from 5,5 % to -1,7 %, and this negative trend appears to be continued in 2002. This trend is further confirmed because quarterly data for Q1 2001 to Q1 2002, shows that the profitability of the Community producers' sales on the Community market fell from 1,6 % to -8,5 %.
- (275) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by sudden sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 53,5 %.

3.5.2.6. Stocks

	1997	1998	1999	2000	2001
Closing stock (tonnes)	190 212	198 033	113 383	142 532	138 595

- (276) Stock levels were stable through 1997 and 1998 but fell in 1999 due to a reduction in production by Community producers, in response to the fall in prices experienced in the early and middle part of that year. In 2000, stocks were rebuilt to 142 535 tonnes and remained stable at about this level in 2001.

3.5.3. Analysis of Captive use

	1997	1998	1999	2000	2001
Captive use (tonnes)	344 566	365 693	351 081	377 552	368 239

- (277) Some indicators relating to captive use have been shown in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market, i.e., sales prices, stocks and profitability, the data received is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for hot rolled narrow strips, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market. Therefore, this analysis focuses on production for captive use and examines if its trend is comparable to those of the free and total markets.
- (278) Production for captive use represented around 13 % of total Community production between 1997 and 2000. However, due to the fall in total production, it increased to around 14 % of total Community production in 2001. In absolute terms, captive use remained more or less stable throughout the five-year period, although on a slight upward curve, varying between 344 566 tonnes and 377 552 tonnes.

3.5.4. Conclusion

- (279) The data shows that while production capacity remained stable and there is a slight increase in productivity, overall there is negative development for capacity utilisation, production, employment, and negative elements can as well be observed for cash flow and ROCE.
- (280) Overall, the free market data shows before the background of stagnant consumption and a decrease in stocks, negative developments for sales, market share, prices and profitability.
- (281) The data for captive use has demonstrated that a stable trend was identified in respect of captive use. These findings were indeed supported by the analysis of the whole activity for the product concerned.
- (282) In particular, the Commission notes that whilst, in 2001, as imports reached their highest level for five years (214 414 tonnes), the Community producers' Community sales volume reached their lowest level for five years (1,92m tonnes) and their profitability rapidly declined. This occurred against the background of a concurrent fall in production and consumption. Against such a background, imports could have been expected to fall, but instead they rose for the fourth consecutive year.
- (283) The effect of this combination of factors on the Community producers is reflected in the performance indicators. The Community producers' profitability has fallen from 5,5 % in 2000 to losses of -8,5 % in Q1 2002. The Community producers have lost market share, which reached its lowest level for five years in 2001. Capacity utilisation has also fallen sharply in 2001 to its lowest level for five years and so too has productivity despite substantial job losses in both 2000 and 2001. By 2001, employment had reached its lowest level for the five-year period. These trends are confirmed by the continuing deterioration in prices and profitability between Q1 2001 and Q1 2002.
- (284) Taking account of all of these factors and relying, in particular, on its analysis of the free market activities, the Commission concludes that the Community producers have suffered serious injury.

3.6. Causation

- (285) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:
- the injurious effects of factors considered to be causing injury have been distinguished from each other,

- these injurious effects have been attributed to the factors which are causing them; and,
- after having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

3.6.1. Effect of increased imports

- (286) The market for hot rolled narrow strips is a transparent one as regards sources of supply, customers and prices. As hot rolled narrow strips are essentially a commodity product, the product concerned and the like product compete mainly on price. In the period 1999 to 2001, the market share of imports grew from 6,5 % of the market to 10,1 % in 2001. Whilst the market share of the Community product fell from 93,5 % in 1999 to 89,9 % in 2001. Over the same period, imports have grown from 6,1 % to 9,8 % of production destined for sales (5,5 % to 8,4 % of total Community production). Thus, imports have also increased relative to production, at the expense of the Community producers.
- (287) As to prices, between 2000 and 2001, the average unit price of the product concerned on the Community market fell from 302 to 239 EUR/tonne. The average unit price of the like product fell from 359 to 343 EUR/tonne. In this transparent market, price undercutting had a decisive impact. The effect of the fall in the average unit price of the like product alone on the Community producers' Community sales revenue would have been a reduction of about 4,5 % (EUR 33m) in 2001. Taking account of the simultaneous fall in sales volume the actual fall in turnover in the Community was EUR 89m. Fixed costs represent a material proportion of the Community producers' overheads. Therefore, the reduction in sales revenues created a disproportionately higher fall in profits, and, in 2001, the Community producers made a loss of -1,6 %. This fall in prices and profitability furthermore must be seen in the context of a number of plant closures and ensuing reduction in employment.
- (288) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

3.6.2. Effect of changes in consumption

- (289) The Commission examined the injurious effects of the fall in consumption between 2000 and 2001. That fall has to be considered in the context of the overall trend during the 5 year period under investigation. Consumption increased from 2,14m tonnes in 1997 to 2,23m tonnes in 1999, and then to 2,24m tonnes in 2000, before falling back some 110 000 tonnes to 2,13m tonnes in 2001.
- (290) Although consumption fell between 2000 and 2001, overall during the five year period consumption remained stable.
- (291) In examining the fall between 2000 and 2001, account has to be taken of the reaction of all market participants to the fall in consumption. In this respect, it was found that while Community producers were forced to reduce their sales in the Community by roughly 150 000 tonnes in 2001 compared to 2000, imports moved sharply in the other direction. No economic justification was established which could explain the sharp rise in imports. For example, no exporter claimed that this was due to lower production costs.
- (292) As regards price effects, stable consumption not normally lead to falling prices, and even the fall of 4 % in 2001 should not normally lead to substantial price effects if production is quickly adjusted to the needs of the market. In this respect, the Community producers appear to have reacted by reducing both production and sales to a greater extent than that necessary to be in line with the fall in consumption.

- (293) Similarly, if price pressure is reduced then the injurious effects which stem from low prices would also be kept in check. The most important factor here is profit, where any fall would have been minimised if prices had not fallen substantially. Therefore, it is reasonable to conclude that in the absence of the sharp rise in imports at low prices, the fall in consumption would not have led to a substantial fall in profits.
- (294) Nevertheless, even if all market participants acted responsibly and adjusted their production, the Community producers would still have sold less in 2001 than in 2000. The Community producers' sales decreased in 2001 compared to 2000 by 150 000 tonnes. At the same time, imports increased by 40 000 tonnes compared to 2000. In terms of the five year trend in consumption, the Community producers' sales level should have been maintained.
- (295) For the reasons given above, it is concluded that there is a significant, but not substantial, link between the fall in consumption and the injurious effects observed.

3.6.3. Effect of changes in captive use

- (296) The Commission has also examined the effects of the development of captive use of hot rolled narrow strips. This increased between 1997 and 2000 from 344 566 tonnes to 377 552 tonnes, but fell in 2001 to 368 239. The Commission noted that this fall corresponded with the market conditions for the intermediate and finished products.
- (297) Some indicators relating to captive use have been shown in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market, i.e. sales prices, stocks and profitability, the further data received in respect of captive use is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for hot rolled sheets and plates, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market.
- (298) The fall in captive use has caused minor injurious effects in terms of production, which in turn affected capacity utilisation and ultimately profitability. However, the effect was small and the fall in prices and revenues suffered by Community producers on the free market was created by low priced imports and bears little or no relation to the fall in captive use.

3.6.4. Effect of export performance

- (299) The Commission also examined the effects of a fall in exports.

	1997	1998	1999	2000	2001
Exports (tonnes)	330 618	322 611	292 309	315 037	273 737

- (300) Between 1997 and 2001, the volume of Community producers' exports of hot rolled narrow strips to third countries fell from 330 618 tonnes to 273 737 tonnes. There was a steady fall between 1997 and 1999, with a recovery in 2000 followed by a further decline. Over the five year period, exports decreased by approximately 57 000 tonnes. Therefore, there were some injurious effects caused as a result of loss of exports over the five year period.
- (301) For the reasons given above, it is concluded that there is some link between the fall in exports and the injurious effects observed.

3.6.5. Effect of any excess capacity

- (302) The Commission has further examined whether injurious effects may have resulted from excess capacity amongst the Community producers. There were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation. Therefore, no correlation between capacity and the injurious effects was observed.

3.6.6. Effect of restructuring

- (303) The Commission further examined the injurious effects of the costs of restructuring which the Community producers have undergone in recent years. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

3.6.7. Attribution of injurious effects

- (304) Injury suffered by the Community producers took the form mainly of reduced sales and worsening financial losses. The Commission identified that four factors contributed to the injury apart from the increase in imports: decline in consumption, decline in captive use, decline in exports, and ongoing rationalisation efforts.
- (305) First of all, there was a decline in consumption between 2000 and 2001, albeit the five year trend was stable. However, the development of imports did not follow this consumption pattern at all and the Commission considers that the decline in consumption did not play a significant role either in volume or prices.
- (306) As to the decline in captive use observed between 2000 and 2001, this had a minor impact in terms of volume. However, it bears no significant relation to the fall in prices and revenues suffered by the Community producers on the free market.
- (307) The Commission also examined the decline in exports by the Community producers over the five year period. There was a decline over the five year period. However, that decline must be seen in the context of the Community producers' total sales. In that context it amounted to a fall of 1 %. Therefore, the development in exports had a significantly lesser impact on the Community producers in the period 2000/01 compared to the surge in imports.
- (308) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports.
- (309) The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports, which continued to increase during the fall in consumption in 2001.

3.6.8. Conclusion

- (310) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

3.7. Further Developments

- (311) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers could be expected to seriously worsen should imports continue at their current level or increase.

3.7.1. The US steel safeguard measures

- (312) It is recalled that on 5 March 2002, the US imposed safeguard measures against certain steel products including hot rolled steel and plate. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 30 % *ad valorem* in the first year, 24 % in the second year and 18 % in the third year. The measures do not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

3.7.2. Trade diversion arising from US steel safeguard measures

- (313) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US. Given the volumes of imports into the US which are not exempt from the measures are not important, it is concluded that any resulting trade diversion to the Community is likely to be relatively minor.

3.7.3. Reduction in Community exports arising from the US steel safeguard measures

- (314) The reduction in Community exports to the US as a result of the US measures is also expected to be minor. Nevertheless, it is likely that Community exports to other third markets will also fall both because the all producers world-wide will find it more difficult to export both because of the US measures and the defensive safeguard actions taken by other third countries and the Community to avoid diversion to their own markets.

3.7.4. Projected effects of US measures

- (315) Nevertheless, the Commission investigated the capacity situation of the cooperating exporting producers. It was found that they had increased their capacity from its level of around 12,2m tonnes in 1999 to 13,2m tonnes in 2001. None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.
- (316) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (317) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures as well as the effect of these measures on Community exports Community. In this respect, the Commission has found that in the absence of Community safeguard measures, imports will continue at current level or above with the result that the state of the Community industry will show a very serious and substantial decline particularly given the contraction of the market. Given the extremely fragile state of the Community producers even a continuation of the current level of imports would have significant consequences, and lead to a further reduction in the sales of the Community producers and to further negative consequences for the other indicators which identify the state of the industry.
- (318) The continued fall in Community exports will also contribute to the worsening state of the Community producers. It is estimated that since the US measures were taken that Community exports have already fallen and this position is likely to be maintained or even deteriorate in the coming months.
- (319) The projections for imports and Community exports would worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would lead to a further fall in sales and prices, with consequent negative effects on production, increased unit costs and increased losses. In fact, the overall negative impact would be greatly magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

3.7.5. Conclusion

- (320) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that even a continuation at the current level of imports, would aggravate the situation of the Community producers. Moreover, this situation will be worsened by a fall in Community exports as a result of US measures.

Product 3

Non-alloy hot rolled narrow strips (continued)

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (tonnes)	3 810 000	3 810 000	3 810 000	3 810 000	3 800 000
Utilisation rate of capacity (in %)	72 %	73 %	69 %	73 %	67 %
Opening stocks (tonnes)	182 468	190 212	198 033	113 383	142 532
Total production (tonnes)	2 736 501	2 763 332	2 646 967	2 784 800	2 553 066
Purchases (tonnes)	0	0	0	0	0
Total sales (tonnes)	2 384 192	2 389 818	2 380 537	2 378 099	2 188 765
Captive use (tonnes)	344 566	365 693	351 081	377 552	368 239
Closing stock (tonnes)	190 212	198 033	113 383	142 532	138 595
Sales volume outside the EU (tonnes)	330 618	322 611	292 309	315 037	273 737
Sales volume in the EU (tonnes)	2 053 574	2 067 207	2 088 227	2 063 062	1 915 028
Unit prices of EU sales (EUR/tonne)	334	347	298	359	343
Net profit/loss on EU sales (%)	2,3 %	5,8 %	- 3,2 %	5,5 %	- 1,7 %
Market share (%)	96,0 %	94,1 %	93,5 %	92,1 %	89,9 %
Employment (end of period)	8 852	9 082	8 727	8 310	7 812
Productivity (tonne/employee)	309	304	303	335	327

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	565 520	498 165	422 842	428 502	484 470
Unit prices (in Euro/tonne)	349	342	341	337	332
Profitability (in %)	1,6 %	- 1,9 %	- 2,8 %	- 5,2 %	- 8,5 %

Price undercutting in 2001 =	26,7 %
Price underselling in 2001 =	53,5 %

Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

72,1 %

4. PRODUCT 4 — ALLOY HOT ROLLED FLAT PRODUCTS

4.1. *Product Concerned and Like or Directly Competing Product*

4.1.1. Product Concerned

- (321) The product concerned is certain alloy hot rolled flat products (hereinafter referred to as 'alloy products'). The product concerned is currently classified under the following CN codes: 7225 19 10, 7225 30 00, 7225 40 80, 7226 19 10, 7226 91 10, 7226 91 90 and 7226 99 20.
- (322) Alloy products are manufactured in the same manner as hot rolled coils, sheets and plates but with an alloying element added to the basic steel. They may be coiled or uncoiled and are used as a pre-material for manufacturing a wide range of other steel products.
- (323) Each of the relevant CN codes listed above corresponds to a specific product type as differentiated by width and thickness within the above ranges.
- (324) Notwithstanding the fact that each CN code corresponds to a distinguishable type of alloy products, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of alloy products form one single product falling under the relevant CN codes above.

4.1.2. Like or Directly Competing Product

- (325) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as the 'like product') is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of alloy products which alleged that certain types of alloy products imported into the Community were not produced by the Community producers and therefore should not be considered as 'like' the product concerned.
- (326) The Commission examined these submissions in detail, and took into account in particular the following findings of the investigation:
- the imported product and the Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;
 - the imported product and the Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;
 - the imported product and the Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;
 - the imported product and the Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.
- (327) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are like or directly competing.

4.2. *Increased Imports*

- (328) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause or threaten to cause, serious injury to the Community producers. In this respect, the Commission has focused on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sale (excluding captive use) and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sale and total Community production (including captive use) for each of the years 1997 to 2001.

Product 4

Alloy hot rolled flat products

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (tonnes)	2 432 368	2 374 912	2 173 281	2 749 210	2 723 826

IMPORT DATA

	1997	1998	1999	2000	2001
Total imports					
Volume (tonnes)	3 374	5 063	25 719	158 233	468 773
Rate of increase (%)		50,1 %	408,0 %	515,2 %	196,3 %
Market share (%)	0,1 %	0,2 %	1,2 %	5,8 %	17,2 %
Ratio between imports and total production (%)	0,1 %	0,2 %	0,9 %	4,5 %	15,1 %
Ratio between imports and production sold (%)	0,1 %	0,2 %	1,1 %	5,7 %	18,9 %
Unit prices (in EUR/tonne)	542	253	314	304	240

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	4 219	15 391	91 976	313 503

- (329) Between 1999 and 2000, imports increased from 25 719 tonnes to 158 233 tonnes, an increase of 515 %. Over the same period, production destined for sales increased by 21 % so that the increase relative to free market production was over 400 %. Total production increased (also by 21 %) so that the increase in imports relative to total production was around 400 %.
- (330) Between 2000 and 2001, imports increased to 468 773 tonnes (a further increase of about 200 %). In 2001, production destined for sales contracted by an 11 % so that, relative to production sold on the free market, imports increased by over 232 %. Total production also fell in 2001 (by 12 %) so that the increase in imports relative to total production was 236 %.
- (331) The price of the product concerned only really becomes reliable (due to low volumes) from 1999 onwards. Prices fell significantly from 1999 to 2001 (by 24 %).

4.2.1. Two year moving average

- (332) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These confirm that although imports increased from 1997/98 to 1998/99, the most important increases were from 1998/99 to 2000/2001.

4.2.2. Market share of imports

- (333) The market share of imports increased steeply throughout the period 1997 to 2001 although the most important increases were in the period 1999 to 2001 when the market share of imports increased from 1,2 % to 17,2 %.

4.2.3. Conclusion

- (334) The increase in imports between 1999 and 2001 of over 1700 % in absolute terms, and over 1500 % relative to production sold in the free market and relative to total production is sudden, sharp and significant. Recent increases in imports cannot be attributed to the normal peaks and troughs in import levels as demonstrated by the two year moving averages over the 5 year period investigated.
- (335) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years.

4.3. Unforeseen Developments

4.3.1. Increased use of Trade Defence Instruments by the US — General

- (336) From 1998 onwards, in reaction to the Asian crisis ⁽¹⁾, the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO and some of the methodologies used have been declared WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (337) The table below shows the annual number of anti-dumping and countervailing duty final determinations (for one or more countries) made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty	Countervailing duty
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (338) In the course of 2001, the US also announced further broadly based action in the steel sector. In January, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.
- (339) These actions had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001 and culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

⁽¹⁾ The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

4.3.2. Increased use of TDIs by the US — relating to the product concerned

- (340) In relation to hot rolled flat products, (a product which includes the product concerned) the US imposed 14 anti-dumping measures (including one suspension agreement) at high levels of duty and 6 countervailing duty measures between 1999 and 2001. In particular, in July 1999, the US imposed anti-dumping duties of between 41,27 % and 43,40 % on imports of the product concerned originating in Brazil. In September 2000, the US imposed anti-dumping duties of between 40,6 % and 44,59 % and countervailing duties of 41,69 % (some of which applied cumulatively) on imports of the product concerned originating in Argentina. In November 2000, the US imposed anti-dumping duties of between 64,20 % and 90,83 % on imports of the product concerned originating in China. Also in November 2000, the US imposed anti-dumping duties of between 36,53 % and 44,40 % and countervailing duties of between 8,28 % and 31,89 % (some of which applied cumulatively) on imports of the product concerned originating in India.
- (341) By 15 March 2002, in relation to hot rolled flat products, the US had in force anti-dumping measures against exporters in 14 countries and countervailing measures against exporters in 6 countries. The countries concerned by these proceedings were Argentina, Brazil, China, India, Indonesia, Japan, Kazakhstan, the Netherlands, Romania, Russia, South Africa, Taiwan, Thailand and Ukraine. In each case, after an anti-dumping or countervailing measure has been taken, US imports of the product concerned from that country have declined. In addition, the dramatic fall in US imports in 2001 occurred in a year in which not only were 14 anti-dumping and 6 countervailing measures relating to the product concerned in place, but at the start of which the US opened a steel investigation under section 223 of the US Trade Act of 1974 and in the middle of which the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974.
- (342) Between 1999 and 2001, US imports of hot rolled flat products decreased from 5,40m tonnes to 2,56m tonnes. In the same period imports of the same products to the Community increased from 2,87m tonnes to 4,20m tonnes, an increase of over 46 %.
- (343) The Commission has also determined that an effect of the US reducing imports of hot rolled flat products to its market was to increase imports to the Community market. On the basis of the available information, the Commission has determined that there is a correlation in time between the increased and extensive use of TDIs by the US in recent years, the dramatic reduction in US imports of hot rolled flat products between 2000 and 2001, and the increase in Community imports of that product in that period. The Community was one of the principal export markets for hot rolled flat products in 2001. Both the Community and US markets have the same types of industrial users. Many of the exporters affected by the US TDIs have also exported to the Community for a number of years. At the same time as US imports fell dramatically, imports to the Community grew to record levels notwithstanding a fall in GDP growth, production and consumption in the Community in 2001.
- (344) This increased and extensive use of trade defence instruments, a number of which were found to be WTO incompatible, could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

4.3.3. Decrease In Imports to the US

- (345) The table below shows imports of goods classifiable within Harmonised System Code (HSC) 7225 19, 7225 30, 7225 40, 7226 19, 7226 91 and 7226 99 (which include the product concerned and the like product) to the US for the period 1999 to 2001.

Year	Imports of the product concerned to the US (tonnes)
1999	606 643
2000	561 905
2001	477 434

Source: Global Trade Atlas

- (346) Imports to the US decreased between 1999 and 2001. In particular imports fell sharply, by around 15 %, in 2001 (by around 84 000 tonnes).
- (347) The decrease in the level of these imports to the US can be explained, primarily, by reference to the direct effect of the measures referred to above on exporters whose goods became subject to anti-dumping and/or countervailing duties; but also by the indirect dissuasive effect of those measures and the investigations on all exporters of the product concerned to the US.
- (348) The table below illustrates the effect of particular anti-dumping/countervailing measures on exports of the above mentioned products from certain countries.

Country	Exports to the US (volume in tonnes)	
	2000	2001
Japan	103 000	93 000
The Community	250 000	192 000

4.4. Definition of the Community producers

- (349) Total Community production of the product concerned is around 3,1 million tonnes per annum. The Community steel companies which cooperated fully in the investigation are:
- Corus Staal BV, The Netherlands;
 - Riva Ilva SpA, Italy;
 - Salzgitter AG Stahl & Technologie, Germany;
 - Sidmar NV, Belgium;
 - Sollac SA, France;
 - SSAB Tunnplat, Sweden;
 - Thyssen Krupp Stahl AG, Germany; and
 - Lucchini SpA, Italy.
- (350) These companies are all members of the European Confederation of the Iron and Steel Industry ('Eurofer'). They accounted for around 75 % of the total Community production of the product concerned. They represent a major proportion of total Community production within the meaning of Article 5(3)(c) of Regulation (EC) No 3285/94 and Article 15(1) of Regulation (EC) No 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

4.5. *Serious Injury*

- (351) In order to determine whether there is serious injury to the Community producers of the like product, i.e. a significant overall impairment in the position of the Community producers, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of production capacity, production, capacity utilisation, employment, productivity, captive use, stocks, consumption, sales, market share, cash flow, return on capital employed, unit price, undercutting and profitability for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.
- (352) The investigation has demonstrated that the product concerned can follow one of two distinct routes. They can either be sold or used internally to make other products. It was found that around 22 % of the product concerned manufactured by the Community producers are used internally (i.e. they are further processed by these producers in an integrated process, often on the same production line, hereinafter referred to as 'captive use'). These products follow an internal process of downstream processing for which invoices are not normally issued.
- (353) The remaining production is sold at market prices on the Community market (hereinafter referred to as the 'free market'). Imports of the product concerned are also sold on the free market. The main purchasers on the free market are independent cold rolling mills, tube makers, steel service centres, steel merchants and stockholders. Both the product concerned sold by the Community industry and imports is sold to the same types of customers and is used for the same purposes. The sale of the product concerned on the free market is supported by the issuing of commercial invoices.
- (354) The investigation demonstrated that there is a clear distinction between the product concerned destined for captive use and those destined for the free market. The product concerned destined for captive use were found not to be directly affected by the imports. By contrast, production destined for sale was in direct competition with the imports.
- (355) In order to provide as complete a picture as possible of the situation of the Community producers, the Commission has obtained and analysed data both for the product concerned destined for captive use and those destined for the free market. Because the free market sales are in competition with the imported products concerned, attention is focused on the free market. Although, to the extent possible, free market and captive data have been combined, the Commission has also split the analysis between free market and captive use, where necessary and possible.

4.5.1. Analysis of the Whole Activity for the Product Concerned

4.5.1.1. Production capacity and capacity utilisation

- (356) Estimated theoretical production capacity remained stable at around 4,5m tonnes throughout the analysis period. Capacity utilisation declined between 1997 and 1999 (from 74,5 % to 65,0 %) but increased in 2000 (to 78,6 %) and fell by 12 % in 2001 (to 69,1 %).

	1997	1998	1999	2000	2001
Production capacity (tonnes)	4 500 000	4 500 000	4 500 000	4 500 000	4 500 000
Capacity Utilisation	74,5 %	71,6 %	65,0 %	78,6 %	69,1 %

4.5.1.2. Total Production

- (357) Total production of the like product in the Community fell from 3,35m tonnes to 2,9m tonnes between 1997 and 1999. Between 1999 and 2000, production grew to 3,5m tonnes before falling to 3,1m tonnes in 2001, a fall of 12 %, its lowest level over the five year period.

	1997	1998	1999	2000	2001
Total production (tonnes)	3 350 622	3 222 004	2 922 827	3 538 723	3 111 090

4.5.1.3. Employment

- (358) Employment in relation to the like product has fallen steadily over the period analysed. It fell from around 3 170 in 1997 to 2 705 in 2001, a fall of 15 %.

	1997	1998	1999	2000	2001
Employment	3 170	3 246	2 829	2 964	2 705

4.5.1.4. Productivity

- (359) Productivity fluctuated over the period 1997 to 2001 from 1 057 tonnes per employee in 1997 to 1 150 in 2001.

	1997	1998	1999	2000	2001
Productivity	1 057	992	1 033	1 194	1 150

4.5.1.5. Cash Flow

- (360) Cash flow could only be examined at the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001.

	1997	1998	1999	2000	2001
Cash Flow (index)	100	48	- 76	39	77

4.5.1.6. Return on Capital Employed (ROCE)

- (361) ROCE could only be examined on the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

	1997	1998	1999	2000	2001
ROCE	8,8 %	17,6 %	10,2 %	11,2 %	3,8 %

4.5.1.7. Other indicators

- (362) It was not found to be relevant to analyse consumption, sales volume, market share, unit prices, profitability and stocks under this heading because a complete analysis of these indicators was only relevant to the free market.

4.5.2. Analysis of the Free Market

4.5.2.1. Consumption

- (363) Consumption of the product concerned in the Community was established on the basis of the total sales made by the Community producers (cooperators plus non cooperators) on the free market and total imports of the product concerned into the Community as indicated in the Eurostat import statistics.
- (364) As can be seen from the table below, between 1997 and 1999, consumption in the Community declined by around 11 % from 2,43m tonnes to 2,17m tonnes. Between 1999 and 2000, it grew by over 26 % to reach its highest level for the five year period (2,75m tonnes), before falling to 2,72m tonnes in 2001.

	1997	1998	1999	2000	2001
Consumption (tonnes)	2 432 368	2 374 912	2 173 281	2 749 210	2 723 826

4.5.2.2. Sales volume

- (365) Sales volume of the like product in the Community fell from 2,4m tonnes to 2,1m tonnes between 1997 and 1999. Between 1999 and 2000, these sales grew by 21 % to reach its highest level for the five year period (2,6m tonnes), before falling to 2,3m tonnes in 2001.
- (366) Exports of the product fell from 0,37m tonnes to 0,19m tonnes between 1997 and 1999. However, Between 1999 and 2001, these sales grew by 19 % but did not reach the levels of exports of either 1997 or 1998.

	1997	1998	1999	2000	2001
Sales volume in the Community (tonnes)	2 428 994	2 369 849	2 147 562	2 590 977	2 255 053

4.5.2.3. Market share

- (367) The Community producers' market share fell continuously over the period from 99,9 % in 1997 to 82,8 % in 2001.

	1997	1998	1999	2000	2001
Market share (%)	99,9 %	99,8 %	98,8 %	94,2 %	82,8 %

4.5.2.4. Price of like product and undercutting

- (368) The average unit price of the Community producers fluctuated between 341 and 302 EUR/tonne during the period of investigation. Prices have increased overall during the analysis period but, as shown below, profitability has fluctuated and fell to its lowest point in 2001. This is explained by the price undercutting by imported alloy products which is mentioned below. This price pressure has meant that price increases have been suppressed for a product where improvements in product quality and customer focus have increased costs. This trend is further confirmed because quarterly prices from Q1 2001 to Q1 2002 show a fall from 340 EUR/tonne to 315 EUR/tonne in the price of the Community product.
- (369) In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 25,9 % in 2001.

	1997	1998	1999	2000	2001
Unit price of Community sales (EUR/tonne)	314	334	302	332	341

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Unit price of Community sales (EUR/tonne)	340	337	347	342	315

4.5.2.5. Profitability

- (370) As mentioned above, the profitability of the Community producers' sales in the Community has fluctuated over the five-year period under consideration. The lowest profitability was recorded in 2001 and the highest was achieved in 1998 when a combination of adequate prices and no significant penetration of imports enabled 9,0 % profits to be achieved. The quarterly data shows the downward evolution from 2000 to 2001 continued into 2002 with losses in quarter 1 of 5,0 % (this evolution occurred in parallel with a dramatic increase in imports at low prices). This negative situation arose at the same time as there was a fall in average prices and price suppression. The Community producers clearly attempted to increase sales prices in 2001 to improve their profitability, but by the fourth quarter of 2001 this policy had proven unsuccessful and prices were reduced again. It should be recognised that, as mentioned above, productivity increased overall during the 5-year period.
- (371) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by a sudden, sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 44,2 %.

	1997	1998	1999	2000	2001
Profitability of Community sales	6,4 %	9,0 %	4,1 %	7,2 %	3,2 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Profitability of Community sales	6,1 %	2,2 %	4,2 %	- 0,1 %	- 5,0 %

4.5.2.6. Stocks

- (372) Stock levels increased during the period of analysis and in particular increased by over 22 % in 2001.

	1997	1998	1999	2000	2001
Closing stock (tonnes)	142 675	120 568	127 254	168 856	207 112

4.5.3. Analysis of Captive Use

- (373) Some indicators relating to captive use have been analysed in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market, i.e., sales prices, stocks and profitability, the data received is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for the product concerned, but nevertheless does not show evidence that it was more to produce for captive use than for the free market. Therefore, this analysis focuses on production for captive use and examines if its trend is comparable to those of the free and total markets.
- (374) Captive use rose from 540 000 tonnes in 1997 to 699 000 tonnes in 2000, before falling back to 593 000 tonnes in 2001. In relative terms, production for captive use remained at around 18 % of production levels throughout the period and was, therefore, considered to be material. However, bearing in mind that captive use remained above its 1999 level in 2001 and stable relative to total production, it was concluded that this factor did not significantly contribute to the injury analysis.

	1997	1998	1999	2000	2001
Captive use (tonnes)	539 014	561 488	579 540	698 505	593 000

4.5.4. Conclusion

- (375) The data shows that while production capacity and productivity remained stable there is, overall, a negative development for capacity utilisation, production, employment, and negative elements can as well be observed for cash flow and ROCE.
- (376) Overall, the free market data shows an increase in stocks, negative developments for sales, market share and profitability.
- (377) The data for captive use demonstrates a similar negative trend. These findings were indeed supported by the analysis of the whole activity for the product concerned for which captive use forms a significant part.
- (378) In particular, the Commission notes that whilst, in 2001, as imports increased, the Community producers' sales volume in the Community fell by 13 % and profitability fell rapidly.
- (379) The effect of this combination of factors on the Community producers is reflected in the economic indicators. The Community producers have lost market share, which reached its lowest level for five years in 2001. Capacity utilisation has fallen sharply in 2001, and with it productivity. Employment has also fallen and is expected to fall further in 2002. The overall effect of the falls in production and Community sales volume was to reduce the profitability of the Community producers and substantially reduce profits in 2001. These trends are confirmed by the deterioration in prices and profitability between Q1 2001 and Q1 2002 where in particular the Community producers began to make substantial losses.
- (380) Taking account of all of these factors and relying, in particular, on its analysis of the free market activities, the Commission concludes that the Community producers have suffered serious injury.

4.6. Causation

- (381) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:
- the injurious effects of factors considered to be causing injury have been distinguished from each other,
 - these injurious effects have been attributed to the factors which are causing them, and,
 - after having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

4.6.1. Effect of increased imports

- (382) The market for the product concerned is a transparent one as regards sources of supply, customers and prices. As the product concerned is essentially a commodity product, the product concerned and the like product compete mainly on price.
- (383) In the period 1999 to 2001, the market share of imports grew from 0,1 % of the market to 17,2 %, whilst the market share of the Community producers fell from 99,9 % to 82,8 %. Over the same period, imports have grown from 0,1 % to 18,9 % of production sold on the free market. Thus, imports have also increased relative to production, at the expense of the Community producers.
- (384) Between 2000 and 2001, the average unit price of the imported product on the Community market fell from 304 to 240 EUR/tonne. This caused price pressure on the Community producers which suffered lower sales volumes which in turn created a disproportionately higher fall in profits, and, in 2001, the Community producers moved into a loss making situation, a trend which has worsened in the first quarter of 2002 (which shows a loss of 5,0 %). This negative situation must be seen in the context of a number of plant closures and ensuing reduction in employment.
- (385) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

4.6.2. Effect of changes in consumption

- (386) Between 1999 and 2001 consumption increased by 25 %. The Commission has determined that the serious injury is not caused by the changes in the level of consumption in the Community.

4.6.3. Effect of changes in captive use

- (387) The Commission has also examined the effects of the development of captive use of the product concerned. It should be stated, however, that captive use for the product concerned represented less than 20 % of total production. Captive use rose slightly over the period 1997 to 2001. However, there was a large rise in 2000 and fall back in 2001.
- (388) The further data received in respect of captive use is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for the product concerned, but it does not show evidence that it was more profitable by the companies to produce for captive use than for the free market.
- (389) The Commission, therefore, concludes that no injurious effects were caused by captive use between 1997 and 2000. The fall in captive use in 2001 did however, have a minor injurious effect in terms of production, which in turn has affected capacity utilisation, and ultimately profitability. However, the fall in prices and revenues suffered by Community producers on the free market was created by low priced imports and bears little or no relation to the fall in captive use.

4.6.4. Effect of export performance

- (390) Between 1997 and 1999, the volume of Community producers exports fell from 370 000 tonnes to 189 000 tonnes. Between 1999 and 2001, exports increased by 19 %. However, over the five year period, exports decreased by approximately 145 000 tonnes. Therefore, whilst there may have been injurious effects caused by loss of exports between 1997 and 1999, in the more recent period between 2000 and 2001 they have not contributed to the injurious effects. In this respect, as the injury resulting from a fall in exports occurred in the early part of the 5 year period it has to be viewed as less significant than if it had occurred in the latter part of the 5 year period.

- (391) For the reasons given above, it is concluded that there is some link between the fall in exports and the injurious effects observed, at least in the earlier part of the 5 year period.

Volume in tonnes	1997	1998	1999	2000	2001
Export sales of the Community producers	369 977	312 774	189 038	207 640	224 780

4.6.5. Effect of any excess capacity

- (392) The Commission has further examined whether the injurious effects may have resulted from any excess capacity amongst the Community producers. There were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation and capacity utilisation remained at relatively high levels throughout the 5 year period investigated. Nevertheless, there was a fall in capacity utilisation between 2000 and 2001 which may have contributed to the injury suffered in respect of profitability by raising unit costs. However, as the serious injury suffered in respect of the product concerned also involved a reduction in sales volume, price depression and loss of market share, it was concluded that any excess capacity could not have been a major cause of serious injury.

4.6.6. Effect of restructuring

- (393) The Commission further examined the injurious effects of the costs of restructuring which the Community producers have undergone in recent years. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

4.6.7. Attribution of injurious effects

- (394) The serious injury suffered by the Community producers took the form mainly of reduced sales volume and a worsening financial situation. The Commission identified that four factors contributed to the injury apart from the increase in imports: the decline in captive use, the decline in export performance, the effect of restructuring and the decline in capacity utilisation.
- (395) First of all, there was a decline in capacity utilisation in 2001, however this resulted from a temporary fall in production and utilisation did not fall to levels which can be considered low. The Commission considers that the decline in capacity utilisation did not, therefore, have a significant injurious effect on either volume or prices.
- (396) As mentioned above, it is concluded that there is some link between the fall in exports and the injurious effects observed, however, these effects were during the period 1997 to 1999 and are, therefore, considered to be less significant than if it had occurred in the latter part of the 5 year period.
- (397) As to the decline in captive use observed between 2000 and 2001, this has had a negative impact although the negative effects seen in respect of profitability were calculated on sales on the free market and the fall in captive use did not impact on this indicator. In addition, the level of captive use was not a major issue for this product and the effect of a fall of around 20 % in captive use cannot be said to have had a major cause of the serious injury suffered.
- (398) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports.
- (399) The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports.

4.6.8. Conclusion

- (400) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

4.7. Further Developments

- (401) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers could be expected to seriously worsen should imports continue at their current level or increase.

4.7.1. The US steel safeguard measures

- (402) On 5 March 2002, the US imposed safeguard measures against certain steel products including alloy products. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 30 % *ad valorem* in the first year, 24 % in the second year and 18 % in the third year. The measures are claimed to apply *erga omnes*, but in reality they do not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

4.7.2. Trade diversion arising from US steel safeguard measures

- (403) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US.
- (404) In 2001, the US imported around 480 000 tonnes of goods classifiable within the HSC 6 digit codes 7225 19, 7225 30, 7225 40, 7226 19, 7226 91 and 7226 99 (which include the product concerned). The principal exporters of these products to the US were the Community (40 %/192 000 tonnes), Canada (27 %/127 000 tonnes), Japan (20 %/94 000 tonnes), and Brazil (6 %/30 000 tonnes). Romania, South Korea and Ukraine also supplied more than 1 % of this product to the US market in 2001.
- (405) Total exports to the US of the above products in 2001 from countries affected by the US safeguard measures (excluding producers in the Community and in those countries excluded from the US safeguard measures insofar as it relates to the product concerned) amounted to around 125 000 tonnes.
- (406) The Commission then examined the likelihood that the restricted access to the US market as a result of safeguard action taken by the US would lead to increased exports to the Community. The Commission investigated the capacity situation of the cooperating exporting producers. They increased their capacity from 3,14m tonnes in 1997 to 3,81m tonnes in 2000. None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.
- (407) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets, but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (408) The potential trade which, in the absence of definitive measures, could be diverted to the Community as a result of the US measures therefore amounts to 125 000 tonnes. There are reasons why this potential may not be wholly realised, e.g. the current high levels prices of domestic prices in the US which may result in a somewhat higher than expected level of imports despite the existence of 30 % duties, as well as the fact that third country producers may be able to partially offset the loss of the US market by selling more on their domestic markets. This may be particularly true to a degree for those countries which have taken protective measures to counteract the US safeguard action. Producers may also increase their stocks for a period of time.

- (409) However, a very substantial potential for increased exports to the Community will still prevail. The increase which took place in 2001 had many causes as already identified in the analysis of serious injury and all of these still apply and can be expected to continue to push imports higher. Moreover, there is now the new element of the US safeguard action which manifestly leaves a substantial amount of production for which producers are under enormous pressure to find buyers. In these circumstances, it can reasonably be assumed that in the absence of definitive measures the very minimum trade diversion that would occur would be between 25 and 50 % of the amount calculated above (30 000 to 60 000 tonnes) which could be diverted from the US market. In all likelihood, it would be greater but it is considered prudent to base this analysis on a conservative basis.
- (410) It is also relevant that in 2001, one of the major export markets for the alloy products was the Community (0,47mt). This compares to China (0,68mt), the US (0,48mt), Mexico (0,18mt), Thailand (0,17mt) and Russia (0,17mt). This reflects that fact that the Community was, and following recent measures, remains, one of the most open markets in the world. The recent appreciation of the euro relative to the US dollar and other major currencies increases the attractiveness of imports relative to Community production in the short and medium term.

4.7.3. Reduction in Community exports arising from the US steel safeguard measures

- (411) An immediate effect of US measures has been to reduce sharply the Community exports of the product concerned to the US. The imposition of 30 % *ad valorem* duties will largely stop these exports though some small volumes may occur due to the current high level of prices in the US which can result in duties being worth paying at least to sell any excess stock. It is estimated, after taking account to the extent possible of the exclusions granted by the US since the imposition of measures that Community exports to the US (of 195 000 tonnes in 2001) will fall substantially as a result of the US measures.
- (412) It is also likely that Community exports to other third markets will also fall both because the producers world-wide will find it more difficult to export, both because of the US measures and the defensive safeguard actions taken by other third countries and the Community to avoid diversion to their own markets.

4.7.4. Projected effects of US measures

- (413) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures as well as the effect of these measures on Community exports. In this respect, the Commission has found that in the absence of Community safeguard measures, imports will inevitably rise substantially with the result that the state of the Community industry will show a very serious and substantial decline. Given the extremely fragile state of the Community producers any significant rise in imports would have extremely serious consequences. The expected rise of between 30 000 to 60 000 tonnes (corresponding to a rise of around 10 %) would likely lead to a further reduction in the sales of the Community producers and these reduced sales would lead to negative consequences for the other indicators which identify the state of the industry.
- (414) The continued fall in Community exports will also significantly contribute to the worsening state of the Community producers. Since the US measures were taken it is inevitable that Community exports will have fallen substantially and this fall is likely to be maintained or even deteriorate in the coming months.
- (415) The projected increase in imports and the projected fall in Community exports would significantly worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would lead to a further fall in sales and prices, with consequent negative effects on production, increased unit costs and increased losses. In fact, the overall negative impact would be greatly magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

4.7.5. Conclusion

- (416) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that, without definitive measures, further increases of imports would significantly aggravate the situation of the Community producers. Moreover, this situation will be worsened by a significant fall in Community exports as a result of US measures.

Product 4**Alloy hot rolled flat products (continued)**

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (in tonnes)	4 500 000	4 500 000	4 500 000	4 500 000	4 500 000
Utilisation rate of capacity (%)	74,5 %	71,6 %	65,0 %	78,6 %	69,1 %
Opening stocks (in tonnes)	130 038	142 675	120 568	127 254	168 856
Total production (in tonnes)	3 350 622	3 222 004	2 922 827	3 538 723	3 111 090
Purchases (in tonnes)	0	0	0	0	0
Total sales (in tonnes)	2 798 972	2 682 622	2 336 601	2 798 617	2 479 833
Captive use (in tonnes)	539 014	561 488	579 540	698 505	593 000
Closing stock (in tonnes)	142 675	120 568	127 254	168 856	207 112
Sales volume outside the EU (in tonnes)	369 977	312 774	189 038	207 640	224 780
Sales volume in the EU (in tonnes)	2 428 994	2 369 849	2 147 562	2 590 977	2 255 053
Unit prices of EU sales (Euro/tonne)	314	334	302	332	341
Net profit/loss on EU sales (in %)	6,4 %	9,0 %	4,1 %	7,2 %	3,2 %
Market share (%)	99,9 %	99,8 %	98,8 %	94,2 %	82,8 %
Employment (end of period)	3 170	3 246	2 829	2 964	2 705
Productivity (tonne/employee)	1 057	992	1 033	1 194	1 150

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	667 308	657 477	478 552	451 717	555 739
Unit prices (in Euro/tonne)	340	337	347	342	315
Profitability (in %)	6,1 %	2,2 %	4,2 %	-0,1 %	-5,0 %

Price undercutting in 2001 =	25,9 %
Price underselling in 2001 =	44,2 %

Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

74,2 %

5. PRODUCT 5 — COLD ROLLED SHEETS

5.1. *Product Concerned and Like or Directly Competing Product*5.1.1. *Product Concerned*

- (417) The product concerned is certain cold rolled sheets (hereinafter referred to as 'cold rolled sheets'). The product concerned is currently classified under the following CN codes:

7209 15 00, 7209 16 90, 7209 17 90, 7209 18 91, 7209 25 00, 7209 26 90, 7209 27 90, 7209 28 90, 7209 90 10, 7209 90 90, 7225 20 90, 7225 50 00, 7211 23 10, 7211 23 99, 7211 29 20, 7211 29 50, 7211 29 90, 7219 01 17, 7211 90 90, 7212 60 93, 7212 60 99, 7226 92 10 and 7226 92 90.

- (418) Cold rolled sheets are manufactured by the uncoiling and cold rolling of hot rolled coils. These are used as a pre-material for manufacturing a wide range of other steel products such as metallic coated sheets, organic coated sheets and tin mill products.
- (419) Each of the relevant CN codes listed above corresponds to a specific product type as differentiated by width and thickness within the above ranges.
- (420) Notwithstanding the fact that each CN code corresponds to a distinguishable type of cold rolled sheet, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of cold rolled sheet form one single product falling under the relevant CN codes above.

5.1.2. *Like or Directly Competing Products*

- (421) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as 'the like product') is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of cold rolled sheets which alleged that certain types of cold rolled sheets imported into the Community were not produced by the Community producers and therefore should not be considered as 'like' to the product concerned.
- (422) The Commission examined these submissions in detail, and took into account in particular the following findings of the investigation:
- the imported product and the Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;
 - the imported product and the Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;
 - the imported product and the Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;
 - the imported product and the Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.
- (423) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are 'like or directly competing'.

5.2. Increased Imports

- (424) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause or threaten to cause, serious injury to the Community producers. In this respect, the Commission has focused on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sale (excluding captive use) and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.

Product 5**Cold rolled sheets**

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (tonnes)	15 353 318	15 233 990	14 262 302	14 712 170	13 251 241

IMPORT DATA

Total imports (including agreement countries)	1997	1998	1999	2000	2001
Volume (tonnes)	1 228 151	1 839 053	1 312 704	2 445 101	2 460 647
Rate of increase (%)		49,7 %	- 28,6 %	86,3 %	0,6 %
Market share (%)	8,0 %	12,1 %	9,2 %	16,6 %	18,6 %
Ratio - imports to total production (%)	2,6 %	3,8 %	2,8 %	4,9 %	5,5 %
Ratio - imports to production sold (%)	7,3 %	11,9 %	8,7 %	17,3 %	19,9 %
Unit prices (EUR/tonne)	362	315	278	346	311

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (tonnes)	1 533 602	1 575 879	1 878 903	2 452 874

- (425) In the period prior to the Asian crisis ⁽¹⁾, imports were more or less constant at around 1,2m tonnes (1996: 1,1m tonnes, 1997: 1,2 m tonnes). As a result of the Asian crisis, between 1997 and 1998, imports increased by around 50 % whilst their average price fell by nearly 13 %. Relative to total Community production, imports increased from around 3 % to around 4 %, whilst relative to total production sold, they increased from 7,3 % to 11,9 %. However, it is considered that the level of imports in 1998 is not representative due to the extremely low prices practised by Asian producers and the resulting influx of imports.

⁽¹⁾ The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

- (426) In the following year, as the effects of the Asian crisis began to recede, imports fell back to more normal levels albeit somewhat slightly higher than in 1997 but their average price remained depressed. In 1999, imports also fell relative to production destined for sale and to total production. Nevertheless, comparing 1997 and 1999, a progression in import penetration by imports can be observed in absolute terms, and relative to production destined for sale and total production.
- (427) Between 1999 and 2000, there was an increase in imports from 1,31m tonnes to 2,44m tonnes, an increase of 1,1m tonnes or 86 %. Over the same period, production destined for sales fell slightly (from 15,1mt to 14,2mt) so that the decrease relative to free market production was 4,3 %. Total production increased by nearly 6,5 % in 2000, reflecting an increase in production for captive use, so that the increase in imports relative to total production was smaller.
- (428) Between 2000 and 2001, imports increased to 2,4 million tonnes (a further increase of about 0,01m tonnes or 0,5 %). In 2001, production destined for sale contracted by a further 13 % from 14,2m tonnes to 12,3 m tonnes so that, relative to production sold on the free market, imports increased by over 15 %. Total production also fell in 2001 (by 5,69m tonnes or 11,3 %), reflecting a decrease in the production for captive use and in production sold in the free market, so that the increase in imports relative to total production was 12,5 %.
- (429) Prices of the product concerned fell between 1997 and 1999. Prices rose (to 346 EUR/tonne) in 2000 but fell again in 2001 (by 10 %). It should be noted that, although prices increased in 2000, the increase in imports (both absolute and relative to production) continued in 2001 against a background of falling prices. The average price of imports fell from 346 EUR/tonne in 2000 to 311 EUR/tonne in 2001. The Commission notes that the further increase in imports to the Community occurred at a time when the euro was relatively weak by comparison with the US dollar.

5.2.1. Two year moving average

- (430) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that whilst between 1997/98 and 1999/00, imports in any two year period fluctuated between 1,49m tonnes and 1,83m tonnes, between 1999/00 and 2000/01 they increased by over 30 % to 2,45m tonnes.

5.2.2. Market share of imports

- (431) The market share of imports increased steeply between 1997 and 1998 as a result of the Asian crisis, before falling back to 9 % in 1999, representing an increase of 1,2 percentage points relative to 1997. From 2000 onwards, the market share of imports increased to 16,6 % and then 18,1 % — increases of 83 % and 12 % respectively.

5.2.3. Conclusion

- (432) Whilst imports increased sharply in 1998, the Commission considers that that increase was exceptional and cannot be considered to represent part of the normal development of imports. This is also reflected in the fact that imports declined substantially in 1999. Leaving aside 1998, the annual rate of growth in imports between 1997 and 1999 was less than 5 % in absolute terms. By contrast between 1999 and 2000, the annual rate of growth in imports in absolute terms was 86 % (78 % relative to total production, and 98 % relative to production sold on the free market). By each measure, the annual rate of growth of imports was more than three times higher between 1999 and 2000 than in the previous period. Furthermore, a further increase in imports occurred in 2001.

- (433) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.
- (434) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years, in particular bearing in mind that the increase in imports in 1998, must be considered non representative.

5.3. Unforeseen Developments

5.3.1. Increased use of Trade Defence Instruments by the US

- (435) From 1998 onwards, in reaction to the Asian crisis the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO and some of the methodologies used have been declared to be WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (436) The table below shows the annual number of anti-dumping and countervailing duty final determinations for one or more countries made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty	Countervailing duty
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (437) In the course of 2001, the US also announced further broadly based action in the steel sector. In January, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.
- (438) These actions, had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001, and culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

5.3.2. Increased use of TDIs by the US — relating to the product concerned

- (439) In June 1999 the US opened an anti-dumping proceeding against 12 countries and imposed the preliminary anti-dumping measures in November 1999 and January 2000; the final determinations began in February 2000. The duty levels ranged from 25 % to 81 %.
- (440) The US also opened an anti-dumping proceeding against 20 producing countries in October 2001 and made its preliminary determination in May 2002. The duty levels ranged from below 10 % (mainly for Community Member States) to 154 % for India.
- (441) These measures are examples of the TDI measures imposed by the US on imports of the product concerned and are in addition to the safeguard measures mentioned above. Some of the countries involved in the above investigations were also subject to countervailing measures during the period 1999 to 2001.

- (442) This increased and extensive use of trade defence instruments, a number of which was found to be WTO-incompatible, could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

5.3.3. Decrease in imports to the US.

- (443) The table below shows imports of goods classifiable within the Harmonised System Codes (HSCs) 720915, 720916, 720917, 720918, 720925, 720926, 720927, 720928, 720990, 721123, 721129, 721190, 721260, 722520, 722550, 722692 which include the product concerned. Between 1998 and 2001, US imports decreased from 3,62m tonnes to 2,75m tonnes, a decrease of around 0,87m tonnes. In the same period imports to the Community of the product concerned increased from 1,80m tonnes to 2,40m tonnes, an increase of around 0,6m tonnes.
- (444) The Community was a principal export market for the product concerned in 2001. Both the Community and US markets have the same types of industrial users. Many of the exporters affected by the US TDIs have also exported to the Community for a number of years. At the same time as US imports fell, imports into the Community grew to record levels notwithstanding a fall in GDP growth, production and consumption in the Community in 2001.

	1997	1998	1999	2000	2001
Imports to the US (tonnes)	3 207 436	3 618 875	3 022 558	2 463 123	2 750 793

Source: Global Trade Atlas

- (445) The decrease in the level of imports of the above products to the US can be explained, primarily, by reference to the direct effect of the measures referred to above on exporters whose goods became subject to duties as part of trade defence instruments (TDIs); but also by the indirect dissuasive effect of those measures and the investigations on all exporters of the product concerned to the US.
- (446) The table below illustrates the effect of particular anti-dumping/countervailing measures on exports of the product concerned from certain countries.

Country	Date of imposition of measures	Exports to the US (volume in 000 tonnes)	
		1999	2000
Russia	November 1999	378	268
Japan	November 1999	369	339
Thailand	November 1999	67	22
Brazil	November 1999	283	195

5.4. Definition of the Community Producers

- (447) Total Community production of cold rolled sheets was 44,46m tonnes in 2001. The Community steel companies which cooperated fully in the investigation are:
- Aceralia Corporacion Siderurgica SA, Spain;
 - Cockerill Sambre SA, Belgium;
 - Sidmar NV, Belgium;
 - Sollac SA, France;
 - EKO Stahl GmbH, Germany;

- Corus Strip UK, UK;
- Corus Staal BV, The Netherlands;
- Rautaruukki Oyj, Finland;
- Riva/Ilva SPA, Italy;
- Salzgitter AG Stahl & Technologie, Germany;
- SSAB Tunnplat AB, Sweden;
- Stahlwerke Bremen GmbH, Germany; and
- Thyssen Krupp Stahl AG, Germany.

(448) These companies are all members of the European Confederation of the Iron and Steel Industry (Eurofer). They accounted for around 75 % of the total Community production of cold rolled sheets. They represent a major proportion of total Community production within the meaning of Article 5(3)(c) of Regulation (EC) No 3285/94 and Article 15(1) of Regulation (EC) No 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

5.5. *Serious Injury*

5.5.1. Introduction

- (449) In order to determine whether there is serious injury to the Community producers of the like product, i.e. a significant overall impairment in the position of the Community producers, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of production capacity, production, capacity utilisation, employment, productivity, cash flow, return on capital employed, captive use, stocks, consumption, sales, market share, price, undercutting and profitability for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.
- (450) The investigation has demonstrated that the product concerned can follow one of two distinct destinations. It can either be sold or used internally to make other products. It was found that around 67 % of the product concerned manufactured by the Community producers is used internally (i.e. it is further processed by these producers in an integrated process, often on the same production line, hereinafter referred to as 'captive use'). These products follow an internal process of downstream processing for which invoices are not normally issued.
- (451) The remaining production is sold at market prices on the Community market (hereinafter referred to as the 'free market'). Imports of the product concerned are also sold on the free market. The main purchasers on the free market are independent cold rolling mills, tube makers, steel service centres, steel merchants and stockholders. Both the product concerned sold by the Community industry and imports is sold to the same types of customers and is used for the same purposes. The sale of the product concerned on the free market is supported by the issuing of commercial invoices.
- (452) The investigation demonstrated that there is a clear distinction between the product concerned destined for captive use and those destined for the free market. The product concerned destined for captive use was found not to be directly affected by the imports. By contrast, production destined for sales was in direct competition with the imports.
- (453) In order to provide as complete a picture as possible of the situation of the Community producers, the Commission has obtained and analysed data both for cold rolled sheets destined for captive use and those destined for the free market. Because the free market sales are in competition with the imported products concerned, the Commission focussed its attention on the free market. While the Commission has, to the extent possible, combined free market and captive data, the Commission has also split the analysis between free market and captive use, where necessary and possible.

5.5.2. Analysis of the Whole Activity for the Product Concerned

5.5.2.1. Production capacity and capacity utilisation

- (454) Production capacity has declined in general over the period 1997 to 2001 by 2 % from 59,0m tonnes in 1997 to 57,8m tonnes in 2001.
- (455) Capacity utilisation remained relatively stable between 1997 and 1999 (varying between 79,6 % and 78,9 %) but increased in 2000 (to 84,0 %) and fell by over 8 % in 2001 (to 76,9 %). The utilisation rate in 2001 was the lowest rate seen in the 5-year period analysed. The steel industry requires to reach a high level of capacity utilisation to make profits, and this latter sharp fall in capacity utilisation reflects the fall in production.

	1997	1998	1999	2000	2001
Production capacity (tonnes)	59 059 300	60 630 200	59 571 800	59 703 500	57 815 300
Capacity Utilisation	79,6 %	78,9 %	79,0 %	84,0 %	76,9 %

5.5.2.2. Total Community production

- (456) Total Community production remained stable at between 47 to 47,8m tonnes between 1997 and 1999, before increasing to 50,15m tonnes in 2000 and then falling to 44,5m tonnes in 2001 (a fall of around 11 % from 2000). The production level in 2001 was the lowest rate seen in the 5-year period analysed, in line with the fall in sales and captive use.

	1997	1998	1999	2000	2001
Total production (tonnes)	47 011 191	47 837 266	47 061 756	50 150 980	44 460 000

5.5.2.3. Employment

- (457) Employment in relation to the like product has fallen steadily and continuously over the period of investigation. It fell from just under 24 000 in 1997 to just under 22 000 in 2001, a fall of 9 %. One sharp fall occurred between 1998 and 1999, and another between 2000 and 2001.

	1997	1998	1999	2000	2001
Employment	23 766	23 514	22 546	22 412	21 739

5.5.2.4. Productivity

- (458) Productivity increased over the period 1997 to 2000 from 1 978 tonnes per employee in 1997 to 2 238 tonnes per employee in 2000. However, productivity fell by 9 % in 2001 reflecting the large fall in production in that year.

	1997	1998	1999	2000	2001
Productivity (tonnes/employee)	1 978	2 034	2 087	2 238	2 045

5.5.2.5. Cash Flow

- (459) Cash flow could only be examined at the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

	1997	1998	1999	2000	2001
Cash Flow (index)	100	104	96	99	80

5.5.2.6. Return on Capital Employed (ROCE)

- (460) ROCE could only be examined on the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 2000 to 2001.

	1997	1998	1999	2000	2001
ROCE	10,1 %	10,1 %	3,1 %	7,4 %	3,8 %

5.5.2.7. Other indicators

- (461) It was not found to be relevant to analyse consumption, sales volume, market share, unit prices, profitability and stocks under this heading because a complete analysis of these indicators was only relevant to the free market.

5.5.3. Analysis of the Free Market

5.5.3.1. Consumption

- (462) Consumption of the product concerned in the Community was established on the basis of the total sales made by the Community producers (cooperators plus non cooperators) on the free market and total imports of the product concerned into the Community as indicated in the Eurostat import statistics.
- (463) Between 1997 and 1999, consumption in the Community declined by around 7 % from 15,4m tonnes to 14,3m tonnes. Between 1999 and 2000, it grew by 2,8 % to reach its highest level for the five year period (14,7m tonnes), before falling to 13,2m tonnes in 2001. The fall in consumption between 2000 and 2001 is examined under other factors to determine whether and if so to which extent it has contributed to nay injury suffered by the Community producers.

	1997	1998	1999	2000	2001
Consumption (t)	15 353 319	15 233 991	14 262 302	14 712 171	13 251 242

5.5.3.2. Sales volume

- (464) Sales volume of the like product in the Community fell from 14,1m tonnes to 10,8m tonnes between 1997 and 2001. This continuous decline is of the magnitude of 23,6 %.

	1997	1998	1999	2000	2001
Sales volume (t) In the EU	14 125 168	13 394 938	12 949 598	12 267 070	10 790 595

5.5.3.3. Market share

- (465) The Community producers' market share also fell continuously over the period from 92 % in 1997 to 81,4 % in 2001, with an increase between 1998 and 1999, but with a particularly sharp decrease between 1999 and 2000.

	1997	1998	1999	2000	2001
In terms of volume Market share	92,0 %	87,9 %	90,8 %	83,4 %	81,4 %

5.5.3.4. Price of the like product and undercutting

- (466) The average price of the like product sold in the Community fell to 305 EUR/tonne in 1999 before recovering in 2000. However, prices fell again (by 3 %) to 360 EUR/tonne in 2001 as a result of the low price of import (whose prices fell by 10 %). This trend is further confirmed because quarterly prices from Q1 2001 to Q1 2002 show a fall from 386 EUR/tonne to 328 EUR/tonne in the price of the Community product.
- (467) In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 10 % in 2001.
- (468) The Commission notes that, as from 1998, the price of imports was clearly below the price of the Community product.

	1997	1998	1999	2000	2001
Unit price of Community sales (EUR/tonne)	354	370	305	371	360

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Unit prices of Community sales (EUR/tonne)	386	363	351	342	328

5.5.3.5. Profitability

- (469) The profitability of the Community producers' sales in the Community has fallen significantly in the five-year period under consideration. The lowest profitability was recorded in 1999 when prices were at their lowest and the highest profitability was achieved in 1998 when prices were almost at their 5 year high. The Community producers' profitability fell to -7,9 % in 2001, in the face of the average price undercutting found for that year, and the quarterly data confirms the negative trend getting even worse in 2002 with losses of nearly 18 %. This situation has arisen as a result of reduced sales volumes and lower prices. It should be noted that, as mentioned above, these losses have been incurred despite the fact that productivity has increased overall during the 5-year period. Price suppression as a result of low priced imports has been a significant factor in creating the Community producers' current loss making situation and it is noted that the price of the Community product has been depressed in 2001 and the first quarter of 2002.
- (470) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by a sudden, sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 32 %.

	1997	1998	1999	2000	2001
Profitability of Community sales	1,8 %	3,4 %	- 11,6 %	1,9 %	- 7,9 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Profitability of Community sales	- 0,8 %	- 9,7 %	- 9,8 %	- 14,5 %	- 17,9 %

5.5.3.6. Stocks

- (471) Stock levels remained relatively stable during the period of analysis; in absolute terms levels of closing stock were in the range of 2,0 to 2,3m tonnes. In relative terms closing stocks were around 4,5 % of production levels throughout the period. Bearing in mind this stability it was concluded that stock levels did not add anything further to the injury analysis beyond what is stated in relation to production.

	1997	1998	1999	2000	2001
Closing Stock (tonnes)	2 044 553	2 202 337	2 000 325	2 337 687	2 165 350

5.5.4. Analysis of captive use

- (472) Some indicators relating to captive use have been shown in global terms, whereby captive use forms part of the analysis of the whole activity for the product concerned (i.e. capacity and capacity utilisation, employment and productivity). With respect to certain other factors which are analysed above in respect of the free market, i.e., sales prices, stocks and profitability, the data received is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for cold rolled sheets, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market. Therefore, this analysis focuses production for captive use and examines if its trend is comparable to those of the free and total markets.
- (473) Production for captive use remained relatively stable over the period 1997 to 1999. It increased significantly in 2000 before falling back to levels earlier in the period in 2001. This analysis reflects a similar overall trend to that seen above in respect of total production.

	1997	1998	1999	2000	2001
Captive use (tonnes)	30 611 562	32 714 240	32 495 657	36 022 989	32 565 915

5.5.5. Conclusion

- (474) The data shows that while productivity remained stable there is, overall, a negative development for production capacity, capacity utilisation, production, employment, and negative elements can as well be observed for cash flow and ROCE. The free market data shows, in particular, negative developments for sales volume and prices, market share and profitability. The data for captive use demonstrates a similar negative trend. These findings were indeed supported by the analysis of the whole activity for the product concerned for which captive use forms a large element.

- (475) In particular, the Commission notes that whilst, in 2001, as imports reached their highest level for five years (2,5m tonnes), the Community producers' sales volume in the Community reached its lowest level for five years (10,8m tonnes) and profitability fell rapidly. This occurred against the background of a concurrent fall in production sold on the free market, consumption and falling prices. Against such a background, imports could have been expected to fall, but instead they rose even above the very high level reached in 2000.
- (476) The effect of this combination of factors on the Community producers is reflected in the economic indicators. The Community producers have lost market share, which reached its lowest level for five years in 2001. Capacity utilisation has fallen sharply in 2001, and with it productivity. Employment has also fallen and is expected to fall further in 2002. The overall effect of the falls in production, Community sales volume and prices was to reduce the profitability of the Community producers and plunge them into a loss-making situation in 2001. These trends are confirmed by the continuing deterioration in prices and profitability between Q1 2001 and Q1 2002.
- (477) Taking account of all of these factors and relying, in particular, on its analysis of the free market activities, the Commission concludes that the Community producers have suffered serious injury.

5.6. Causation

- (478) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:
- the injurious effects of factors considered to be causing injury have been distinguished from each other,
 - these injurious effects have been attributed to the factors which are causing them; and,
 - after having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

5.6.1. Effect of increased imports

- (479) The market for the product concerned is a transparent one as regards sources of supply, customers and prices. As the product concerned is essentially a commodity product, the product concerned and the like product compete mainly on price.
- (480) In the period 1999 to 2001, the market share of imports grew from 9,2 % to 18,6 %, whilst the market share of the Community producers fell from 90,8 % to 81,4 %. Over the same period, imports have grown from 2,8 % to 5,5 % of production sold on the free market. Thus, imports have also increased relative to production, at the expense of the Community producers.
- (481) As to prices, between 2000 and 2001, the average unit price of the imported product on the Community market fell from 346 to 311 EUR/tonne. The average unit price of the Community product fell from 371 to 360 EUR/tonne. In this transparent market, price undercutting had a decisive impact. The effect of the fall in the average unit price of the like product alone on the Community producers' Community sales revenue would have been a reduction of 3 % (EUR 137m) in 2001. Taking account of the simultaneous fall in sales volume the actual fall in sales revenue in the Community was EUR 670m. Therefore, the reduction in sales revenues created a disproportionately higher fall in profits, and, in 2001, the Community producers made a loss of -7,9 %. This fall in prices and profitability furthermore must be seen in the context of a number of plant closures and ensuing reduction in employment.
- (482) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

5.6.2. Effect of changes in consumption

- (483) The Commission examined the injurious effects of the fall in consumption. Consumption decreased from 15,4m tonnes in 1997 to 14,3m tonnes in 1999, but then grew to 14,7m tonnes in 2000, before falling back to 13,3m tonnes in 2001.
- (484) In examining this question account has to be taken of the reaction of all market participants to the trend fall in consumption. In this respect, it was found that while Community producers were forced to reduce their sales in the Community in 2001, imports moved sharply in the other direction. No economic justification was established which could explain the sharp rise in imports. For example, no exporter claimed that this was due to lower production costs.
- (485) A fall in consumption should not normally lead to substantial price effects if production is quickly adjusted to the needs of the market. In this respect, the Community producers appear to have reacted by reducing both production and sales volume to a greater extent than that necessary to be in line with the falls in consumption.
- (486) Similarly, if price pressure is reduced then the injurious effects which stem from low prices would also be kept in check. The most important factor here is profit, where any fall would have been minimised if prices had not fallen substantially. Therefore, it is reasonable to conclude that in the absence of the sharp rise in imports at low prices, the fall in consumption would not have led to a substantial fall in profits.
- (487) For the reasons given above, it is concluded that there is a significant, but not substantial, link between the fall in consumption and the injurious effects observed.

5.6.3. Effect of changes in captive use

- (488) The Commission has also examined the effects of the development of captive use of the product concerned. This rose considerably in 2000 as compared to earlier years and then fell in 2001. This trend corresponded with the market conditions for the intermediate and finished products.
- (489) The further data received in respect of captive use is not, by its very nature, adapted to an immediate and objective comparison with the data obtained for the free market for the product concerned, but nevertheless does not show evidence that it was more profitable to produce for captive use than for the free market.
- (490) The fall in captive use (which is only applicable in 2001) thus had injurious effects in terms of production, which in turn has affected capacity utilisation, and ultimately profitability. However, the fall in prices and revenues suffered by Community producers on the free market was created by low priced imports and bears little or no relation to the fall in captive use.

5.6.4. Effect of export performance

- (491) The Commission also examined the effects of a fall in exports.

	1997	1998	1999	2000	2001
Exports (tonnes)	2 677 024	2 122 206	2 150 840	1 907 032	1 546 528

- (492) Between 1997 and 2001, the volume of Community producers' exports of the product concerned fell from 2,68m tonnes to 1,55m tonnes. However, it should be noted that as profitability has been measured by reference to the Community producers' turnover in the Community, that indicator is not influenced by the level of exports. Over a five year period the injury suffered that can be ascribed to loss of exports can clearly be distinguished from that caused by increased imports. Also the fall in the level of export sales (of around 1,1m tonnes) is around 2,5 % of total production.

- (493) Nevertheless, for the reasons given above, it cannot be excluded that there is a significant link between the fall in exports and the injurious effects observed.

5.6.5. Effect of any excess capacity

- (494) The Commission has further examined whether injurious effects may have resulted from excess capacity amongst the Community producers. There were no significant changes in overall estimated theoretical production capacity throughout the period of the investigation, and capacity utilisation always remained above 75 %. Therefore, no correlation between capacity and the injurious effects was observed.

5.6.6. Effect of restructuring

- (495) The Commission further examined the injurious effects of the costs of restructuring which the Community producers have undergone in recent years. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

5.6.7. Attribution of injurious effects

- (496) The serious injury suffered by the Community producers took the form mainly of reduced sales and worsening financial losses. The Commission identified that four factors apart from the increase in imports which have contributed to the injury: changes in consumption, changes in captive use, changes in export performance, and ongoing rationalisation efforts.
- (497) There was a decline in consumption between 1997 and 2001. However, the development of imports did not follow this consumption pattern and the Commission considers that the decline in consumption, although contributing particularly to the fall in sales volume, clearly did not play as significant a role as the large increase in low priced imports.
- (498) As to the decline in captive use observed between 2000 and 2001, this has had a negative impact although the negative effects seen in respect of profitability were calculated on sales on the free market and the fall in captive use did not impact on this indicator. In addition the effects felt would be limited to volume and would not have contributed to the concurrent fall in prices in 2001.
- (499) As mentioned above, it is concluded that there is some link between the fall in exports and the injurious effects observed, however, this factor did not influence the fall in profitability which was calculated on the basis of Community sales. Nevertheless, this factor did contribute significantly to the injury suffered in respect of other injury indicators.
- (500) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports. The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports, which not only increased much faster than the increase in consumption in 2000 but continued to increase during the fall in consumption in 2001.

5.6.8. Conclusion

- (501) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

5.7. Further Developments

- (502) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers could be expected to seriously worsen should imports continue at their current level or increase.

5.7.1. The US steel safeguard measures

- (503) On 5 March 2002, the US imposed safeguard measures against certain steel products including the product concerned. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 30 % *ad valorem* in the first year, 24 % in the second year and 18 % in the third year. The measures do not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

5.7.1.1. Trade diversion arising from US steel safeguard measures

- (504) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US.
- (505) In 2001, the US imported 2,75m tonnes of goods classified within the HSC codes 720915, 720916, 720917, 720918, 720925, 720926, 720927, 720928, 720990, 721123, 721129, 721190, 721260, 722520, 722550, 722692 (which include the product concerned). The principal exporters of these products to the US were the Community (18,2%/500 000 tonnes), South Korea (18,5%/509 000 tonnes), Japan (12,3%/340 000 tonnes), Russia (10%/268 000 tonnes), Brazil (7%/195 000 tonnes), Canada (6,5%/178 000 tonnes) and Mexico (6%/168 000 tonnes). Argentina, Taiwan, China, South Africa, Turkey, Venezuela and Australia also supplied more than 1 % of imports of this product to the US market in 2001.
- (506) Total exports to the US of the above products in 2001 from countries affected by the US safeguard measures (excluding producers in the Community and in those countries excluded from the US safeguard measures insofar as it relates to the product concerned) amounted to 1,9m tonnes.
- (507) The Commission then examined the likelihood that the restricted access to the US market as a result of safeguard action taken by the US would lead to increased exports to the Community. The Commission investigated the capacity situation of the cooperating exporting producers following the US measures. They increased their capacity from 63,5m tonnes in 1997 to 70m tonnes in 2001. None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.
- (508) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets, but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (509) The potential trade which, in the absence of definitive measures, could be diverted to the Community as a result of the US measures therefore amounts to 1,9m tonnes. There are reasons why this potential may not be wholly realised, e.g. the current high levels of prices of domestic prices in the US which may result in a somewhat higher than expected level of imports despite the existence of 30 % duties, as well as the fact that third country producers may be able to partially offset the loss of the US market by selling more on their domestic markets. This may be particularly true to a degree for those countries which have taken protective measures to counteract the US safeguard action. Producers may also increase their stocks for a period of time.

- (510) However, a very substantial potential for increased exports to the Community will still prevail. The increase which took place in 2001 had many causes as already identified in the analysis of serious injury and all of these still apply and can be expected to continue to push imports higher. Moreover, there is now the new element of the US safeguard action which manifestly leaves a substantial amount of production for which producers are under enormous pressure to find buyers. In these circumstances, it can reasonably be assumed that in the absence of definitive measures the very minimum trade diversion that would occur would be between 25 % to 50 % of the 1,9m tonnes mentioned above or between 475 000 to 950 000 tonnes. In all likelihood, it could be greater but it is considered prudent to base this analysis on a conservative basis.
- (511) It is also relevant that in 2001, one of the major export markets for the cold rolled products was the Community (2,5mt). This compares to China (5,7mt), the US (2,75mt), Hong Kong (0,9mt), Malaysia (0,8mt) and Japan (0,7mt). This reflects that fact that the Community was, and following recent measures, remains, one of the most open markets in the world. The recent appreciation of the euro relative to the US dollar and other major currencies increases the attractiveness of imports relative to Community production in the short and medium term.

5.7.1.2. Reduction in Community exports arising from the US steel safeguard measures

- (512) An immediate effect of US measures has been to reduce sharply the Community exports of the product concerned to the US. The imposition of 30 % *ad valorem* duties will largely stop these exports though some small volumes may occur due to the current high level of prices in the US which can result in duties being worth paying at least to sell any excess stock. It is estimated, after taking account to the extent possible of the exclusions granted by the US since the imposition of measures that Community exports to the US will fall substantially as a result of the US measures.
- (513) It is also likely that Community exports to other third markets will also fall both because the producers world-wide will find it more difficult to export, both because of the US measures and the defensive safeguard actions taken by other third countries and the Community to avoid diversion to their own markets.

5.7.1.3. Projected effects of US measures

- (514) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures as well as the effect of these measures on Community exports. In this respect, the Commission has found that in the absence of Community safeguard measures, imports will inevitably rise substantially with the result that the state of the Community industry will show a very serious and substantial decline. Given the extremely fragile state of the Community producers any significant rise in imports would have extremely serious consequences. The expected rise of between 475 000 to 950 000 tonnes would very likely lead to a further reduction in the sales of the Community producers and these reduced sales would lead to serious negative consequences for the other indicators which identify the state of the industry.
- (515) The continued fall in Community exports will also significantly contribute to the worsening state of the Community producers. Since the US measures were taken it is inevitable that Community exports will have fallen substantially and this fall is likely to be maintained or even deteriorate in the coming months.
- (516) The projected increase in imports and the projected fall in Community exports would substantially worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would immediately lead to a further sharp fall in sales and prices, with consequent negative effects on production, increased unit costs, increased losses with an immediate threat of plant closures and redundancies. Increased pressure on prices would in particular be enormous and this at a time when losses are running at 7,9 % in 2001. The overall negative impact would be magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

5.7.2. Conclusion

- (517) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that a further substantial influx of imports which is extremely likely to occur if definitive safeguard measures are not confirmed, will substantially aggravate the situation of the Community producers. Moreover, this situation will be worsened by a significant fall in Community exports as a result of US measures.

Product 5**Cold rolled sheets**

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (in tonnes)	59 059 300	60 630 200	59 571 800	59 703 500	57 815 300
Utilisation rate of capacity (%)	79,6 %	78,9 %	79,0 %	84,0 %	76,9 %
Opening stocks (in tonnes)	1 953 514	2 044 553	2 202 337	2 000 325	2 337 687
Total production (in tonnes)	47 011 190	47 837 264	47 061 755	50 151 111	44 460 000
Purchases (in tonnes)	493 602	551 903	332 326	383 474	270 700
Total sales (in tonnes)	16 802 191	15 517 144	15 100 438	14 174 102	12 337 122
Captive use (in tonnes)	30 611 562	32 714 239	32 495 656	36 023 121	32 565 915
Closing stock (in tonnes)	2 044 553	2 202 337	2 000 325	2 337 687	2 165 350
Sales volume in the EU (in tonnes)	14 125 167	13 394 937	12 949 598	12 267 069	10 790 594
Sales volume outside the EU (in tonnes)	2 677 024	2 122 206	2 150 840	1 907 032	1 546 528
Unit prices of EU sales (Euro/tonne)	354	370	305	371	360
Net profit/loss on EU sales (in %)	1,8 %	3,4 %	- 11,6 %	1,9 %	- 7,9 %
Market share (%)	92,0 %	87,9 %	90,8 %	83,4 %	81,4 %
Employment (end of period)	23 766	23 514	22 546	22 412	21 739
Productivity (tonne/employee)	1 978	2 034	2 087	2 238	2 045

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	3 033 232	2 753 871	2 501 207	2 502 287	2 618 223
Unit prices (in Euro/tonne)	386	363	351	342	328
Profitability (in %)	- 0,8 %	- 9,7 %	- 9,8 %	- 14,5 %	- 17,9 %

Price undercutting in 2001 =	10 %
Price underselling in 2001 =	32 %

Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

75,2 %

6. PRODUCT 18: FITTINGS (< 609,6 mm)

6.1. *Product Concerned and Like or Directly Competing Product*

6.1.1. Product Concerned

- (518) The product concerned is certain tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron and steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding (hereinafter referred to as 'fittings'). The product concerned is currently classified under CN codes 7307 93 11 and 7307 93 19.
- (519) Fittings are essentially manufactured by cutting and forming tubes and pipes. They are used to join tubes and pipes and come in different shapes: elbows, reducers, tees and caps, as well as different sizes and material grades. They are mainly used in the petrochemical industry, in energy generation, in shipbuilding and industrial installations. When sold for use in the petrochemical industry, the global standard used is the ANSI standard. For other purposes the most common standard used in the Community is the DIN standard.
- (520) Notwithstanding the fact that each CN code corresponds to a distinguishable type of fittings, it was found that they all have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of fittings form one single product falling under the relevant CN codes listed above.

6.1.2. Like Or Directly Competing Products

- (521) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as 'the like product') is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of the product concerned which alleged that certain types of fittings imported into the Community were not produced by the Community producers and, therefore, should not be considered as 'like' the product concerned.
- (522) The Commission examined these submissions in detail, and took into account in particular the following findings of the investigation:
- (a) the imported product and the Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;
 - (b) the imported product and the Community product were sold via similar or identical sales channels and price information was readily available and the product concerned and the product of the Community producers competed mainly on price;
 - (c) the imported product and the Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;
 - (d) the imported and Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.
- (523) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are 'like or directly competing'.

6.2. *Increased Imports*

- (524) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause serious injury to the Community producers. In this respect, the Commission has focussed on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sales (excluding 'captive use') and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.
- (525) Between 1997 and 1999, imports into the Community fell by around 4,3 % whilst their average price fell by over 13 %. However, due to falling Community production, imports increased from 11,4 % to 11,9 % of both total production and production sold.

Product 18**Fittings**

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (in tonnes)	70 077	70 096	64 804	61 658	63 077

IMPORT DATA

	1997	1998	1999	2000	2001
Concerned imports:					
Volume (in tonnes)	9 910	9 520	9 487	10 127	13 646
Rate of increase (in %)		- 3,9 %	- 0,3 %	6,7 %	34,7 %
Market share (in %)	14,1 %	13,6 %	14,6 %	16,4 %	21,6 %
Ratio between imports and total production	11,4 %	11,2 %	11,9 %	12,7 %	17,2 %
Ratio between imports and production sold	11,4 %	11,2 %	11,9 %	12,7 %	17,2 %
Unit prices (in Euro/tonne)	1 247	1 184	1 083	1 042	1 005

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	9 715	9 504	9 807	11 887

- (526) Between 1999 and 2000, there was an increase in imports from 9 500 tonnes to 10 100 tonnes, i.e. by 600 tonnes or 6,7 %. Over the same period imports as a percentage of total production and production destined for sales increased from 11,9 % to 12,7 %.
- (527) Between 2000 and 2001, imports increased a further 3 500 tonnes or by 34,7 %. Relative to total production and production sold on the free market, imports also increased by around 35 %.
- (528) Prices of the product concerned fell each year between 1997 and 2001 and by a total of 242 EUR/tonne or 19,4 % over the whole period considered.

6.2.1. Two year moving average

- (529) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that, whilst between 1997/98 and 1998/99, imports fell from 9 700 tonnes to 9 500 tonnes, between 1999/00 and 2000/01 they increased by over 21 % from 9 800 tonnes to 11 900 tonnes.

6.2.2. Market share of imports

- (530) The market share of imports fell between 1997 and 1998 from 14,1 % to 13,6 % before increasing year on year to reach 21,6 % in 2001, representing an increase of around 53 % relative to 1997.

6.2.3. Conclusion

- (531) Imports increased between 1999 and 2000 by 6,7 % in absolute terms, relative to total production and to production sold in the free market followed by another rise in 2001 when imports increased by a further 34,7 % in absolute terms (35,4 % relative to total production and to production sold).
- (532) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.
- (533) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years.

6.3. Unforeseen Developments

6.3.1. Increased use of Trade defence instruments by the US

- (534) From 1998 onwards, in reaction to the Asian crisis ⁽¹⁾, the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO, and some of the methodologies used have been declared to be WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (535) The table shows the annual number of anti-dumping and countervailing duty final determinations for one or more countries made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty	Countervailing duty
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (536) In the course of 2001, the US also announced further broadly based action in the steel sector. In January 2001, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July 2001, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.

⁽¹⁾ The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

- (537) These actions had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001. They culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

6.3.2. Increased use of TDIs by the US — relating to the product concerned

- (538) The Commission's provisional safeguard measures and their related investigation consider carbon fittings and carbon flanges separately, as two different like-products. In particular, the Commission has considered in its action only steel fittings (not including stainless steel fittings) with an outside range diameter not exceeding 609,6 mm. Consequently, in relation to the fittings concerned, the US investigation and the US measures have a much broader scope than the Commission's action.
- (539) Based on official information on the US governments web page, the US had enforced five anti-dumping measures of fittings against Brazil, China, Japan, Taiwan and Thailand; and one countervailing duty measure against Turkey. The level of these duties, which were re-imposed as late as December 1999 following a full 'sunset' review, ranged up to 154,72 % for one company in China.
- (540) The Commission notes that between 1999 and 2001 imports into the Community market of carbon fittings of diameter not exceeding 609,6 mm increased by 4 159 tonnes (43,8 %). This sudden increase appears in large part due to imports from China, Thailand, and Japan, which have been under investigation by the US and are currently subject to US anti-dumping measures.
- (541) The Commission has analysed the evolution of imports of fittings into the US from those countries covered by anti-dumping and countervailing measures. Between 1999 and 2001, as imports into the Community from these sources was rising, imports in to the US of goods classified within the same HSC code as fittings fell by 3 419 tonnes (24,2 %).
- (542) The Commission considers that there exists a correlation in time between the US announcement of the safeguard investigation on steel products (which was anticipated as early as January 2001 in the US market in a number of press articles speculating on imminent disruption both to the US and the Community market) and the increase in imports of fittings into the Community market.
- (543) This increased and extensive use of trade defence instruments, a number of which were found to be WTO incompatible, could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

6.4. *Definition of the Community Producers*

6.4.1. Total Community production

- (544) Total Community production of fittings is approximately 80 000 tonnes per annum. The 3 Community steel companies which cooperated fully in the investigation are:
- Virgilio CENA & Figli S.P.A., Italy
 - Interfit, France
 - Erne Fittings, Austria.
- (545) These companies are all members of the Defence Committee of Community Butt-welding Fittings Industry. They account for around 60 % of the total Community production of the product concerned. They represent a major proportion of total Community production within the meaning of Article 5(3)(c) of Regulation (EC) No 3285/94 and Article 15(1) of Regulation (EC) No 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

6.5. *Serious Injury*

6.5.1. Introduction

- (546) In order to determine whether there is serious injury or threat of serious injury to the Community producers of the like product, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of imports, consumption, production, productivity, capacity, capacity utilisation, sales, market share, prices, profitability and employment for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.

6.5.2. Analysis of the Whole Activity for the Product Concerned

6.5.2.1. Production capacity and capacity utilisation

	1997	1998	1999	2000	2001
Total estimated production capacity (t)	170 000	170 000	169 983	165 000	149 607
Capacity utilisation (t)	51,0 %	50,0 %	47,0 %	48,3 %	53,0 %

- (547) Total estimated production capacity has decreased from 1998 to 2001 by 20 400 tonnes. The decrease in Community capacity at the end of the period is directly linked to the closure of 3 Community production plants in 2001.
- (548) Due to the closure of Community production plants, the capacity utilisation rate increased from 48,3 % in 2000 to 53 % in 2001. Had these closures had not taken place, the capacity utilisation rate would have remained at 48 % for 2001.

6.5.2.2. Total production and captive use

	1997	1998	1999	2000	2001
Total production (tonnes)	86 619	84 932	79 892	79 729	79 292

- (549) Total Community production decreased by 7 300 tonnes during the period of investigation, from 86 600 tonnes in 1997 to 79 300 tonnes in 2001. This represents a decrease of 8,4 %, and reflects the loss of sales volumes on the Community market.
- (550) It should be noted that, for many steel products, a clear distinction must be made between production for captive use and sales to the free market. For fittings, the investigation has demonstrated that the production for captive use is non-existent and is irrelevant for the injury analysis. Thus, the total of the production destined for sales has been in direct competition with the imports.

6.5.2.3. Employment and productivity

	1997	1998	1999	2000	2001
Employment (end of period)	834	824	791	808	800
Productivity (tonne/employee)	104	103	101	99	99

- (551) The number of employees and productivity among the Community producers has remained more or less stable since 1999.

6.5.2.4. Cash Flow

	1997	1998	1999	2000	2001
Cash flow (index)	100	47	54	23	40

- (552) Cash flow could only be examined at the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 1999 to 2001.

6.5.2.5. Return on Capital Employed (ROCE)

	1997	1998	1999	2000	2001
ROCE	36 %	24 %	8 %	4 %	16 %

- (553) ROCE could only be examined on the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001.

6.5.2.6. Consumption

	1997	1998	1999	2000	2001
Consumption (tonnes)	70 077	70 096	64 804	61 658	63 077

- (554) Consumption of fittings in the Community was established on the basis of the total sales made by the Community producers and total imports of the product concerned into the Community as reported in the Eurostat statistics.
- (555) Between 1997 and 2000, consumption in the Community declined by 12 %, from 70 100 tonnes to 61 700 tonnes. In 2001, the level of consumption increased by 2,3 % in relation to 2000, but it was still 10 % below the level of 1997. The fall in consumption between 1997 and 2001 is examined under 'other factors' to determine whether it contributed to the serious injury suffered by the Community producers.

6.5.3. Sales Volume

	1997	1998	1999	2000	2001
Sales volume in the Community (t)	60 167	60 576	55 617	51 531	49 431

- (556) Sales in the Community fell by 10 800 tonnes from 60 200 tonnes to 49 400 tonnes between 1997 and 2001. This is a reflection partly of decreasing Community consumption, but more important of an increasing impact of higher import volumes on this market.

6.5.4. Market share

	1997	1998	1999	2000	2001
Market share	85,9 %	86,4 %	85,4 %	83,6 %	78,4 %

- (557) The Community producers' market share of the Community market decreased from 1998 onwards, the most radical decrease, from 83,6 % to 78,4 % (or a loss of 5,2 percentage points), occurring during the last years of the investigation period, from 2000 to 2001. It is recalled that in the same period the market share of imports increased from 16,4 % to 21,6 %.

6.5.5. Stocks

	1997	1998	1999	2000	2001
Closing stocks (t)	10 070	10 525	11 309	11 679	12 508

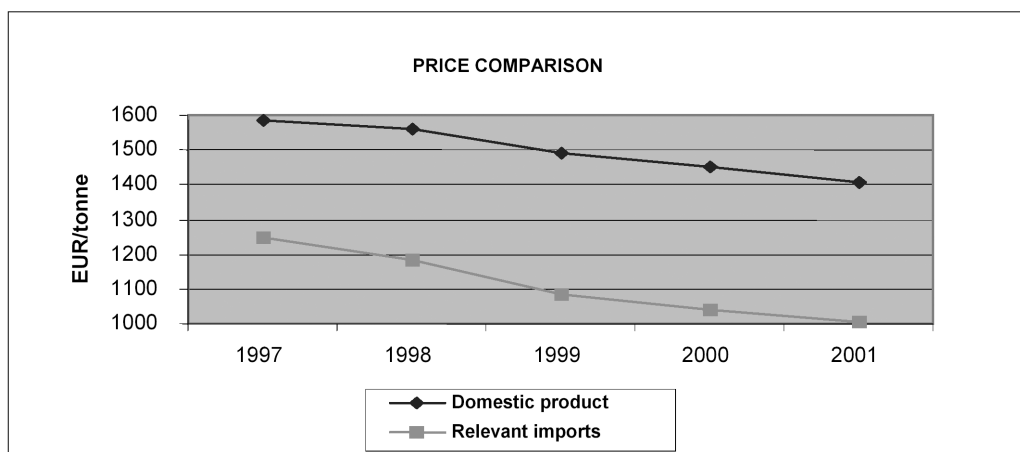
- (558) Whereas the stock remained between 700 and 800 tonnes up to 1999, a decrease in stocks was noted for 2000, followed by a sharp increase in 2001. The level of stocks in 2001 is 25 % above the level of 1997. The increase in stock levels should also be seen in the light of a decreasing level of production and sales.

6.5.6. Price of the like product and undercutting

	1997	1998	1999	2000	2001
Unit price of Community sales	1 585	1 561	1 493	1 453	1 405

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Unit prices (in Euro/tonne)	1 420	1 409	1 401	1 390	1 378

- (559) The Community producers cut their average prices from 1997 to 2001, from 1585 EUR/tonne to 1405 EUR/tonne. At the same time, average import prices had fallen from 1247 EUR/tonne in 1997 to 1005 EUR/tonne in 2001. This trend is further confirmed because quarterly prices from Q1 2001 to Q1 2002 show a fall from 1420 EUR/tonne to 1378 EUR/tonne in the price of the Community product.
- (560) In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 14,8 % in 2001.
- (561) The Commission notes that, throughout the whole period of the investigation, the price of imports was clearly below the price of the Community product. The graph illustrates that imports were made at increasingly lower prices from 1997 through to 1998. This in turn forced the Community producers to reduce their prices in parallel, leading to a sharp reduction in profitability and the losses sustained by the Community producers.



Profitability

	1997	1998	1999	2000	2001
Net profit/loss on Community sales	4,4 %	4,3 %	2,0 %	1,9 %	- 1,0 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Net profit/loss on Community sales	0,9 %	- 0,6 %	- 1,8 %	- 2,5 %	- 3,0 %

- (562) The profitability of the Community producers' sales in the Community fell from 4,4 % in 1997 to - 1,0 % in 2001, reflecting an ever decreasing sales volume and the decreasing prices at which these sales was made. It is to be noted that in light of the quarterly profitability figures for 2001 and 2002 there is a clear indication that the negative trend of profitability for Community producers is continuing.
- (563) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by sudden sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 23,7 %.

6.5.7. Conclusion

- (564) The data shows that there is, in general terms, a negative development for capacity, utilisation, production, employment, productivity, and negative elements can as well be observed for cash flow and ROCE.
- (565) The data also shows, in general terms, and against a background of a decline in consumption and an increase in stocks, there were negative developments for sales, market share, prices and profitability.
- (566) In particular, the Commission notes that whilst, in 2001, as imports reached their highest level for five years (13,6km tonnes), the Community producers' sales volume in the Community reached its lowest level for five years (49 400 tonnes) and profitability fell rapidly. This occurred against the background of a concurrent fall in production sold on the free market, consumption and falling prices. Against such a background, imports could have been expected to fall, but instead they rose for the second consecutive year.
- (567) The effect of this combination of factors on the Community producers is reflected in the economic indicators. The Community producers have lost market share, which reached its lowest level for five years in 2001. Employment has also fallen and is expected to fall further in 2002. The effect of the falls in production, Community sales volume and prices was to reduce the profitability of the Community producers and plunge them into a loss-making situation in 2001. The full extent of the damage incurred is perhaps best illustrated by the continuing deterioration in profitability throughout 2001 and into Q1 2002.
- (568) Taking account of all of these factors, the Commission concludes that the Community producers have suffered serious injury.

6.6. Causation

- (569) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:
- the injurious effects of factors considered to be causing injury have been distinguished from each other,
 - these injurious effects have been attributed to the factors which are causing them; and,
 - after having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

6.6.1. Effect of increased imports

- (570) The market for fittings is a transparent one as regards sources of supply, customers and prices. The product concerned and the like product, therefore, compete mainly on price.
- (571) In the period 1999 to 2001, the market share of imports grew from 14,6 % of the market to 21,6 %, whilst the market share of the Community producers fell from 85,4 % to 78,4 %. Over the same period, imports have grown from 11,9 % to 17,2 % of production sold on the free market. Thus, imports have also increased relative to production, at the expense of the Community producers.
- (572) As to prices, between 2000 and 2001, the average unit price of the imported product on the Community market fell from 1,042 to 1,005 EUR/tonne. The average unit price of the Community product fell from 1,453 to 1,405 EUR/tonne. In this transparent market, price undercutting had a decisive impact. The effect of the fall in the average unit price of the like product alone on the Community producers' Community sales revenue would have been a reduction of 3,3 % (EUR 2,47m) in 2001. Taking account of the simultaneous fall in sales volume the actual fall in sales revenue in the Community was EUR 5,42m. Fixed costs represent a material proportion of total costs. Therefore, the reduction in sales revenues created a disproportionately higher fall in profits, and, in 2001, the Community producers made a loss of -1,0 %.
- (573) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

6.6.2. Effect of changes in consumption

- (574) The Commission examined the injurious effects of the fall in consumption between 2000 and 2001. That fall has to be considered in the context of the overall trend during the 5 year period under investigation. Consumption decreased from 70 100 tonnes in 1997 to 61 100 tonnes in 2000, but then grew by 1 400 tonnes to 63 100 tonnes in 2001.
- (575) In this particular case, the Commission considers that the apparent rise in consumption in 2001 was due to the large increase in imports that year. For this reason, the trend in movements presents a more accurate picture. Although consumption increased between 2000 and 2001, overall during the five year period consumption fell by 7 000 tonnes or 10,0 %. This represents an average rate of decline of 2,0 % per annum.
- (576) In examining this question in this particular case account has to be taken of the reaction of all market participants to the trend of a fall in consumption. In this respect, it was found that while Community producers were forced to reduce their sales in the Community by roughly 2 100 tonnes in 2001 compared to 2000, imports moved sharply in the other direction. No economic justification was established which could explain the sharp rise in imports. For example, no exporter claimed that this was due to lower production costs.

- (577) As regards price effects, a fall in consumption of 2,0 % per annum should not normally lead to substantial price effects if production is quickly adjusted to the needs of the market. In this respect, the Community producers appear to have reacted by reducing both production and sales in line with the falls in consumption.
- (578) Similarly, if price pressure is reduced then the injurious effects which stem from low prices would also be kept in check. The most important factor here is profit, where any fall would have been minimised if prices had not fallen substantially. Therefore, it is reasonable to conclude that in the absence of the sharp rise in imports at low prices, the fall in consumption would not have led to a substantial fall in profits.
- (579) Nevertheless, even if all market participants acted responsibly and adjusted their production, the Community producers would still have sold less. Consumption in 2001 was below the level in 1999. In 2000, consumption fell by 3 100 tonnes only to increase by 1 400 tonnes in 2001. The Community producers' sales, however, decreased in 2000 compared to 1999 by 3 800 tonnes, and again by a further 2 100 tonnes in 2001. At the same time, imports increased in 2000 by 600 tonnes and 3 500 tonnes respectively. Therefore the fall in consumption between 1999 and 2001 did not effect imports which continued to rise. Over this two-year period Community producers' sales fell by 5 900 tonnes. In terms of the trend fall in consumption, the Community producers fall in sales should have been approximately 700 tonnes per annum.
- (580) For the reasons given above, it is concluded that there is a significant, but not substantial, link between the fall in consumption and the injurious effects observed.

6.6.3. Effect of exports performance

- (581) The Commission also examined the effects of a fall in exports.

	1997	1998	1999	2000	2001
Exports (in tonnes)	27 133	24 624	24 583	28 369	30 069

- (582) Between 1997 and 1999, the volume of Community producers' exports of fittings fell from 27 100 tonnes to 24 600 tonnes. Between 1999 and 2001, exports increased by 5 500 tonnes. Over the five year period, exports increased by approximately 3 000 tonnes. Therefore, in the more recent period between 1999 and 2001 they have not contributed to the injurious effects. In this respect, as the injury resulting from a fall in exports mainly occurred in the early part of the 5 year period it has to be viewed as less significant than if it had occurred in the latter part of the 5 year period.
- (583) For the reasons given above, it is concluded that there is some link between the fall in exports and the injurious effects observed, at least in the earlier part of the 5 year period.

6.6.4. Effect of any excess capacity

- (584) The Commission has further examined whether injurious effects may have resulted from excess capacity amongst the Community producers. Between 1997 and 2001 the Community industry reduced overall estimated theoretical production capacity from 170 000 tonnes to 150 000 tonnes, whilst utilisation of that capacity varied around the 50 % mark. It should first be noted that fittings are a finished product comprising a very wide range of types. A capacity utilisation of 50 % is, therefore, not considered particularly low for this kind of product. Against a background of reducing capacity and relatively stable capacity utilisation, it is considered that any injurious effects would be of minor impact.

6.6.5. Effect of restructuring

- (585) The Commission further examined the injurious effects of the costs of restructuring which the Community producers have undergone in recent years. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

6.6.6. Attribution of injurious effects

- (586) Injury suffered by the Community producers took the form mainly of reduced sales, lost market share, and worsening financial losses. The Commission identified that four factors contributed to the injury apart from the increase in imports: decline in consumption, decline in exports, excess capacity, and ongoing rationalisation efforts.
- (587) Consumption declined by approximately 2,0 % per annum, although the fall was more pronounced in 2001 compared to 2000. However, the development of imports did not follow this consumption pattern at all and the Commission considers that the small decline in consumption did not play a significant role either in volume or prices.
- (588) There was also a decline in export sales between 1997 and 1999. However, as these falls occurred at the beginning of the period considered, and as over the whole five year period, export sales actually increased, the Commission considers that export sales performance did not play a significant role either in volume or prices.
- (589) Capacity fell between 1997 and 2001, whilst at the same time utilisation of that capacity by the Community industry remained at approximately 50 %. Given that the utilisation rate did not vary significantly, and was at its highest level at the end of the period (53 %), and that efforts had been made to reduce capacity, the Commission considers that capacity utilisation did not play a significant role either in volume or prices.
- (590) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports.
- (591) The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports, which not only increased much faster than the increase in consumption in 2001 but which had also increased during the fall in consumption in 2000.

6.6.7. Conclusion

- (592) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

6.7. Further Developments

- (593) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers, could be expected to seriously worsen should imports continue at their current level or increase.

6.7.1. The US steel safeguard measures

- (594) It is recalled that on 5 March 2002, the US imposed safeguard measures against certain steel products including fittings. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 13 % *ad valorem* in the first year, 10 % in the second year and 7 % in the third year. The measures do not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

6.7.2. Trade diversion arising from US steel safeguard measures

- (595) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US.
- (596) In 2001, the US imported 48 180 tonnes of goods classified within the same HSC code as fittings. The principal exporters to the US were Mexico (18 %/8 591 tonnes), Thailand (18 %/8 442 tonnes), Italy (13 %/6 426 tonnes), South Korea (12 %/5 631 tonnes), Malaysia (10 %/4 599 tonnes), and France (8 %/3 609 tonnes).
- (597) Total exports to the US of these goods in 2001 from countries affected by the US safeguard measures (excluding producers in the Community and in those countries excluded from the US safeguard measures insofar as it relates to these goods) amounted to approximately 21 000 tonnes. Certain products produced by certain suppliers have also been excluded from the US measures, but these quantities are not considered to be significant in the case of hot rolled coils.
- (598) The Commission then examined the likelihood that the restricted access to the US market as a result of safeguard action taken by the US would lead to increased exports to the Community. The Commission investigated the capacity situation of the cooperating exporting producers. It was found that their capacity had remained stable between 1997 and 2001. However, capacity utilisation rate, which exceeded 100 % in 1997, was at only around 67 % in 2001. Given the substantial closure of the US market to a number of traditional suppliers, all else being equal, the average rate of capacity utilisation of those suppliers could be expected to fall even further in 2002 unless they find new markets.
- (599) None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.
- (600) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (601) The potential trade which, in the absence of definitive measures, could be diverted to the Community as a result of the US measures therefore amounts to 21 000 tonnes. There are reasons why this potential may not be wholly realized, e.g. the current high levels prices of domestic prices in the US which may result in a somewhat higher than expected level of imports despite the existence of 30 % duties as well as the fact that third country producers may be able to partially offset the loss of the US market by selling more on their domestic markets. This may be particularly true to a degree for those countries which have taken protective measures to counteract the US safeguard action. Producers may also increase their stocks for a period of time.

- (602) However, a very substantial potential for increased exports to the Community will still prevail. The increase which took place in 2001 had many causes as already identified in the analysis of serious injury and all of these still apply and can be expected to continue to push imports higher. Moreover, there is now the new element of the US safeguard action which manifestly leaves a substantial amount of production for which producers are under enormous pressure to find buyers. The Commission first assumed that between 25 % and 50 % of the amount calculated above (21 000 tonnes) could be diverted to the Community from the US market. This would result in between approximately 5 000 and 10 000 additional tonnes being imported into the Community. This would result in imports increasing by around 50 % on top of the already historically high level experienced in 2001. Therefore, the Commission has assumed that in the absence of definitive measures the very minimum trade diversion that would occur would not be less than the increase in Community imports between 2000 and 2001, i.e. around 3 500 tonnes. In all likelihood, it would be greater but it is considered prudent to base this analysis on a conservative basis.
- (603) It is also relevant that in 2001, the major export markets for fittings were Malaysia (127kt), the US (48kt), the Community (14kt), Canada (12kt), and Japan (10kt). This reflects the fact that the Community market was, and following recent measures, remains, one of the most open markets in the world. The recent appreciation of the euro relative to the US dollar and other major currencies in the first two quarters of 2002 increases the attractiveness of imports relative to Community production in the short and medium term.

6.7.3. Projected effects of US measures

- (604) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures anti-dumping as well as the effect of these measures on Community producers. In this respect, the Commission has found that in the absence of Community safeguard measures, relevant imports will inevitably rise substantially with the result that the state of the Community industry will show a very serious and substantial decline. Given the extremely fragile state of the Community producers any significant rise in imports would have extremely serious consequences. The expected rise of around 3 500 tonnes would immediately lead to a further substantial reduction in the sales of the Community producers and these reduced sales would very quickly lead to serious negative consequences for the other indicators which identify the state of the industry.
- (605) The projected increase in imports would substantially worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would immediately lead to a further sharp fall in sales and prices, with consequent negative effects on production, increased unit costs, increased losses with an immediate threat of plant closures and redundancies. Increased pressure on prices would in particular be enormous and this at a time when losses are currently running at an unsustainable -3,0 %. In fact, the overall negative impact would be greatly magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

6.7.4. Conclusion

- (606) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that, without definitive safeguard measures, the likely further increase of imports would significantly aggravate the situation of the Community producers.

Product 18

Fittings (continued)

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (in tonnes)	170 000	170 000	169 983	165 000	149 607
Utilisation rate of capacity (in %)	51,0 %	50,0 %	47,0 %	48,3 %	53,0 %
Opening stocks (in tonnes)	9 955	10 070	10 525	11 309	11 679
Total production (in tonnes)	86 619	84 932	79 892	79 729	79 292
Purchases (in tonnes)	796	724	792	541	1 037
Total sales (in tonnes)	87 300	85 200	79 900	79 900	79 500
Captive use (in tonnes)	0	0	0	0	0
Closing stock (in tonnes)	10 070	10 525	11 309	11 679	12 508
Sales volume outside the EU (in tonnes)	27 133	24 624	24 583	28 369	30 069
Sales volume in the EU (in tonnes)	60 167	60 576	55 317	51 531	49 431
Unit prices of EU sales (EUR/tonne)	1 585	1 561	1 493	1 453	1 405
Net profit/loss on EU sales (%)	4,4 %	4,3 %	2,0 %	1,9 %	-1,0 %
Market share (in %)	85,9 %	86,4 %	85,4 %	83,6 %	78,4 %
Employment (end of period)	834	824	791	808	800
Productivity (tonne/employee)	104	103	101	99	99

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	19 259	18 805	18 064	17 887	16 086
Unit prices (in EUR/tonne)	1 420	1 409	1 401	1 390	1 378
Profitability (in %)	0,9 %	-0,6 %	-1,8 %	-2,5 %	-3,0 %

Price undercutting in 2001 =	14,8 %
Price underselling in 2001 =	23,7 %

Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

60,9 %

7. PRODUCT 19: FLANGES

7.1. *Product Concerned and Like or Directly Competing Product*

7.1.1. Product Concerned

- (607) The product concerned is iron and steel flanges (not cast), (hereinafter 'flanges'). The product concerned is currently classified under CN code 7307 91 00.
- (608) Flanges are metal parts that provide an ability to connect and disconnect piping system components, produced generally by forging carbon steel billets or rounds and subsequent machining.
- (609) It was found that all flanges have identical characteristics or similar physical and technical characteristics, uses and applications. Accordingly, all types of flanges form one single product falling under the relevant CN code listed above.

7.1.2. Like Or Directly Competing Products

- (610) The Commission has examined whether the product produced by the Community producers (hereinafter referred to as 'the like product') is like the imported product concerned. In the course of the investigation, the Commission received submissions from certain major exporters and importers of the product concerned which alleged that certain types of the product concerned imported into the Community were not produced by the Community producers and, therefore, should not be considered as 'like' the product concerned.
- (611) The Commission examined these submissions in detail, and took into account in particular the following findings of the investigation:
- the imported product and the Community product shared the same international classification for tariff purposes. Furthermore, they shared the same or similar physical properties such as composition, size, shape and texture and were manufactured to internationally recognised standards;
 - the imported product and the Community product were sold via similar or identical sales channels and price information was readily available (for example, details of prices are published in industry periodicals, such as the Metal Bulletin and Steel Weekly) and the product concerned and the product of the Community producers competed mainly on price;
 - the imported product and the Community product were both capable of serving the same or similar end-uses, they were, therefore, largely alternative or substitute products and were easily interchangeable;
 - the imported product and the Community product were both perceived by consumers as alternative means of performing particular functions in order to satisfy a particular want or demand, in this respect the differences identified by the exporter/importer were simply minor variations manufactured for a particular customer.
- (612) The Commission has concluded that despite the alleged technical differences in the product characteristics and qualities identified in those submissions, the imported product and the Community product are 'like or directly competing'.

7.2. *Increased Imports*

- (613) The Commission has examined whether the product concerned is imported into the Community in such greatly increased quantities, absolute or relative to Community production and/or on such terms or conditions as to cause or threaten to cause, serious injury to the Community producers. In this respect, the Commission has focussed on imports of the product concerned in the most recent period for which data were available in absolute terms and relative to production destined for sales (excluding captive use) and total production. The table below shows the development of imports in absolute terms and against both Community production destined for sales and total Community production (including captive use) for each of the years 1997 to 2001.

Product 19**Flanges**

CONSUMPTION

	1997	1998	1999	2000	2001
Volume (in tonnes)	187 483	187 413	169 424	152 884	172 836

IMPORT DATA

	1997	1998	1999	2000	2001
Concerned imports					
Volume (in tonnes)	69 555	77 754	76 781	76 575	96 754
Rate of increase (in %)		11,8 %	- 1,3 %	- 0,3 %	26,4 %
Market share (in %)	37,1 %	41,5 %	45,3 %	50,1 %	56,0 %
Ratio between imports and total production	33,4 %	41,9 %	44,0 %	47,1 %	60,2 %
Ratio between imports and production sold	35,9 %	44,1 %	45,4 %	47,6 %	61,4 %
Unit prices (in Euro/tonne-Eurostat)	837	876	887	910	932

	1998/1997	1999/1998	2000/1999	2001/2000
Volume as moving averages (in tonnes)	73 655	77 268	76 678	86 665

- (614) In the period 1997 to 2000, imports were more or less constant at around 70 000 to 77 000 tonnes. As a result, over this period, imports increased by around 10 %. Relative to total Community production, imports increased from around 36 % to around 48 %, whilst relative to production sold, they increased from 35,9 % to 47,6 %.
- (615) Between 2000 and 2001, there was a significant increase in imports from 76 600 tonnes to 96 800 tonnes, an increase of 20 200 tonnes or 26,4 %. Over the same period the increase relative to free market production was likewise very significant at 29,0 %, whilst the increase in imports relative to total production was 27,8 %.
- (616) Prices of the product concerned, which rose each year between 1997 and 2001, increased by a total of 11,4 % to reach 932 EUR/tonne in 2001.

7.2.1. Two year moving average

- (617) In order to establish the underlying trend in the level of imports between 1997 and 2001 and determine whether the recent increases in imports form an established trend, the Commission considered two year moving averages. These illustrate that, whilst between 1997/98 and 1999/00, imports in any two year period fluctuated between 73 700 tonnes and 77 300 tonnes, between 1999/00 and 2000/01 they increased by over 13 % from 76 700 tonnes to 86 700 tonnes.

7.2.2. Market share of imports

- (618) The market share of imports increased between 1997 and 1999 from 37,1 % to 45,3 %. From 2000 onwards, the market share of imports increased more markedly, first to 50,1 % and then to 56,0 %, increases of around 11 % and 12 % respectively.

7.2.3. Conclusion

- (619) Imports increased in 1997, 1998, and 1999. The annual rate of growth in imports in this period was 5,2 % in absolute terms (15,9 % relative to total production and 13,2 % relative to production sold on the free market). By contrast between 1999 and 2001, the annual rate of growth in imports in absolute terms was 13,0 %. Thus the annual rate of growth of imports was more than twice as high between 1999 and 2001 than in the previous period.
- (620) That recent increases in imports are not attributable to established trends in import levels is demonstrated by the development of the two year moving average of imports over the five year period of investigation.
- (621) It is concluded that the increases in the recent past can be considered sudden, sharp and significant when comparing them to developments in previous years.

7.3. Unforeseen Developments

7.3.1. Increased use of trade defence instruments by the US

- (622) From 1998 onwards, in reaction to the Asian crisis ⁽¹⁾, the US, which represents around one eighth of world steel consumption, began to make greater use of trade defence instruments (TDIs) in the steel sector with a view to protecting their domestic producers from competition. A number of these measures have been adjudicated in the WTO and some of the methodologies used have been declared to be WTO incompatible. Nevertheless, many of the measures which remain in force are based on these same methodologies.
- (623) The table below shows the annual number of anti-dumping and countervailing duty final determinations for one or more countries made by the US between 1997 and 2001 in relation to the steel sector as a whole, and illustrates the increase in activity in the last three years.

Year	Anti-dumping duty	Countervailing duty
1997	5	0
1998	6	1
1999	16	7
2000	14	5
2001	26	5

- (624) In the course of 2001, the US also announced further broadly based action in the steel sector. In January 2001, the US opened an investigation into steel under section 223 of the US Trade Act of 1974. In July 2001, the US ITC announced a broad ranging investigation into steel under section 202 of the Trade Act of 1974; and in December, the ITC recommended safeguard measures across a broad range of steel products.
- (625) These actions, had an increasingly discouraging effect on imports of steel products to the US and led to a decrease in US steel imports of 33 % between 1998 and 2001, and culminated in the safeguard measures announced by the US on 5 March 2002. In particular, the safeguard proceeding, which had been mooted for several months before its initiation, had a restraining effect on imports to the US due to the uncertainty which it created for economic operators. It is indeed the largest commercial defence action ever initiated by a WTO member covering imports worth some USD 17 billion.

⁽¹⁾ The effects of the Asian crisis were felt around the world in 1998 and 1999. In particular, as Asian steel producers fought to maintain sales volumes in the face of the collapse of their domestic markets, they sought to open up new markets by offering low prices, and found the Community market to be an important outlet for their goods. In consequence, imports of the products concerned increased markedly in 1998, and prices fell sharply in 1999.

7.3.2. Increased use of TDIs by the US — relating to the product concerned

- (626) The Commission's provisional safeguard measures and their related investigation consider carbon flanges and carbon fittings separately, as two different like-products. Consequently, in relation to flanges, the US investigation and the US measures have a much broader scope than the Commission's action.
- (627) The Commission notes that in 2001 imports into the Community market of flanges increased by 21 % compared to the stagnant trend of the imports in 1999 and 2000. This sudden increase appears in large part due to imports from China, which have been under investigation by the US and are currently subject to US safeguard measures.
- (628) The Commission considers that there exists a correlation in time between the US announcement of the safeguard investigation on steel products (which was anticipated as early as January 2001 in the US market in a number of press articles speculating on imminent disruption both to the US and the Community market) and the increase in imports of flanges into the Community market. This correlation is particularly evident for flanges. Between 1997 and 2000, Community imports of flanges were stable at around 70 to 75 000 tonnes. Suddenly in 2001, and in tandem with the US safeguard investigation, imports jumped by over 26 % from their 2000 level.
- (629) Analysis of the evolution of imports of carbon flanges to the US between 1999 and 2001 did not prove to be informative, as US import data covers additional products other than flanges as defined by the Commission.
- (630) Such a use of the safeguard instrument could not have been foreseen at the conclusion of the Uruguay Round and constitutes the unforeseen circumstances as required by the Safeguard Agreement.

7.4. Definition of the Community Producers

- (631) Total Community production of flanges is around 160 000 tonnes per annum. The Community producers which cooperated in the investigation were:
- Melesi & C. SRL, Italy
 - Metalfar Prodotti Industriali S.P.A., Italy
 - Ulma Forja S. Coop, Italy
 - Friedrich Geldbach GmbH & Co, Germany
 - Bifrangi S.P.A., Italy
 - Bebitz GmbH, Germany.
- (632) These companies, which are all members of the Fachvereinigung Stahlflanschen e. V., accounted for around 53 % of the total Community production of the product concerned. They, therefore, represent a major proportion of total Community production within the meaning of Article 5(3)(c) of Regulation (EC) No 3285/94 and Article 15(1) of Regulation (EC) No 519/94. They are accordingly considered as the Community producers for the purposes of this proceeding.

7.5. *Serious Injury*

7.5.1. Introduction

- (633) In order to determine whether there is serious injury or threat of serious injury to the Community producers of the like product, the Commission has evaluated all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Community producers. In particular, for the product concerned, the Commission has evaluated the development of imports, consumption, production, productivity, capacity, capacity utilisation, sales, market share, prices, profitability and employment for the years 1997 to 2001. The relevant economic data are provided at the end of this product analysis.

7.5.2. Production capacity and capacity utilisation

	1997	1998	1999	2000	2001
Production capacity (t)	263 000	238 000	233 000	230 000	220 000
Capacity utilisation (%)	79 %	78 %	75 %	71 %	73 %

- (634) Total estimated production capacity has decreased by 16,3 % from 1997 up to 2001, or from 263 000 tonnes to 220 000 tonnes. The decrease of Community capacity is partly linked to the closure of Community production plants, the latest one in 2001. As outlined below, production decreased faster than the reduction in capacity. Therefore, the capacity utilisation rate decreased from 79 % in 1997 to 71 % in 2000. In 2001, the utilisation rate increased to 73 %. However, this was the result of a plant closure, and not an increase in production.

7.5.3. Total production and captive use

	1997	1998	1999	2000	2001
Production (t)	208 218	185 520	174 412	162 581	160 818

- (635) Community industry production decreased from 208 200 tonnes in 1997 to 160 800 tonnes in 2001. This represents a decrease of 22,7 %, and is directly linked to the decrease in Community sales, as outlined below.
- (636) It should be noted that, for many steel products, a clear distinction must be made between production for captive use and for sales to the free market. For flanges, the investigation has demonstrated that the production of captive use is so small (2 % in 2001) that it is considered not to have had any impact on the injury analysis. Thus, the total of the production destined for sales is considered to have been in direct competition with the imports.

7.5.4. Employment and productivity

	1997	1998	1999	2000	2001
Employment (end of period)	963	953	879	858	846
Tonne/employee (t)	216	195	198	189	190

- (637) The number of employees among the Community producers has declined steadily throughout the investigation period, from 963 persons in 1997 to 846 persons in 2001.

- (638) A significant drop in productivity was noted for 1998, after which the situation has stabilised to around 190 tonnes per employee.

7.5.4.1. Cash Flow

	1997	1998	1999	2000	2001
Cash flow (index)	100	579	136	317	489

- (639) Cash flow could only be examined at the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore seen as less meaningful than the other indicators shown above. However, a positive situation is evident between 1997 and 2001 and from 1999 to 2001.

7.5.4.2. Return on Capital Employed (ROCE)

	1997	1998	1999	2000	2001
ROCE	1,53 %	1,92 %	- 0,83 %	0,34 %	- 1,63 %

- (640) ROCE could only be examined on the level of the cooperating companies which produced the product concerned rather than in relation to only the product concerned itself. This indicator was therefore also seen as less meaningful than the other indicators shown above. Nevertheless, a negative situation is evident between 1997 and 2001 and from 1999 to 2001.

7.5.5. Consumption

	1997	1998	1999	2000	2001
Consumption (t)	187 483	187 413	169 424	152 884	172 836

- (641) Consumption of flanges in the Community was established on the basis of the total sales made by the Community producers and total imports of the product concerned into the Community as indicated in the Eurostat statistics.
- (642) Between 1997 and 2000, consumption in the Community dropped by more than 18 %, from 187 500 tonnes to 152 900 tonnes. In 2001, it increased by 13 % in relation to 2000, but was still 7,8 % below the level of 1997.

7.5.6. Sales volume

	1997	1998	1999	2000	2001
Sales volume in the Community (t)	117 928	109 659	92 643	76 309	76 082

- (643) Sales in the Community fell over the whole period by 41 800 tonnes (from 117 900 tonnes to 76 100 tonnes) i.e. by more than 35 %.

7.5.7. Market share

	1997	1998	1999	2000	2001
Market share	63 %	59 %	55 %	50 %	44 %

- (644) The Community producers' market share of the Community market show a steady decline, from a 63 % market share in 1997 to a 44 % market share in 2001.

7.5.8. Stocks

	1997	1998	1999	2000	2001
Closing stocks (t)	26 685	31 607	31 123	30 032	31 138

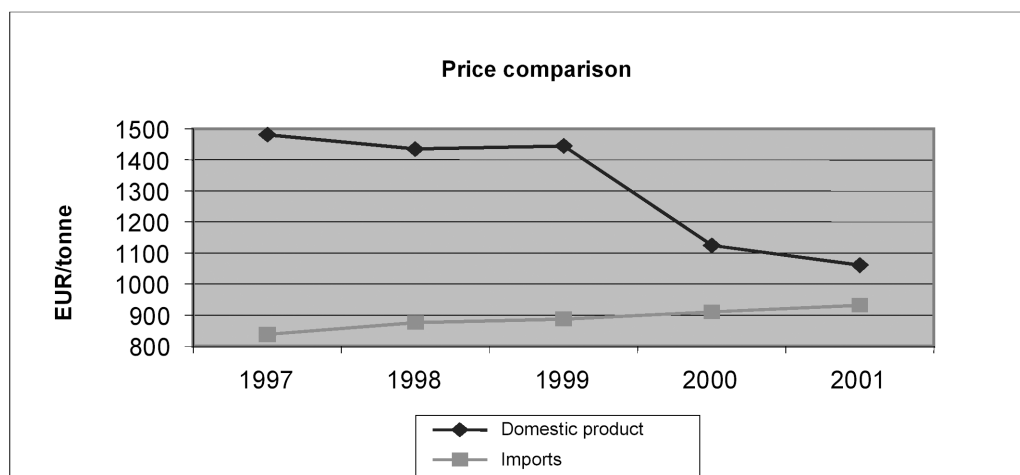
- (645) Stocks rose in 1998, after which they remained stable in absolute terms. However, in relation to the decreasing production, the stocks have increased slightly, from 17 % in 1998 to 19 % in 2001.

7.5.9. Price of like product and undercutting

	1997	1998	1999	2000	2001
Unit price of Community sales	1 481	1 435	1 445	1 125	1 061

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2001
Unit prices (in EUR/tonne)	1 064	1 078	1 066	1 036	978

- (646) Between 1997 and 1999 the Community producers' average prices were between 1 400 and 1 500 EUR/tonne. In 2000 the price fell 320 EUR/tonne (22,1 %) and by a further 64 EUR/tonne (5,7 %) in 2001. In order to determine the level of undercutting, price information was examined for comparable time periods, at the same level of trade and for sales to similar customers. Based on a comparison of prices invoiced by the Community producers and by exporting producers to the Community, domestic prices were undercut by an average of 10,3 % in 2001.



7.5.10. Profitability

	1997	1998	1999	2000	2001
Net Profit/loss on Community sales	4,1 %	5,3 %	3,2 %	1,7 %	- 1,1 %

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2001
Net Profit/loss on Community sales	0,0 %	- 0,9 %	- 1,3 %	- 2,2 %	- 4,1 %

- (647) The profitability of the Community producers' sales in the Community decreased considerably since 1998, to become negative in 2001. This negative evolution is further confirmed because quarterly data for Q1 2001 and Q1 2002 shows that the profitability of the Community producers sales on the Community market fell from 0,0 % to -4,1 %.
- (648) Underselling reflects the extent to which the price of the imported product is lower than the price level which the Community producers could be expected to achieve in a non-injurious situation. The level of underselling was calculated on the basis of the weighted average non injurious price per tonne of the Community product. This price was calculated by taking the respective cost of production for the Community product to which was added a profit margin of 8 %. This profit margin was considered reasonable as it refers to profits of the Community producers in a normal trading situation unaffected by sudden sharp rise in imports. This non injurious price was compared with the weighted average price per tonne of the imported product concerned during 2001. The difference between these two prices was expressed as a percentage of the cif/Community border price of the imported product, and resulted in underselling of 23,0 %.

7.5.11. Conclusion

- (649) The data shows a negative development for production capacity, capacity utilisation, production, employment, productivity, and negative elements can as well be observed for cash flow and ROCE.
- (650) Furthermore, an increase in stocks, negative developments for sales, market share and profitability occurred.
- (651) In 2001, as imports reached their highest level for 5 years (96 754 tonnes), the Community producers' Community sales volume reached their lowest level and they suffered a significant fall in market share. Prices also fell to a five-year low and the Community producers suffered a fall in profitability.
- (652) The effect of this combination of factors is reflected in the economic indicators. In particular, capacity utilisation, after going down, increased again following a reduction of capacity. Employment went down, while productivity remained relatively stable. While cash flow showed positive elements, ROCE showed negative elements. Whilst consumption declined up to 2000, it increased again towards 2001. Sales suffered a serious downturn in particular between 1999 and 2000, and market share declined heavily. While stocks remained relatively stable with a slight increase, prices declined, with an undercutting found of 10 %. At the same time, profitability decreased.
- (653) The Community producers have suffered from both decreasing sales volumes and decrease in prices. Whereas the overall consumption has also decreased, the Community producers' volumes in the Community market have decreased even further, leading to significant loss in market share and most important to continuous losses.

- (654) Taking account of all of these factors and relying, in particular, on its analysis of the free market activities, the Commission concludes that the Community producers have suffered serious injury.

7.6. Causation

- (655) In order to examine the existence of a causal link between increased imports and the serious injury, and in order to ensure that injury caused by other factors is not attributed to increased imports, the Commission has proceeded as follows:

- the injurious effects of factors considered to be causing injury have been distinguished from each other,
- these injurious effects have been attributed to the factors which are causing them, and,
- after having attributed injury to all causal factors present, the Commission has determined whether increased imports are a genuine and substantial cause of serious injury.

7.6.1. Effect of increased imports

- (656) The market for flanges is a transparent one as regards sources of supply, customers and prices. The product concerned and the like product, therefore, compete mainly on price.
- (657) In the period 1999 to 2001, the market share of imports grew from 45,3 % of the market to 56,0 %, whilst the market share of the Community producers fell from 54,7 % to 44,0 %. Over the same period, imports have grown from 45,5 % to 61,4 % of production sold on the free market. Thus, imports have also increased relative to production, at the expense of the Community producers.
- (658) As to prices, between 1999 and 2001, the average unit price of the imported product on the Community market actually rose from 887 to 932 EUR/tonne, whilst the average unit price of the Community product fell from 1 125 to 1 061 EUR/tonne. It would seem that during the early part of the period considered, the Community industry were able to maintain their price levels. However, as imports continued to increase their market penetration, the Community industry was forced to reduce their prices. Nevertheless, despite increased import prices and reducing Community industry prices, there was still significant price undercutting in 2001 (10,3 %). In this transparent market, this price undercutting had a decisive impact. The effect of the fall in the average unit price of the like product alone on the Community producers' Community sales revenue would have been a reduction of 26,6 % (EUR 35,6m) in 2001. Taking account of the simultaneous fall in sales volume the actual fall in sales revenue in the Community was EUR 53,1m. Fixed costs represent a material proportion of the Community producers' overheads. Therefore, the reduction in sales revenues created a disproportionately higher fall in profits, and, in 2001, the Community producers made a loss of -1,1 %.
- (659) For these reasons, it is considered that there is a correlation between the increase in imports at low prices and the serious injury suffered by the Community producers, and that the increase in imports has had injurious effects in particular in terms of pressure on prices and a reduction in the volume sold by the Community producers on the Community market.

7.6.2. Effect of changes in consumption

- (660) The Commission examined the injurious effects of the fall in consumption between 1997 and 2001. It is noted both that the fall was of a low magnitude representing only 14 600 tonnes, and that consumption actually increased between 1999 and 2001.

- (661) Therefore, whilst there may have been injurious effects caused by declining consumption between 1997 and 1999, in the more recent period between 1999 and 2001 it has not contributed to the injurious effects. In this respect, any resulting injury occurred mainly in the early part of the 5 year period and has to be seen as less significant than if it had occurred in the latter part of the 5 year period.

7.6.3. Effect of export performance

- (662) The Commission also examined the effects of a fall in exports.

	1997	1998	1999	2000	2001
Exports (in tonnes)	75 714	66 585	76 537	84 646	81 519

- (663) Between 1997 and 1998, the volume of Community producers' exports of flanges fell from 75 700 tonnes to 66 600 tonnes. Between 1998 and 2000, exports increased by 18 000 tonnes, before falling 3 100 in 2001. Over the five year period, exports increased by approximately 5 800 tonnes. Therefore, between 1999 and 2001 as a whole, loss of exports has not contributed to the injurious effects.
- (664) For the reasons given above, it is concluded that there is some link between the fall in exports and the injurious effects observed, at least between 2000 and 2001.

7.6.4. Effect of any excess capacity

- (665) The Commission has further examined whether injurious effects may have resulted from excess capacity amongst the Community producers. Between 1997 and 2001 the Community industry reduced overall estimated theoretical production capacity from 263 000 tonnes to 220 000 tonnes, whilst utilisation of that capacity varied between 71 % and 79 %. It should first be noted that, as with fittings, flanges are a finished product. Against a background of reducing capacity and relatively stable capacity utilisation, it is considered that any injurious effects would be of minor impact.

7.6.5. Effect of restructuring

- (666) The Commission further examined the injurious effects of the costs of restructuring which the Community producers have undergone in recent years. In this respect it is noted that restructuring will as a rule imply short term costs such as redundancy payments, acquisition costs, etc., which are outweighed by medium term efficiency gains. In view of the ongoing rationalisation process, this would imply that ongoing short term costs, even if found to be minor, impacted on the cost structure.

7.6.6. Attribution of injurious effects

- (667) Injury suffered by the Community producers took the form mainly of reduced market share and worsening financial losses. The Commission identified that four factors contributed to the injury apart from the increase in imports: decline in consumption, decline in exports, excess capacity, and ongoing rationalisation efforts.
- (668) Consumption declined by approximately 1,6 % per annum, although the fall was more pronounced between 1997 and 2000. Indeed consumption actually increased between 2000 and 2001. However, the development of imports did not follow this consumption pattern at all and the Commission considers that the small decline in consumption did not play a significant role either in volume or prices.
- (669) There was also a decline in export sales in 2001 compared to 2000. However, as overall between 1999 and 2001 there was an increase in Community industry export sales, any impact is considered to be minor in nature. The Commission, therefore, considers that export sales performance did not play a significant role either in volume or prices.

- (670) Capacity fell between 1997 and 2001, whilst at the same time utilisation of that capacity by the Community industry remained at approximately 70 to 80 %. Given that the utilisation rate did not vary significantly, had increased between 2000 and 2001, and that efforts had been made to reduce capacity, the Commission considers that capacity utilisation did not play a significant role either in volume or prices.
- (671) As to the impact of ongoing rationalisation efforts, the Commission likewise considers that the impact on the cost structure of the Community producers is not significant, in particular by comparison to the price effect of the low priced imports.
- (672) The Commission noted that the decline in the Community producers' sales volume, sales prices and profitability was due primarily to the increase in imports, which not only increased much faster than the increase in consumption in 2001 but which had also increased during the fall in consumption in 2000.

7.6.7. Conclusion

- (673) It is concluded that, after having examined the injurious effects of the other known factors and separated and distinguished them from each other and from the injurious effects of the increased imports, and after having ensured that injury caused by other factors is not attributed to imports, it can be considered that there is a genuine and substantial link between increased imports and serious injury to the Community producers.

7.7. Further Developments

- (674) The Commission has, in addition, analysed a number of elements which justify the conclusion that the serious injury suffered by the Community producers could be expected to seriously worsen should imports continue at their current level or increase.

7.7.1. The US steel safeguard measures

- (675) It is recalled that on 5 March 2002, the US imposed safeguard measures against certain steel products including flanges. Those measures came into effect on 20 March 2002, and consist of an increase in duty on imports to the US of 13 % *ad valorem* in the first year, 10 % in the second year and 7 % in the third year. The measures in reality not apply to Canada, Israel, Jordan and Mexico as well as a number of countries specified as developing countries.

7.7.2. Trade diversion arising from US steel safeguard measures

- (676) The Commission examined the likely impact of the US measures by analysing the situation of the major exporting countries to the US.
- (677) In 2001, the US imported 96 900 tonnes of goods classified within the same HSC code as flanges. The principal exporters to the US of these products were the Community (52,0 %/50 400 tonnes), India (28,5 %/27 600 tonnes), and China (6,7 %/6 500 tonnes).
- (678) Total exports to the US of these goods in 2001 from countries affected by the US safeguard measures (excluding producers in the Community and in those countries excluded from the US safeguard measures insofar as it relates to flanges) amounted to 12 500 tonnes. Certain products produced by certain suppliers have also been excluded from the US measures, but these quantities are not considered to be significant in the case of flanges.
- (679) The Commission then examined the likelihood that the restricted access to the US market as a result of safeguard action taken by the US would lead to increased exports to the Community. The Commission investigated the capacity situation of the cooperating exporting producers. It was found that they had slightly increased their capacity between 1999 and 2001. None of the cooperating exporting producers reported an intention to reduce their capacity in the immediate future and none reported an intention to reduce their production in light of the US measures.

- (680) Most indicated their aim to make up for any reduction in their exports to the US by selling more on their domestic markets but this claim was made within the context of static or falling consumption in these markets. In this respect, it is very unlikely that these producers can increase sales significantly on their domestic markets. Neither is it likely that they can increase sales to other export markets as producers in most of these markets are already suffering from the substantial closure of the US market and there is no indication that significant extra consumption will be available in these markets in the short and medium term to permit increased imports.
- (681) The potential trade which, in the absence of definitive measures, could be diverted to the Community as a result of the US measures therefore amounts to 12 500 tonnes. There are reasons why this potential may not be wholly realized, e.g. the current high levels prices of domestic prices in the US which may result in a somewhat higher than expected level of imports despite the existence of 30 % duties as well as the fact that third country producers may be able to partially offset the loss of the US market by selling more on their domestic markets. This may be particularly true to a degree for those countries which have taken protective measures to counteract the US safeguard action. Producers may also increase their stocks for a period of time.
- (682) However, a very substantial potential for increased exports to the Community will still prevail. The increase which took place in 2001 had many causes as already identified in the analysis of serious injury and all of these still apply and can be expected to continue to push imports higher. Moreover, there is now the new element of the US safeguard action which manifestly leaves a substantial amount of production for which producers are under enormous pressure to find buyers for. In these circumstances, it can reasonably be assumed that in the absence of definitive measures the very minimum trade diversion that would occur would be between 25 % and 50 % of the amount calculated above (12 500 tonnes) could be diverted from the US market. In all likelihood, it would be greater but it is considered prudent to base this analysis on a conservative basis.
- (683) It is also relevant that in 2001, the major export markets for flanges were the Community (96 800 tonnes) and the US (96 900 tonnes). This compares to Japan (40 300 tonnes), Canada (25 500 tonnes), Malaysia (13 600 tonnes) and South Korea (9 300 tonnes). This reflects that fact that the Community was, and following recent measures, remains, one of the most open markets in the world. The recent appreciation of the euro relative to the US dollar and other major currencies increases the attractiveness of imports relative to Community production in the short and medium term.

7.7.3. Projected effects of US measures

- (684) The Commission has evaluated the possible impact on the Community producers of not imposing definitive measures and the consequent trade diversion arising from the US safeguard measures. In this respect, the Commission has found that in the absence of Community safeguard measures, imports will inevitably rise substantially with the result that the state of the Community industry will show a very serious and substantial decline. Given the extremely fragile state of the Community producers any significant rise in imports would have extremely serious consequences. The expected rise of between 3 000 and 6 000 tonnes would immediately lead to a further substantial reduction in the sales of the Community producers and these reduced sales would very quickly lead to serious negative consequences for the other indicators which identify the state of the industry.
- (685) The projected increase in imports would substantially worsen the situation of the Community industry in relation to all factors already examined when determining the existence of serious injury. They would immediately lead to a further sharp fall in sales and prices, with consequent negative effects on production, increased unit costs, increased losses with an immediate threat of plant closures and redundancies. Increased pressure on prices would in particular be enormous and this at a time when losses are currently running at an unsustainable -4,1 %. In fact, the overall negative impact would be greatly magnified by the fact that Community producers are already suffering serious injury from the increased imports of recent years.

7.7.4. Conclusion

- (686) Taking due account of the fact that the Community producers are already suffering serious injury, it is reasonable to conclude that, without definitive safeguard measures, the likely increase of imports would significantly aggravate the situation of the Community producers. Moreover, this situation will be worsened by a significant fall in Community exports as a result of US measures.

Product 19**Flanges (continued)**

SITUATION OF COMMUNITY PRODUCERS

	1997	1998	1999	2000	2001
Capacity (tonnes)	263 000	238 000	233 000	230 000	220 000
Utilisation rate of capacity (%)	79 %	78 %	75 %	71 %	73 %
Opening stocks (tonnes)	19 346	26 685	31 607	31 123	30 032
Total production (tonnes)	208 218	185 520	174 412	162 581	160 818
Purchases (tonnes)	5 126	6 748	4 756	3 441	1 205
Total sales (tonnes)	193 643	176 244	169 180	160 955	157 602
Captive use (tonnes)	12 362	11 102	10 472	6 157	3 315
Closing stock (tonnes)	26 685	31 607	31 123	30 032	31 138
Sales volume outside the EU (tonnes)	75 714	66 585	76 537	84 646	81 519
Sales volume in the EU (tonnes)	117 928	109 659	92 643	76 309	76 082
Unit prices of EU sales (EUR/tonne)	1 481	1 435	1 445	1 125	1 061
Net profit/loss on EU sales (%)	4,1 %	5,3 %	3,2 %	1,7 %	- 1,1 %
Market share (%)	63 %	59 %	55 %	50 %	44 %
Employment (end of period)	963	953	879	858	846
Productivity (tonne/employee)	216	195	198	189	190

VOLUME, UNIT PRICES AND PROFITABILITY OF EU SALES ON A PER QUARTER BASIS

	Q1 2001	Q2 2001	Q3 2001	Q4 2001	Q1 2002
Volume (in tonnes)	19 228	19 008	18 951	18 895	13 541
Unit prices (in Euro/tonne)	1 064	1 078	1 066	1 036	978
Profitability (in %)	0,0 %	- 0,9 %	- 1,3 %	- 2,2 %	- 4,1 %

Price undercutting in 2001 =	10,3 %
Price underselling in 2001 =	23,0 %

Data given above on the situation of the Community producers verified by sample check and on-spot investigations of companies representing the following percentage of total Community production:

63,5 %

8. COMMUNITY INTEREST

8.1. *Preliminary remarks*

- (687) The purpose of safeguard measures is to remedy serious injury which has occurred as a result of unforeseen developments and prevent a further deterioration of the situation of the Community producers of the product concerned. In addition to unforeseen developments, increased imports, and serious injury, the Commission has examined whether any compelling economic reasons exist which could lead to the conclusion that it is not in the Community interest to impose measures. For this purpose, the impact of possible measures on all parties involved in the proceedings related to products 1, 2, 3, 4, 5, 18 and 19 and the likely consequences of taking or not taking measures, were considered on the basis of the evidence available.

8.2. *Interest of the Community producers*

- (688) The Community producers of all 7 products are viable and competitive in normal market conditions. During the period examined, many Community producers undertook important rationalisation and restructuring projects in order to maintain their competitiveness in view of the globalisation of the world steel market and of its customers markets. This activity of the Community producers at a worldwide level demonstrates their adaptability and its viability. Such progress would clearly be put at risk should further increases of imports at low prices not be prevented by the imposition of definitive safeguard measures, and may even lead to a number of them ceasing their activities.

8.3. *Interest of users and importers in the Community*

- (689) In order to evaluate the impact on importers and users of taking or not taking measures, the Commission sent questionnaires to the known importers and users of all 7 products on the Community market. 7 responses were received from importers, but only 1 was received from users other than those related to importers. On the spot investigations took place at the premises of 2 importers of the product concerned.
- (690) Some importers of the products concerned claimed that the imposition of measures would be unduly disruptive, costly to administer and unnecessary. In their view, anti-dumping regulations already provide adequate controls on disruptive surges in imports and further legislation would be an unwelcome additional obstacle to free trade. Others cautiously welcomed the prospected measures on the basis that they would bring stability to the market.
- (691) In addition, certain importers, who did not cooperate in the safeguard proceedings, sought to challenge the provisional safeguard measures on the basis that they were unjustified and would undermine the financial viability of their businesses. No evidence was produced in support of these claims which, in light of the form of the measures proposed, appear implausible.
- (692) In this respect, it should be noted that the measures proposed consist of tariff quotas which reflect higher than the traditional levels of imports. Furthermore, by increasing the quota, and reducing the level of duty payable in excess of the quota, progressively throughout the duration of the definitive measures, it is unlikely that users' and importers' interests will be unduly impaired, especially since it is only beyond those tariff quotas that any additional duties become payable. Therefore, disadvantages likely to be suffered by users and importers, if at all, are not considered such as to outweigh the benefits expected to accrue to the Community producers as a consequence of the proposed measures, which are the minimum necessary to prevent further deterioration in the situation of the Community producers.

9. FINAL CONSIDERATIONS

- (693) Analysis of the findings of the investigations for the products specified in Annex 1 demonstrates that the conditions for definitive safeguard measures are met and confirms the need for such measures in order to remedy the serious injury suffered by the Community producers and prevent a further dramatic increase in imports.

9.1. *Form and level of safeguard measures*

- (694) In order to keep the Community market open and ensure the availability of supply to meet any additional demand, it is appropriate to establish tariff quotas in excess of which an additional duty requires to be paid so that even imports in excess of those quotas can still enter the Community, albeit upon payment of an additional duty. In accordance with the relevant provisions of Community legislation, which refer to the Community's obligations under Article XIX of the GATT and the WTO Safeguards Agreement, these measures should be liberalised progressively during the period of their validity.
- (695) In order to preserve traditional trade flows, such tariff quotas should be based on the volume of imports during the last three years plus 10 %. It is considered that this limited increase is such as to allow the Community producers to adjust whilst avoiding further deterioration in their situation. In view of the obligation to liberalise the measures, and taking account of the moderate nature of the measures, that amount should be increased by 5 % in each year following, during which the measures are in force. In calculating the quota for any period, it must be recalled that the provisional measures took effect on 29 March 2002, and form six months of the three year duration of the safeguard measures. Therefore, the quota for the period 29 September 2002 to 28 September 2003 should be the aggregate of (1) one half of the average volume of imports during the last three years plus 10 % and (2) that sum plus 5 %; the quota for the period 29 September 2003 to 28 September 2004 should be (3) the quantity calculated at (2) and (4) that sum plus 5 %; and, the quota for the period 29 September 2004 to 28 March 2005 should be (5) the sum calculated at (4).
- (696) The additional duties should be fixed at a level which is consistent with the aim of preventing serious injury to the Community producers, and the initial rate of duty should therefore be the level of the underselling margins in 2001 (subject to a maximum of 26 %). The provisional measures have shown that, in relation to the products concerned, 26 % is sufficient to prevent a rapid increase in imports. In view of the obligation to liberalise the measures, the rate of duty should be decreased by 10 % in each year following during which the measures are in force. Therefore, taking account of the fact that the provisional measures took effect on 29 March 2002, and form six months of the three year duration of the safeguard measures, the rates of duty should be as follows. For the six month period 29 September 2002 to 28 March 2003, the initial rate of duty should apply; for the period 29 March 2003 to 28 March 2004, the rate of duty should be the initial rate less 10 %; and, for the period 29 March 2004 to 28 March 2005, the rate of duty should be the rate for the immediately preceding period less 10 %.
- (697) The Commission considers that the tariff quotas imposed in relation to product numbers 2, 3, 4, 5, 18 and 19 should be allocated amongst those countries having a substantial interest in supplying those products to the Community market. After consultation with all countries having such a substantial interest, the Commission considers it appropriate to allocate a specific part of each quota to each country having such a substantial interest, based on the proportions of the total quantity of the product supplied by that country during a previous representative period (namely 1999 to 2001), due account having been taken of any special factors.
- (698) However, the circumstances in relation to product number 1 (hot rolled coils) are different. Hot-rolled coils are the most important product for steel producers, representing 38 % of the Community production and 30 % of imports. A large number of supplying countries have a substantial interest in supplying hot rolled coils so that, were the tariff quota to be allocated amongst those countries having a substantial interest in its supply, there would be a large number of relatively small quota allocations and only a small percentage (less than 7,5 %) of the global quota tariff quota would remain available for exporters in other countries. The Commission considers that a higher percentage should be made available to exporters in other countries in order to preserve their traditional level of trade and maintain accessibility to the Community market for other potential suppliers. Therefore, the Commission considers that the tariff quota in relation to hot rolled coils should take the form of a single global quota.

- (699) The tariff rate quotas resulting from these safeguard measures apply to all countries. As far as the quota allocation for Russia, Kazakhstan, and Ukraine is concerned, the Commission considers that, due to a number of country specific elements, the quota allocation foreseen in the bi-lateral agreements, and uni-lateral measures vis a vis Ukraine pending conclusion of an agreement for the products subject to these agreements and measures, should be maintained. In particular, these specific elements are that the steel industries in these three countries are still undergoing far-reaching restructuring processes and still require considerable modernisation. This is a unique position that cannot be compared in scope or depth to the situation in any other countries. In addition, these three countries are already subject to severe quantitative restrictions which may not be exceeded, and which have been in place for many years. These quantitative restrictions have always been set at a level substantially below the countries' export potential, and the existence of such quantitative restrictions have limited the opportunity for the countries to export to the Community. The Commission considers that the quota allocations concerning these three countries, which are not WTO members at present, gives them no more favourable treatment, for any of the products, than other countries/WTO members.
- (700) In conformity with Community legislation and the international obligations of the Community, the safeguard measures should not apply to any product originating in a developing country as long as its share of imports of that product into the Community does not exceed 3 %.
- (701) The determination made by the Commission on a product by product basis shows that certain of the products in respect of which safeguard measures should be adopted originating in certain developing countries, do not meet the requirements to benefit from the above mentioned derogation. For each of the products concerned, the developing countries to which the measures apply should therefore be specified. Annex 2 specifies the developing countries for the purposes of this Regulation; and, for each of the products concerned, the developing countries to which the measures apply.
- (702) Certain of the products concerned are subject to existing trade defence measures by the Community. In the regulation imposing provisional measures, the Commission indicated that the combined effect of the safeguard measures and anti-dumping/countervailing measures could lead to a level of protection higher than that which is necessary to prevent or remedy serious injury. On 30 August 2002, the Commission published a notice ⁽¹⁾ in relation to those products in respect of which there are such existing trade defence measures. The Commission will examine the position expeditiously in relation to those products.

9.2. Administration of the quotas

- (703) The best way of ensuring optimal use of the tariff quotas is to allocate them in the chronological order of the dates on which declarations for release for free circulation are accepted, as foreseen in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽²⁾. Equal and continuous access to the quotas should be ensured for all Community importers.
- (704) The eligibility of imported goods from developing countries to be excluded from the tariff quotas is dependent on the origin of the goods. The eligibility of imported goods for a part of a tariff quota allocated to a specific country, and for the remainder of a tariff quota, is also dependent on the origin of the goods. The criteria for determining origin currently in force in the Community should therefore be applied, and in order to ensure that the tariff quotas are administered efficiently, presentation of a certificate of origin at the Community frontier should be required for imports of the products concerned.

⁽¹⁾ OJ C 206, 30.8.2002, p. 7.

⁽²⁾ OJ L 253, 11.10.1993, p. 1.

9.3. Duration

- (705) The measures should last for three years (including the period of provisional measures), expiring on 28 March 2005. A tariff quota should be opened for the period 29 September 2002 to 28 September 2003; thereafter for the period 29 September 2003 to 28 September 2004 and thereafter for the period 29 September 2004 to 28 March 2005 as specified in Annex 1 for each product. It is recalled that the safeguard measures are imposed in the context of the effect of increased imports caused by the US trade defence measures, culminating in the US safeguard measures. Should circumstances change, the Commission will re-examine the need for measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A tariff quota is hereby opened in relation to imports into the Community of each of the 7 products concerned (defined by reference to the CN codes specified in relation to it) and each of the periods specified in Annex 1.

In relation to those products concerned other than hot rolled coils, the part of each tariff quota specified in Annex 1 is allocated to the countries specified in that Annex.

2. The conventional rate of duty provided for these products in Council Regulation (EC) No 2658/87 ⁽¹⁾, or any preferential rate of duty, shall continue to apply.
3. Imports of those products which are in excess either of the volume of the relevant tariff quota specified in Annex 1 or of the volume of the part specified in relation to the country from which that product originates (as the case may be), or without a request for benefit, shall be subject to an additional duty at the rate specified in Annex 1 for that product and that period. That additional duty shall apply to the customs value of the product being imported.
4. During the period to which these measures apply, if the Commission considers that imports in any month are substantially higher than imports in the corresponding month in 2001, the Commission may review the form and/or level of these measures.

Article 2

1. The origin of any product to which this Regulation applies shall be determined in accordance with the provisions in force in the Community.
2. Qualification for any tariff quota opened under Article 1, or for any part thereof, or for the exemption under Article 7 shall be subject to presentation of a certificate of origin meeting the conditions laid down in Article 47 of Regulation (EEC) No 2454/93 ⁽²⁾.
3. The certificate of origin referred to in paragraph 2 shall not be required for imports of products covered by a proof of origin issued or made out in accordance with the relevant rules established in order to qualify for preferential tariff measures.
4. Proof of origin shall be accepted only if the products meet the criteria for determining origin set out in the provisions in force in the Community.

⁽¹⁾ As last amended by Commission Regulation (EC) No 2031/2001.

⁽²⁾ Regulation as last amended by Regulation (EC) No 444/2002 of 11 March 2002 (OJ L 68, 12.3.2002, p. 11).

Article 3

The tariff quotas shall be managed by the Commission and the Member States in accordance with the management system for tariff quotas provided for in Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93, as last amended by Regulation (EC) No 993/2001. However, for the purposes of Article 248 of Regulation (EEC) No 2454/93, each tariff quota or part thereof (as the case may be) shall be considered to be non-critical within the meaning of Article 308c of that Regulation until 75 % of the initial volume of that tariff quota or part thereof (as the case may be) has been used. This provision may be adapted if the Commission considers it desirable, as a result of experience gained during the period of validity of the measures.

Article 4

Imports originating in Russia, Kazakhstan, and Ukraine are subject to this Regulation. The quantitative restrictions for products covered by the bi-lateral agreements and uni-lateral Commission measures, will remain entirely those set out in the following instruments:

- the Decision of the Representatives of the Governments of the Member States meeting within the Council of 19 December 2001 on certain measures applicable with regard to Ukraine concerning trade in certain steel products ⁽¹⁾, as amended by Decision 2002/476/ECSC of 17 June 2002 ⁽²⁾ or an agreement such as is referred to in Article 4 of the former Decision; or
- the Agreement referred to in Commission Decision 2002/654/ECSC on the conclusion of an Agreement between the European Coal and Steel Community and the Government of the Republic of Kazakhstan on trade in certain steel products ⁽³⁾; or
- the Agreement referred to in Commission Decision 2002/603/ECSC on the conclusion of an Agreement between the European Coal and Steel Community and the Government of the Russian Federation on trade in certain steel products ⁽⁴⁾.

Article 5

1. Subject to paragraph (2), imports of the 7 products concerned originating in one of the developing countries specified in Annex 2 shall not be subject, or allocated, to the tariff quotas, or subject to the additional duty specified in Annex 1.

2. For each of the 7 products concerned, Annex 2 specifies the developing countries to which the provisional measures apply.

Article 6

Any amounts paid in respect of additional duties imposed under Regulation (EC) No 560/2002 in relation to the products specified in Annex 1 of this Regulation shall be definitively collected at the level fixed in Annex 3 of Regulation (EC) No 560/2002.

Article 7

The Member States and the Commission shall cooperate closely to ensure compliance with this Regulation.

Article 8

This Regulation shall be published in the *Official Journal of the European Communities* and enter into force on the day following its publication. This Regulation shall apply until 28 March 2005.

⁽¹⁾ OJ L 345, 29.12.2001, p. 75.

⁽²⁾ OJ L 164, 22.6.2002, p. 37.

⁽³⁾ OJ L 222, 19.8.2002, p. 19.

⁽⁴⁾ OJ L 195, 24.7.2002, p. 54.

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

Done at Brussels, 27 September 2002.

For the Commission
Pascal LAMY
Member of the Commission

Tariff quotas referred to in Article 1

Product number	Designation of the product	CN codes	Allocation by Country (Where Applicable)	From 29.9.2002 to 28.9.2003			From 29.9.2003 to 28.9.2004			From 29.9.2004 to 28.3.2005		Order numbers
				Volume of tariff quota (tonnes net) (1)	Additional duty rate		Volume of tariff quota (tonnes net) (1)	Additional duty rate		Volume of tariff quota (tonnes net) (1)	Additional duty rate	
				Quota	From 29.9.2002 to 28.3.2003	From 29.3.2003 to 28.9.2003	Quota	From 29.9.2003 to 28.3.2004	From 29.3.2004 to 28.9.2004	Quota		
1	Non Alloy Hot Rolled Coils	7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10, 7208 39 90	N/A	3 199 240	17,5 %	15,7 %	3 359 234	15,7 %	14,1 %	1 720 583	14,1 %	09.0410
2	Non Alloy Hot Rolled Sheets and Plates	7208 40 10, 7208 40 90, 7208 52 99, 7208 53 90, 7208 54 10, 7208 54 90	Total of which Slovakia Poland Hungary Bulgaria others	554 286 179 723 120 061 90 404 61 195 102 903	26,0 %	23,4 %	581 999 188 709 126 064 94 924 64 254 108 048	23,4 %	21,0 %	298 098 96 656 64 569 48 620 32 911 55 342	21,0 %	09.0430 09.0431 09.0432 09.0433 09.0434
3	Non Alloy Hot Rolled Narrow Strip	7211 14 10, 7211 14 90, 7211 19 20, 7211 19 90, 7212 60 11, 7212 60 19, 7212 60 91	Total of which Bulgaria Slovakia Switzerland Czech Rep. Turkey others	198 365 45 263 57 922 28 385 30 074 8 721 28 000	26,0 %	23,4 %	208 283 47 526 60 818 29 804 31 578 9 157 29 400	23,4 %	21,0 %	106 680 24 342 31 150 15 265 16 174 4 690 15 059	21,0 %	09.0440 09.0441 09.0442 09.0443 09.0444 09.0445
4	Alloy Hot Rolled Flat Products	7225 19 10, 7225 30 00, 7225 40 80, 7226 19 10, 7226 91 10, 7226 91 90, 7226 99 20	Total of which Yugoslavia Romania others	50 832 26 600 15 055 9 177	26,0 %	23,4 %	53 374 27 930 15 808 9 636	23,4 %	21,0 %	27 339 14 306 8 097 4 936	21,0 %	09.0450 09.0451 09.0452

Product number	Designation of the product	CN codes	Allocation by Country (Where Applicable)	From 29.9.2002 to 28.9.2003			From 29.9.2003 to 28.9.2004			From 29.9.2004 to 28.3.2005		Order numbers
				Volume of tariff quota (tonnes net) (1)	Additional duty rate		Volume of tariff quota (tonnes net) (1)	Additional duty rate		Volume of tariff quota (tonnes net) (1)	Additional duty rate	
				Quota	From 29.9.2002 to 28.3.2003	From 29.3.2003 to 28.9.2003	Quota	From 29.9.2003 to 28.3.2004	From 29.3.2004 to 28.9.2004	Quota		
5	Cold Rolled Sheets	7209 15 00, 7209 16 90, 7209 17 90, 7209 18 91, 7209 25 00, 7209 26 90, 7209 27 90, 7209 28 90, 7209 90 10, 7209 90 90, 7225 20 90, 7225 50 00, 7211 23 10, 7211 23 99, 7211 29 20, 7211 29 50, 7211 29 90, 7211 90 11, 7211 90 19, 7211 90 90, 7212 60 93, 7212 60 99, 7226 92 10, 7226 92 90	Total of which Turkey Slovakia S. Korea Bulgaria Yugoslavia Argentina Hungary S. Africa others	2 107 210 333 175 347 363 161 809 126 105 94 582 158 055 104 735 83 767 697 619	26,0 % 	23,4 % 	2 212 571 349 833 364 731 169 900 132 410 99 311 165 958 109 972 87 956 732 500	23,4 % 	21,0 % 	1 133 269 179 183 186 814 87 022 67 820 50 867 85 003 56 327 45 050 375 183	21,0 % 	09.0460 09.0461 09.0462 09.0463 09.0464 09.0465 09.0466 09.0467 09.0468
18	Fittings (< 609,6 mm)	7307 93 11, 7307 93 19	Total of which Slovakia Thailand Vietnam Russia Malaysia Taiwan Romania Czech Rep. Poland S. Korea Switzerland others	12 031 1 815 1 186 759 1 064 1 131 2 071 589 706 472 489 397 1 352	23,7 % 	21,3 % 	12 632 1 906 1 246 797 1 117 1 188 2 175 618 741 495 513 417 1 419	21,3 % 	19,2 % 	6 469 976 638 408 572 608 1 114 317 379 254 263 213 727	19,2 % 	09.0470 09.0471 09.0472 09.0473 09.0474 09.0475 09.0476 09.0477 09.0478 09.0479 09.0480 09.0481
19	Flanges (other than stainless steel)	7307 91 00	Total of which China Poland Romania Czech Rep. others	90 490 25 434 24 985 18 711 6 107 15 253	23,0 % 	20,7 % 	95 014 26 705 26 234 19 647 6 413 16 015	20,7 % 	18,6 % 	48 666 13 678 13 437 10 063 3 285 8 203	18,6 % 	09.0490 09.0491 09.0492 09.0493 09.0494

(1) The tariff quotas do not apply to products originating in the developing countries listed in Annex 2, apart from those marked with an 'X' in relation to that product.

Note: Notwithstanding the rules for the interpretation of the combined nomenclature, the description of products is to be considered as indicative, the scope of the measures being determined by the CN codes.

ANNEX 2

List of products originating in developing countries to which the measures apply

		1	2	3	4	5	18	19
AE	United Arab Emirates							
AF	Afghanistan							
AG	Antigua and Barbuda							
AO	Angola							
AR	Argentina	X				X		
BB	Barbados							
BD	Bangladesh							
BF	Burkina Faso							
BH	Bahrain							
BI	Burundi							
BJ	Benin							
BN	Brunei Darussalam							
BO	Bolivia							
BR	Brazil							
BS	Bahamas							
BT	Bhutan							
BW	Botswana							
BZ	Belize							
CD	Democratic Republic of Congo							
CF	Central African Republic							
CG	Congo							
CI	Côte d'Ivoire							
CL	Chile							
CM	Cameroon							
CN	People's Republic of China	X						X
CO	Colombia							
CR	Costa Rica							
CU	Cuba							
CV	Cape Verde							
CY	Cyprus							
DJ	Djibouti							
DM	Dominica							
DO	Dominican Republic							
DZ	Algeria							
EC	Ecuador							
EG	Egypt	X						
ER	Eritrea							
ET	Ethiopia							
FJ	Fiji							
FM	Federated States of Micronesia							
GA	Gabon							
GD	Grenada							
GH	Ghana							
GM	Gambia							
GN	Guinea							

		1	2	3	4	5	18	19
GQ	Equatorial Guinea							
GT	Guatemala							
GW	Guinea-Bissau							
GY	Guyana							
HN	Honduras							
	Hong Kong							
HT	Haiti							
ID	Indonesia							
IN	India							
IQ	Iraq							
IR	Iran (Islamic Republic of)	X						
JM	Jamaica							
JO	Jordan							
KE	Kenya							
KH	Cambodia							
KI	Kiribati							
KM	Comoros							
KN	St Kitts and Nevis							
KW	Kuwait							
LA	Lao People's Democratic Republic							
LB	Lebanon							
LC	St Lucia							
LK	Sri Lanka							
LR	Liberia							
LS	Lesotho							
LY	Libyan Arab Jamahiriya	X						
MA	Morocco							
MG	Madagascar							
MH	Marshall Islands							
ML	Mali							
MM	Myanmar							
MN	Mongolia							
MR	Mauritania							
MU	Mauritius							
MV	Maldives							
MW	Malawi							
MX	Mexico							
MY	Malaysia						X	
MZ	Mozambique							
NA	Namibia							
NE	Niger							
NG	Nigeria							
NI	Nicaragua							
NP	Nepal							
NR	Nauru							
OM	Oman							
PA	Panama							
PE	Peru							
PG	Papua New Guinea							

		1	2	3	4	5	18	19
PH	Philippines							
PK	Pakistan							
PW	Palau							
PY	Paraguay							
QA	Qatar							
RW	Rwanda							
SA	Saudi Arabia							
SB	Solomon Islands							
SC	Seychelles							
SD	Sudan							
SL	Sierra Leone							
SN	Senegal							
SO	Somalia							
SR	Suriname							
ST	Sao Tomé and Príncipe							
SV	El Salvador							
SY	Syrian Arab Republic							
SZ	Swaziland							
TD	Chad							
TG	Togo							
TH	Thailand						X	
TN	Tunisia							
TO	Tonga							
TP	East Timor							
TT	Trinidad and Tobago							
TV	Tuvalu							
TZ	Tanzania (United Republic of)							
	Chinese Taipei						X	
UG	Uganda							
UY	Uruguay							
VC	St Vincent and Northern Grenadines							
VE	Venezuela							
VN	Viet Nam						X	
VU	Vanuatu							
WS	Samoa							
YE	Yemen							
ZA	South Africa	X				X		
ZM	Zambia							
ZW	Zimbabwe							