

COMMISSION REGULATION (EU) No 699/2012

of 30 July 2012

imposing a provisional anti-dumping duty on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (‘the basic Regulation’), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 1 November 2011, the European Commission (‘the Commission’) announced, by a notice published in the *Official Journal of the European Union*⁽²⁾ (‘the notice of initiation’), the initiation of an anti-dumping proceeding with regard to imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey (‘the countries concerned’).
- (2) The proceeding was initiated as a result of a complaint lodged on 20 September 2011 by the Defence committee of the Steel Butt-Welding Fittings Industry of the European Union (‘the complainants’) on behalf of producers representing a major proportion, in this case more than 40 % of the total Union production of certain tube and pipe fittings of iron or steel. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

- (3) The Commission officially advised the complainants, other known Union producers, the known exporting producers and the representatives of the countries concerned, known importers and users, of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(a) Sampling of Union producers

- (5) In view of the apparent large number of Union producers, sampling was provided for in the notice of initiation for the determination of injury, in accordance with Article 17 of the basic Regulation.
- (6) In the notice of initiation the Commission announced that it had provisionally selected a sample of Union producers. This sample consisted of three companies, out of the 22 Union producers that were known to produce the like product prior to the initiation of the investigation.
- (7) The sample was selected on the basis of volumes of sales and production that can reasonably be investigated within the time available. The sampled Union producers are based in four Member States and account for 48 % of total Union sales of all Union producers, and for 64 % of the producers who came forward. No interested party opposed to the proposed sample.

(b) Sampling of unrelated importers

- (8) In view of the potentially high number of unrelated importers, sampling was envisaged in the notice of initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all importers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product under investigation during the investigation period from 1 October 2010 to 30 September 2011.
- (9) Of the 38 unrelated importers that the Commission contacted, only 5 companies replied to the sampling questions within the deadline. One company turned out to be a user rather than an importer. Therefore it was considered that no sampling was necessary, and questionnaires were sent to all four importers that came forward. In the end, only two importers replied to the questionnaire and cooperated fully in the investigation.

(c) Sampling of exporting producers

- (10) In view of the apparent high number of exporting producers, sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers were asked to make themselves known to the Commission and to provide,

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 320, 1.11.2011, p. 4.

as specified in the notice of initiation, basic information on their activities related to the product under investigation during the investigation period from 1 October 2010 to 30 September 2011. The authorities of the countries concerned were also consulted.

- (11) As concerns Russia, no exporting producers cooperated in the investigation. As regards Turkish exporting producers, three companies came forward; therefore the Commission decided that sampling was not necessary in respect of Turkey. The three cooperating Turkish companies represent the majority of Turkish exports to the Union during the investigation period.

(d) *Questionnaire replies and verifications*

- (12) In order to carry out its analysis, the Commission sent questionnaires to all three cooperating Turkish exporting producers as well as to the sampled Union producers and the cooperating unrelated importers and users.
- (13) Questionnaire replies were received from all three cooperating Turkish exporting producers, from all sampled Union producers, two unrelated Union importers and four users.
- (14) The Commission sought and verified all the information deemed necessary for the purpose of a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies.

Exporting producers in Turkey

- RSA Tesisat Malzemeleri San ve Ticaret AŞ, Küçükköy, Istanbul, Turkey;
- SARDOĞAN Endüstri ve Ticaret, Kurtköy Pendik, Istanbul, Turkey;
- UNIFIT Boru Baglanti Elemanlari Ltd Sti, Tuzla, Istanbul, Turkey.

Union producers

- ERNE Fittings, Schlinz, Austria;
- Virgilio CENA & Figli SpA, Brescia, Italy.

3. Investigation period

- (15) The investigation of dumping and injury covered the period from 1 October 2010 to 30 September 2011 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 2008 to the end of the investigation period ('period considered').

4. Measures in force in respect of other third countries

- (16) Anti-dumping measures are in force in respect of certain tube and pipe fittings of iron or steel originating in

China, Malaysia, South Korea and Thailand, and following circumvention practices also in respect of certain tube and pipe fittings of iron or steel originating in China consigned from Indonesia, the Philippines, Sri Lanka and Taiwan (with certain exceptions)⁽¹⁾. The countries mentioned in the preceding sentence shall hereafter be referred to as 'countries under anti-dumping measures'.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (17) The product concerned is tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 ('the product concerned').
- (18) The production process uses seamless or welded steel pipes for the production of elbows, reducers and tees, while for the manufacturing of caps, normally steel sheets are used as raw material. The elbows and reducers are made by cutting and forming, bending or reducing. Tees are made by using hydro-pressure, and caps are made by the forming of the sheets or plates. These are normally followed by chamfering and shot-blasting before the packaging. In certain cases also galvanisation is applied to the product. All types of products share the same basic physical, chemical and technical characteristics and same basic uses.
- (19) Tube and pipe fittings are used in the petrochemical industry, construction, energy generation, shipbuilding and industrial installations. They are used in order to connect tubes or pipes with each other in all the above applications.

2. Like product

- (20) The product concerned and certain tube and pipe fittings of iron or steel sold on the domestic market in the countries concerned as well as certain tube and pipe fittings of iron or steel sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and the same basic uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Russia

- (21) As mentioned in recital 11 above, no Russian exporting producer cooperated in this investigation. Therefore, in accordance with Article 18 of the basic Regulation, the dumping calculations for Russia were made on the basis of the facts available, as explained below.

⁽¹⁾ OJ L 275, 16.10.2008, p. 18 and OJ L 233, 4.9.2009, p. 1.

1.1. *Normal value*

- (22) In the absence of cooperation by any Russian exporting producer, the normal value for Russia was calculated on the basis of the facts available.
- (23) It should be recalled that the complaint contained prima facie evidence of dumping in respect of Russian imports of the product concerned. The calculation leading to that evidence was based on a constructed normal value for Russia, in the absence of more detailed information. Nevertheless, for the purpose of establishing a more precise normal value, the Commission provisionally decided that the normal value for Russia be constructed on the basis of information obtained during the investigation from those Turkish exporting producers that use Russian seamless steel pipes and tubes as input for the production of the product concerned. Indeed, the cost of raw material represents the vast majority of total manufacturing costs of the product concerned; therefore this method was considered as the most reasonable to establish the normal value for Russia on the basis of the available facts.
- (24) The normal value for Russia was thus calculated by determining the weighted average normal value of those cooperating Turkish exporting producers that purchase part of their raw material from Russia.
- (25) It is important to note that the resulting normal value was determined for the product type (elbows) representing the highest volume of imports, instead of all types of the product concerned, in order to allow a representative comparison with the export price (see in the following recitals).

1.2. *Export price*

- (26) In the absence of more detailed price information, the export price for imports of the product concerned originating in Russia was established on the basis of Eurostat import data. Given the large variety of the product mix declared under certain CN codes, the export price was determined by limiting the use of Eurostat data to the product type (elbows) representing the highest volume of imports, which is considered to be representative for all the product concerned. The export price was thus based on the CN code 7307 93 11.
- (27) The above Eurostat import figures had to be adjusted in view of the fact that certain import transactions from Russia to Bulgaria, Estonia and Lithuania contained wrong declarations, most likely due to product misclassifications. These transactions were identified by using the imports statistics made available in the database pursuant to Article 14(6) of the basic Regulation and were removed from the calculation of the export price in order to avoid using a distorted export price in the dumping calculation.

1.3. *Comparison*

- (28) The dumping margin was established by comparing the ex-works export price based on the Eurostat data with the normal value for Russia as established above.
- (29) In order to establish the ex-works export price, the CIF export price based on the Eurostat data (and corrected to remove the distortions as outlined above) was adjusted by the cost of transportation. For this purpose, the cost of transportation as calculated in the complaint was used since it was considered to be a reasonable estimate.

1.4. *Dumping margin*

- (30) The country-wide dumping margin was expressed as a percentage of the CIF Union frontier price, duty unpaid.
- (31) On the basis of the above, the country-wide provisional dumping margin expressed as a percentage of the CIF Union frontier price, duty unpaid, is the following:

Company	Provisional dumping margin
All companies	23,8 %

2. **Turkey**2.1. *Normal value*

- (32) In accordance with Article 2(2) of the basic Regulation, the Commission first established for each of the three cooperating exporting producers whether its total domestic sales of the like product were representative, i.e. whether the total volume of such sales represented at least 5 % of its total volume of export sales of the product concerned to the Union. The investigation established that the domestic sales of the like product were representative for all cooperating exporting producers.
- (33) The Commission subsequently identified those product types sold domestically by the companies having overall representative domestic sales that were identical or closely resembling with the types sold for export to the Union.
- (34) For each type of the like product sold by the exporting producers on their domestic market and found to be comparable with the type of the product concerned sold for export to the Union, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular product type were considered sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the IP represented around 5 % of the total volume of the comparable product type sold for export to the Union. The investigation established that in the case of each of the three companies, for the majority of product types there were representative domestic sales.

- (35) The Commission subsequently examined whether each type of the product concerned sold domestically in representative quantities could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the investigation period.
- (36) Where the sales volume of a product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average sales price was equal to or higher than the unit cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question.
- (37) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that product type, or where the weighted average price of that type was below the unit cost, normal value was based on the actual domestic price, which was calculated as the weighted average price of only the profitable domestic sales of the type in question.
- (38) The investigation established that the profitable sales of certain comparable product types were more than 80 % of total domestic sales and, thus, for these sales all domestic sales were used in calculating the average price for normal value. For the other product types also considered to be sold in the ordinary course of trade only the profitable sales were used.
- (39) Where the product types were all sold at a loss, it was considered that they were not sold in the ordinary course of trade. For product types not made in the ordinary course of trade, as well as for the product types that were not sold in representative quantities on the domestic market, normal value had to be constructed. All three investigated companies sold such product types for export to the Union, albeit in limited quantities.
- (40) To construct normal value pursuant to Article 2(6) of the basic Regulation, the selling, general and administrative ('SG&A') expenses incurred and weighted average profit realised by the cooperating exporting producers concerned on domestic sales of the like product, in the ordinary course of trade, during the investigation period, was added to their own average cost of manufacturing during the investigation period. For product types sold in non-representative quantities in the domestic market, the weighted average profit and SG&A in the ordinary course of trade of these non-representative sales were used to construct normal value.

2.2. Export price

- (41) In all cases the product concerned was exported to independent customers in the Union, and therefore, the

export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

- (42) One of the three cooperating Turkish companies had very limited export sales to the Union during the investigation period. The company concerned claimed that they would like to export more to the Union but were unable to offer low enough prices to importers, and requested that this fact be taken into account in our analysis.
- (43) However, as regards the dumping calculation for this company, it had to be based on their limited sales. Indeed even if the sales of the company to the Union were limited, they cannot be ignored and can be the sole basis for the calculation of an individual dumping margin for this company. In any event, the inability of the company to sell more due to its allegedly high prices cannot be viewed as a factor to influence the dumping calculation regarding this company.

2.3. Comparison

- (44) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence. In particular, an adjustment was granted for freight and insurance costs including freight in the exporting country, discounts, commissions, credit costs and bank charges.

2.4. Dumping margins

- (45) The provisional dumping margins were expressed as a percentage of the CIF Union frontier price, duty unpaid.
- (a) Dumping margin for companies investigated
- (46) Pursuant to Article 2(11) and (12) of the basic Regulation, the individual dumping margin for one of the three cooperating exporting producers was established on the basis of a comparison of a weighted average normal value with the company's weighted average export price of the product concerned to the Union.
- (47) However, as concerns the other two cooperating Turkish producers, the dumping calculations in their respect showed that the companies conducted targeted dumping in terms of a given time period as well as in respect of given customers and regions. Indeed there was a clear pattern of their export prices which differed significantly among different purchasers, regions as well

as time periods. Furthermore, the dumping calculation based on the comparison of a weighted average normal value to a weighted average of export prices did not reflect the full degree of dumping being practised by the two producers concerned.

- (48) Therefore, in order to reflect the full amount of dumping being practised by the two companies concerned, in accordance with Article 2(11) of the basic Regulation, the normal value established on a weighted average basis was compared in their case to prices of all individual export transactions to the Union.

(b) Dumping margin for non-cooperating companies

- (49) As regards all non-cooperating Turkish exporting producers, a residual dumping margin was established. Given that the level of cooperation was considered to be relatively low (the volume of exports of the three cooperating Turkish companies represented less than 80 % of total Turkish exports to the Union during the IP), the residual dumping margin was based on a reasonable method leading to a margin which is higher than the highest among the individual margins of the three cooperating companies. This margin was established on the basis of the sales of representative product types made by the Turkish cooperating producer with the highest dumping margin of the three cooperating companies.

- (50) On the basis of the above, the provisional dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are the following:

Company	Provisional dumping margin
RSA	9,6 %
Sardogan	2,9 %
Unifit	12,1 %
All other companies	16,7 %

D. INJURY

1. Union production and Union industry

- (51) During the IP, the like product was manufactured by 22 producers in the Union. Within the meaning of Articles 4(1) and 5(4) of the basic Regulation, all 22 existing Union producers constitute the Union industry and they will therefore be hereafter referred to as the 'Union industry'.
- (52) As indicated under recital 7 above, the three sampled Union producers represent around 50 % of the total Union sales of the like product.

2. Union consumption

- (53) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market based on the information obtained from the questionnaire replies of the sampled companies, from the estimates provided in the complaint for the remaining Union producers and the import volumes data from Eurostat.
- (54) Union consumption dropped considerably by 40 % between 2008 and the IP. It has decreased by 44 % in 2009, remained at that level in 2010, before increasing slightly by 4 percentage points in the IP.

Table 1

Union consumption

	2008	2009	2010	IP
Units (tonnes)	98 197	55 172	54 878	58 706
Index (2008=100)	100	56	56	60

3. Imports from the countries concerned

3.1. Cumulative assessment of the effects of the imports concerned

- (55) The Commission examined whether imports of the product concerned originating in Russia and Turkey should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.
- (56) For both countries concerned, the investigation showed that the dumping margins were above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation and the volume of dumped imports from these two countries was not negligible in the sense of Article 5(7) of the basic Regulation.
- (57) With regard to the conditions of competition between imports from Russia and Turkey and the like product, the investigation revealed that the producers from these countries use the same sales channels and sell to similar categories of customers. Moreover, the investigation also revealed that the imports from both these countries had an increasing trend in terms of market shares in the period considered.
- (58) Two cooperating Turkish exporters argued that accumulation of imports from Russia and Turkey is not appropriate in this case, as imports from these countries show different trends in terms of volume and prices.

- (59) It is noted in this regard that the investigation established that while imports from Turkey are relatively stable in terms of volumes, imports from Russia are increasing. However, given the contraction in demand in the period considered, the market shares of imports from both countries are increasing. At the same time their pricing does not appear to be substantially different, at least in the period between 2009 and the IP (the high average price of Russian imports in 2008 is likely to be due to incorrect reporting) with Russian average prices being somewhat lower but very close to the average Turkish prices.
- (60) In view of the above, it is provisionally considered that all the criteria set out in Article 3(4) of the basic Regulation were met and that imports from Russia and Turkey should be examined cumulatively.

3.2. Volume of dumped imports

- (61) The volume of dumped imports of the product concerned from the countries concerned into the Union market has increased over the period considered by 46 %. More specifically, imports decreased by 31 % in 2009, just before a massive increase in 2010 by 89 percentage points, followed by a slight decrease in the IP by some 12 percentage points. The volume of dumped imports in the IP was 2 935 tonnes.

Table 2

Dumped imports from the countries concerned

	2008	2009	2010	IP
Units (tonnes)	2 009	1 392	3 174	2 935
Index (2008=100)	100	69	158	146
Market share	2 %	3 %	6 %	5 %

Source: Eurostat

3.3. Market share of dumped imports

- (62) The corresponding market share of dumped imports from the countries concerned has more than doubled over the period considered, increasing from 2 % to 5 %.

3.4. Prices

(a) Price evolution

- (63) The table below shows the average price of dumped imports from the countries concerned, at the Union frontier duty unpaid, as reported by Eurostat. During the period considered the average price of imports

from the countries concerned remained generally stable at EUR 1 961 per tonne, with an exception in 2010 when they dropped by some EUR 150.

Table 3

Average prices of dumped imports

	2008	2009	2010	IP
Average selling prices per tonne	1 961	1 936	1 788	1 961
Index (2008=100)	100	99	91	100

Source: Eurostat

(b) Price undercutting

- (64) A type-to-type price comparison was made between the selling prices of the cooperating Turkish exporting producers and the sampled Union producers' selling prices in the Union. Given that Russian exporters did not cooperate with the investigation, the undercutting calculation was performed using average CIF prices reported in Eurostat and average Union producers' selling prices in the Union. Adjustments were applied where necessary with regard to both countries concerned to take account of the level of trade and post-importation costs, including the customs duty in the case of Russia.
- (65) The comparison showed that during the IP, the dumped product concerned originating in the countries concerned sold in the Union undercut the Union industry's prices by up to approximately 30 %.

4. Situation of the Union industry

- (66) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry during the period considered.
- (67) As explained above, the Commission had recourse to sampling of Union producers. For the purpose of the injury analysis, the injury indicators have been established at the following two levels:

— The macroeconomic elements (production, capacity, sales volume, market share, growth, employment, productivity, prices and magnitude of dumping margins and recovery from the effects of past dumping) were assessed at the level of the whole

Union production, on the basis of the information collected from the cooperating producers and on an estimation based on data from the complaint for the other Union producers.

— The analysis of microeconomic elements (stocks, wages, profitability, return on investments, cash flow, ability to raise capital and investments) was carried out for the sampled Union producers on the basis of their information.

4.1. Macroeconomic elements

(a) Production

- (68) The Union production decreased by 44 % between 2008 and the IP. More specifically, it decreased by 47 % in 2009 and by a further 2 percentage points in 2010 before increasing slightly by 5 percentage points in the IP, when it reached 53 653 tonnes.

Table 4
Production

	2008	2009	2010	IP
Units (tonnes)	95 079	49 917	48 017	53 653
Index (2008=100)	100	53	51	56

Source: questionnaire replies and complaint

(b) Production capacity and capacity utilisation

- (69) The production capacity of the Union producers remained stable throughout the period considered at 179 912 tonnes.

Table 5
Production capacity and utilisation

	2008	2009	2010	IP
Units (tonnes)	179 912	179 912	179 912	179 912
Index (2008=100)	100	100	100	100
Utilisation rate	53 %	28 %	27 %	30 %
Index (2008=100)	100	53	51	56

Source: questionnaire replies and complaint

- (70) Capacity utilisation was 53 % in 2008, decreased to 28 % in 2009 to 27 % in 2010 and slightly increased in the IP to 30 %. The development of the utilisation rate clearly reflects the production trend as the capacity remained stable.

(c) Sales volume

- (71) The sales volume of the Union producers to unrelated customers on the Union market decreased by 38 % in the period considered. The sales decreased by 45 % in 2009, stayed at that level in 2010 and modestly increased in the IP by 7 percentage points. During the IP the Union sales were at 42 379 tonnes.

Table 6

Union sales

	2008	2009	2010	IP
Units (tonnes)	68 870	37 649	37 890	42 379
Index (2008=100)	100	55	55	62

Source: questionnaire replies and complaint

(d) Market share

- (72) The market share of the Union producers was relatively stable in the period considered and even increased in the IP to 72 %. The increased market share is a reflection of the fact that the sales volumes of the Union producers dropped slightly less than the consumption in the period.

Table 7

Market share of the Union producers

	2008	2009	2010	IP
Market share	70 %	68 %	69 %	72 %
Index (2008=100)	100	97	98	103

Source: questionnaire replies, complaint and Eurostat

(e) Growth

- (73) Given that the consumption decreased by 40 % between 2008 and the IP, it is concluded that the Union producers could not benefit from any growth of the market.

(f) Employment

- (74) The employment level of the Union producers shows a decrease of 18 % between 2008 and the IP. More specifically, the number of people employed decreased significantly from 982 in 2008 to 824 in 2009 or by 16 % and remained close to this level in 2010 before further dropping to 801 in the IP.

Table 8

Employment

	2008	2009	2010	IP
Units (persons)	982	824	833	801
Index (2008=100)	100	84	85	82

Source: questionnaire replies and complaint

(g) Productivity

- (75) Productivity of the Union producers' workforce, measured as output (tonnes) per person employed per year, decreased by 31 % in the period considered. This reflects the fact that production decreased at a faster pace than the employment level.

Table 9

Productivity

	2008	2009	2010	IP
Units (tonnes per employee)	194	121	115	134
Index (2008=100)	100	63	60	69

Source: questionnaire replies and complaint

(h) Sales prices

- (76) The annual average sales prices of the Union producers on the Union market to unrelated customers decreased in the period considered by over 10 %. In detail, the average prices initially increased in 2009 by some 12 % only to fall sharply in 2010 by 23 percentage points and it remained at this level in the IP. In the IP the average price of the Union producers was at EUR 3 096 per tonne.

Table 10

Average prices of Union producers

	2008	2009	2010	IP
Units (EUR/tonne)	3 489	3 911	3 116	3 096
Index (2008=100)	100	112	89	89

Source: questionnaire replies and complaint

- (77) As indicated above, the sales prices of the Union industry were undercut by the dumped imports from Russia and Turkey.

(i) Magnitude of the dumping margin and recovery from past dumping

- (78) Given the volume, market share and prices of the imports from Russia and Turkey, the impact on the Union industry of the actual margins of dumping cannot be considered to be negligible. It is important to recall that as indicated in recital 16 above anti-dumping measures are in force against eight countries. Given that in the period considered by this investigation the Union industry lost sales and suffered losses, no actual recovery from the past dumping can be established and it is considered that Union production remains vulnerable to the injurious effect of any dumped imports on the Union market.

4.2. Microeconomic elements

(a) Stocks

- (79) The level of closing stocks of the sampled Union producers decreased between 2008 and the IP by 18 %. In detail, stocks increased moderately in 2009 by 2 % and later decreased by 13 percentage points in 2010 and by further 7 percentage points in the IP. In the IP the closing stock of the sampled Union producers was at 5 338 tonnes.

Table 11

Closing stock

Sample	2008	2009	2010	IP
Unit (tonnes)	6 526	6 661	5 822	5 338
Index (2008=100)	100	102	89	82

Source: questionnaire replies

(b) Wages

- (80) The annual labour cost decreased by 10 % between 2008 and the IP. More specifically, the labour cost decreased significantly in 2009 by almost 20 % (corresponding to the reduced employment) and later on increased in 2010 by 4 percentage points in 2010 and by further 5 percentage points in the IP.

Table 12

Annual labour cost

Sample	2008	2009	2010	IP
Units (EUR)	26 412 013	21 500 757	22 490 982	23 860 803
<i>Index (2008=100)</i>	100	81	85	90

Source: questionnaire replies

(c) Profitability and return on investments

- (81) During the period considered, the profitability of the sampled producers' sales of the like product on the Union market to unrelated customers, expressed as a percentage of net sales, decreased from healthy profits to significant losses. More specifically, the profits fell from 9,6 % in 2008 to - 1,2 % in 2009 and deteriorated further in 2010 by falling to - 7,8 %. The situation slightly improved in the IP when the losses were at - 7,0 %.

Table 13

Profitability and return on investments

Sample	2008	2009	2010	IP
Profitability of Union sales	9,6 %	- 1,2 %	- 7,8 %	- 7,0 %
<i>Index (2008=100)</i>	100	- 12	- 81	- 73
ROI	23,9 %	- 1,7 %	- 9,4 %	- 10,6 %
<i>Index (2008=100)</i>	100	- 7	- 39	- 44

Source: questionnaire replies

- (82) The return on investments ('ROI'), expressed as the profit in percent of the net book value of investments, broadly followed the profitability trend.

(d) Cash flow and ability to raise capital

- (83) The net cash flow from operating activities was positive at EUR 9,3 million in 2008. It improved modestly in 2009 to EUR 9,8 million, but deteriorated in 2010 and fell to only EUR 1,5 million before reaching the negative EUR - 4,6 million in the IP.
- (84) There were no indications that the Union industry encountered difficulties in raising capital, mainly due to the fact that some of the producers are incorporated in larger groups.

Table 14

Cash flow

Sample	2008	2009	2010	IP
Units (EUR)	9 279 264	9 851 842	1 470 524	- 4 662 347
Index (2008=100)	100	106	16	- 50

Source: questionnaire replies

(e) Investments

- (85) The sampled companies' annual investments in the production of the like product decreased constantly during the period considered. The biggest drop was in 2009 with a 32 % decrease followed by a 25 percentage points decline in 2010 and a further 8 percentage points in the IP. Overall the annual investment fell from EUR 8,3 million in 2008 to EUR 2,9 million in the IP.

Table 15

Net investments

Sample	2008	2009	2010	IP
Units (EUR)	8 309 731	5 658 145	3 579 323	2 946 383
Index (2008=100)	100	68	43	35

Source: questionnaire replies

5. Conclusion on injury

- (86) The analysis of the macroeconomic data show that the Union producers decreased significantly their production and sales during the period considered. This coincided with a drop in demand on the Union market, hence a slight increase in the Union's industry market share. The capacity utilisation declined from an already low 53 % in 2008 to as low as 30 % in the IP. Employment also decreased by 18 %.
- (87) At the same time the relevant microeconomic indicators show a clear deterioration of the economic situation of the sampled Union producers. The developments of prices, profitability and return on investment show a very negative picture dropping from healthy levels in 2008 to substantial losses in the IP. Cash flow also deteriorated significantly.
- (88) In the light of the foregoing, it is provisionally concluded that the Union industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION**1. Introduction**

- (89) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports have caused injury to the Union industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time have injured the Union industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (90) Between 2008 and the IP, the volume of the dumped imports of the product concerned increased by 46 % in a market contracting by 40 %, which resulted in an increase of their market share from 2 % to 5 %.
- (91) The increase in dumped imports of the product concerned from the countries concerned over the period considered coincided with a downward trend in all injury indicators of the Union industry, with the exception of market share. The Union industry lost 38 % of their Union sales and the sales prices decreased by 11 % due to the price pressure exerted by low-priced dumped imports on the Union market.
- (92) The significant price undercutting prevented the Union industry from passing on the increased production costs, which resulted in decreasing and negative profitability levels during the IP.

- (93) Based on the above it is provisionally concluded that the low-priced dumped imports from Russia and Turkey are causing material injury to the Union industry.

3. Effect of other factors

3.1. Imports from other third countries

- (94) During the period considered, there were significant imports from other third countries, including from countries under anti-dumping measures. The total market share of imports from countries other than Russia and Turkey has decreased between 2008 and the IP from 28 % to 23 %.
- (95) The following table shows the development of import volumes, prices and market shares of countries under anti-dumping measures and other third countries, all based on Eurostat data.

Table 16

Imports from other countries

Country		2008	2009	2010	IP
Countries under anti-dumping measures	Volumes (tonnes)	20 614	13 286	9 721	9 784
	Market share (%)	21 %	24 %	18 %	17 %
	Av. price (EUR)	1 639	1 749	1 468	1 563
Other third countries	Volumes (tonnes)	6 705	2 844	4 093	3 608
	Market share (%)	7 %	5 %	7 %	6 %
	Av. price (EUR)	2 279	2 962	2 319	2 925
Total of all third countries except Russia and Turkey	Volumes (tonnes)	27 319	16 131	13 814	13 392
	Market share (%)	28 %	29 %	25 %	23 %
	Av. price (EUR)	1 796	1 963	1 720	1 930

- (96) As indicated in the table above, imports from the eight countries under anti-dumping measures continued to penetrate the Union market although their market share declined from 21 % in 2008 to 17 % in the IP. The average prices of those imports are generally lower than those of the dumped imports from the countries concerned. Of course, the table above based on Eurostat data shows average CIF prices before the application of duties. Still, even when the anti-dumping duty is taken into account, the prices of those imports remain low and comparable with the prices of Russian and Turkish imports and are much below the average prices of the Union producers.

- (97) However, it is recognised that the product under investigation has a significant number of different types and the comparison of overall average prices might not be a meaningful indicator. At the same time, it is considered that the anti-dumping measures currently in force eliminate the injurious effect of those imports.
- (98) Consequently, and given that the market share of imports from the countries under measures is declining, it is provisionally concluded that any negative effect of these low priced imports is not such as to break the causal link between the dumped imports from the countries concerned and the injury suffered by the Union industry.
- (99) The market share of imports from other third countries declined slightly during the period considered from 7 % in 2008 to 6 % in the IP. The average prices of those imports are generally higher than the dumped imports from the countries concerned, but somewhat lower than the average prices of the Union producers.
- (100) Even if the comparison of overall average prices might not be considered a meaningful indicator due to variety of product types, given the declining trend for those imports, it is provisionally concluded that any negative effect of imports from other third countries is also not such as to break the causal link between the dumped imports from the countries concerned and the injury suffered by the Union industry.

3.2. *Impact of market contraction and the economic crisis*

- (101) The financial and economic crisis of 2008/09 is in all likelihood the reason behind the decreased consumption for pipe fittings. The consumption has dropped by over 40 % between 2008 and 2009 and remained at this low level throughout the rest of the period considered (although slightly increasing in the IP). Given that fixed costs make up to 40 % of the manufacturing costs of the Union producers, the decreased demand, sales and output result in significantly higher unit manufacturing costs. This obviously has an important impact on the profitability of the Union industry.
- (102) While recognising that drop in output could have an impact on the situation of the Union industry, especially in 2009 (when the drop actually occurred), it could be reasonably expected that the Union industry would be normally in a position to increase their prices at least in the medium to long term and pass on the cost increase in the following years. However, as evident from the dropping Union prices this was not the case, and it is considered that this was not possible due to severe undercutting by the dumped imports.

- (103) Given the above circumstances, it is provisionally concluded that any negative effect of contraction in demand is not such as to break the causal link between the injury suffered by the Union industry and the dumped imports from Russia and Turkey.

4. **Conclusion on causation**

- (104) In conclusion, the dumped imports from Russia and Turkey have caused the material injury suffered by the Union industry.
- (105) Other factors which could have caused injury to the Union industry have also been analysed. In this respect, it was found that imports from other third countries, including from countries under anti-dumping measures and the impact of the contraction in demand, although possibly contributing to the injury, do not break the causal link.
- (106) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Union industry from the injurious effect of the dumped imports, it is provisionally concluded that the dumped imports from the countries concerned have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

F. **UNION INTEREST**

- (107) In accordance with Article 21 of the basic Regulation, the Commission examined whether, despite the provisional conclusion on injurious dumping, compelling reasons existed for concluding that it is not in the Union interest to adopt measures in this particular case. The analysis of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users of the product concerned.

1. **Interest of the Union industry**

- (108) It is expected that if measures are imposed, the price depression and losses will be mitigated and that the sales prices of the Union industry will start to recover, resulting in a significant improvement of the Union industry's financial situation.
- (109) On the other hand, should anti-dumping measures not be imposed, most likely the deterioration of the Union industry's situation would continue. In such a scenario, the Union industry would possibly lose market share, as it is not able to follow the market prices set by dumped imports from the countries concerned. The likely effects would entail unnecessary cuts in costs and the closure of production facilities in the Union, resulting in substantial job losses.

(110) Taking into account the above factors, it is provisionally concluded that the imposition of anti-dumping measures would be in the interest of the Union industry.

2. Interest of unrelated importers in the Union

(111) As indicated above, only two unrelated importers fully cooperated in this investigation by submitting a questionnaire reply. Only a small part of the turnover of these two importers was related to resales of the product concerned. Consequently, the impact of the measures is likely to be minimal.

3. Interest of the users

(112) Four users have cooperated in this proceeding by submitting a questionnaire reply. None of them imports the product in question from the countries concerned and they all have indicated that impact of the measures, if any, would not be meaningful.

(113) Given that no user importing from the countries concerned came forward, and in the absence of any information that would indicate the contrary, it can provisionally be concluded that the impact of measures on the user industry's profitability and economic situation will be rather limited.

4. Conclusion on Union interest

(114) It can be concluded that the imposition of measures on dumped imports of the product concerned from Russia and Turkey is expected to provide an opportunity for the Union industry to improve its situation through increased sales volumes, sales prices and profits. While some negative effects may occur in the form of cost increases for certain importers, they are likely to be limited.

(115) Two cooperating Turkish exporters argued that imposition of measures against a small exporting country like Turkey would practically leave the whole Union market in the hands of few producers with a resulting negative impact on the competitive environment.

(116) It is noted in this regard that as a matter of rule an anti-dumping duty is not meant to be prohibitive and seal off the trade flows from the countries under investigation. Measures are supposed to level the playing field between different market players. At the same time it is noted that on the Union market there are more than 20 European manufacturers and imports from other third countries are significant. Consequently, any reservations with regard to competitive environment on the Union market do not appear to be warranted.

(117) In the light of the above, it is provisionally concluded that no compelling reasons exist against the imposition of provisional measures on imports of the product concerned originating in Russia and Turkey.

G. PROVISIONAL ANTI-DUMPING MEASURES

(118) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional measures should be imposed on imports of the product concerned originating in Russia and Turkey in order to prevent further injury to the Union industry by the dumped imports.

1. Injury elimination level

(119) The provisional measures on imports originating in the countries concerned should be imposed at a level sufficient to eliminate dumping, without exceeding the level of injury caused to the Union industry by the dumped imports. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it is considered that any measures should allow the Union industry to cover its costs of production and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.

(120) Given that the established undercutting margins are in all cases higher than the respective dumping margins and that the Union industry suffered losses in the IP, any calculated injury elimination level would *per se* be always even higher. Consequently, it was considered that a detailed calculation of the injury levels is not necessary.

2. Provisional measures

(121) In the light of the foregoing and pursuant to Article 7(2) of the basic Regulation, it is considered that a provisional anti-dumping duty should be imposed on imports of the product concerned originating in Russia and Turkey at the level of the lower of the dumping margin and injury elimination level found, in accordance with the lesser duty rule, which is in all cases the dumping margin.

(122) For Russia, in the absence of cooperation by Russian exporting producers, a country-wide dumping margin was calculated as explained in recitals 21 to 31 above.

(123) For Turkey, given that the level of cooperation was considered to be relatively low, the residual dumping margin was based on a reasonable method leading to a margin which is higher than the highest among the individual margins of the three cooperating companies as explained in recital 49 above.

(124) On the basis of the above, the proposed duty rates are:

Country	Company	Provisional anti-dumping duty
Russia	All companies	23,8 %
Turkey	RSA	9,6 %
	Sardogan	2,9 %
	Unifit	12,1 %
	All other companies	16,7 %

(125) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the countries concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(126) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.

(127) In order to ensure a proper enforcement of the anti-dumping duty, the duty level for all other companies should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Union during the IP.

H. FINAL PROVISION

(128) In the interest of sound administration, a period should be fixed within which the interested parties which made

themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Country	Company	Provisional anti-dumping duty	TARIC additional code
Russia	All companies	23,8 %	—
Turkey	RSA Tesisat Malzemeleri San ve Ticaret AŞ, Küçükköy, Istanbul	9,6 %	B295
	SARDOĞAN Endüstri ve Ticaret, Kurtköy Pendik, Istanbul	2,9 %	B296
	UNIFIT Boru Bağlantı Elemanları Ltd Sti, Tuzla, Istanbul	12,1 %	B297
	All other companies	16,7 %	B999

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

⁽¹⁾ European Commission
Directorate-General for Trade
Direction H
Office Nerv 105
B-1049 Brussels.

Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 1225/2009, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 30 July 2012.

For the Commission
The President
José Manuel BARROSO
