

**COMMISSION REGULATION (EC) No 1251/2003
of 14 July 2003**

imposing a provisional anti-dumping duty on imports of hollow sections originating in Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 1972/2002 ⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 16 October 2002, the Commission announced, by notice published in the *Official Journal of the European Communities* ⁽³⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of hollow sections originating in Russia and Turkey (the countries concerned) and commenced an investigation.
- (2) The proceeding was initiated following a complaint lodged, in September 2002, by the Defence Committee of the Welded Steel Tube Industry (the complainant) on behalf of producers representing a major proportion, around 80 %, of the total Community production of hollow sections. The complaint contained evidence of dumping of the product concerned and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the complaining Community producers, the other known Community producers, importers and users' associations known to be concerned as well as the known exporting producers and the representatives of Russia and Turkey of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

2. Sampling

- (4) In view of the large number of Community producers, importers in the Community not related to an exporting producer in one of the countries concerned and of exporting producers in the countries concerned, it was considered appropriate, in conformity with Article 17 of Regulation (EC) No 384/96 (the basic Regulation), to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would indeed be necessary and, if so, to select a sample, all the above parties were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within two weeks of the initiation of the proceeding and to provide the Commission with the information requested in the notice of initiation, for the period from 1 October 2001 to 30 September 2002 (the investigation period or IP).

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ C 249, 16.10.2002, p. 5.

- (5) All 14 Community producers on behalf of which the complaint had been lodged agreed to be included in the sample and provided the requested information within the deadline. Amongst them, eight companies ⁽¹⁾ were selected for the sample. These were found to be representative of the overall complaining Community producers in terms of volume of production and sales of the product concerned in the Community, as well as in terms of geographic coverage.
- (6) Twelve unrelated importers also agreed to be included in the sample and provided the requested basic information within the deadline. In view of this situation, the Commission services decided not to apply sampling in the case of the unrelated importers, but to send questionnaires to all the 12 aforementioned importers.
- (7) As far as exporting producers are concerned, only one exporting producer in Russia made itself known within the relevant deadline, and therefore sampling was not applied for Russia. In the case of Turkey however, 19 exporting producers agreed to be included in the sample and provided the requested information within the deadline. From those producers, only 16 actually sold the product concerned in the Community during the investigation period. The choice of the sample was made in consultation with the representatives of the companies and the Turkish authorities. An agreement was reached on a sample of five companies covering around 80 % of the total exports of the product concerned to the Community during the IP. In addition to the above, among the companies which had sales to the Community, six companies not selected in the sample have requested an individual examination. In view of the large number of requests which was even exceeding the number of companies selected in the sample, it was considered that such individual examinations would be unduly burdensome in the sense of Article 17(3) of the basic Regulation and only two requests were granted.

3. Investigation

- (8) The Commission sent questionnaires to all Community producers having agreed to be included in the sample (a full questionnaire to the eight sampled companies and a small questionnaire limited to certain macro-indicators to the six non-sampled companies, see the injury section below), all unrelated importers that made themselves known within the deadlines set out in the notice of initiation, to the only known exporting producer in Russia as well as all exporting producers in Turkey that have been included in the sample or which have been granted individual examination as well as to 11 associations of companies known to be users of the product under consideration.
- (9) Replies were received from the eight sampled Community producers, from the six non-sampled Community producers, from six unrelated importers in the Community, one exporting producer in Russia, that also requested market economy treatment (MET), and six exporting producers in Turkey. No reply was received from users.
- (10) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:
 - (a) *Sampled Community producers*
 - Voestalpine Krems GmbH, Krems/Donau, Austria,
 - SRW GmbH, Altensteig-Walddorf, Germany,
 - Arcelor Tubes France SA, Vincey, France,
 - ILVA SpA, Milano, Italy,
 - Marcegaglia SpA, Mantova, Italy,
 - Rautaruukki Oyj Metform, Helsinki, Finland,
 - Corus UK Ltd, Corby, United Kingdom;

⁽¹⁾ SRW GmbH, KEM SA, Arcelor Tubes France SA, ILVA SpA, Marcegaglia SpA, Voestalpine Krems GmbH, Rautaruukki Oyj Metform, Corus UK Ltd.

(b) *Sampled exporting producers in Turkey*

- Cayirova Boru San Ve Tic AS, Istanbul (related to Yücel Boru Profil Endüstrisi AS),
- Yücel Boru Profil Endüstrisi AS, Istanbul (related to Cayirova Boru San Ve Tic AS),
- MMZ Onur Boru Profil Uretim, Istanbul,
- Ozdemir Sanayi Ve Tic Ltd, Eregli;

(c) *Exporting producers in Turkey granted individual examination*

- Noksel Celik Boru Sanayi AS, Ankara,
- Guven Boru ve Profil Sanayi ve Ticaret Ltd, Istanbul;

(d) *Exporting producer in Russia*

- JSC Severstal, Cherepovets.

- (11) It should be noted that due to 'force majeure' reasons, one of the companies initially selected in the sample for Turkey, Toscelik Profil ve Sac, was finally not able to supply all the requested information to the Commission services in due time. Consequently this company was eventually excluded from the sample and was not visited, but was however still considered as cooperating.

4. Investigation period

- (12) The investigation of dumping and injury covered the period from 1 October 2001 to 30 September 2002 (investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 1998 to the end of the investigation period (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. General

- (13) Hollow sections consist of welded pipes, tubes and hollow profiles of a square or rectangular cross-section of iron or steel with the exception of those made of stainless steel or of a perimeter greater than 600 mm, currently classifiable within CN codes ex 7306 60 31 (TARIC code 7306 60 31 90) and ex 7306 60 39 (TARIC code 7306 60 39 90).
- (14) Hollow sections are produced in a vast range of dimensions, thickness, lengths and steel grades. There are basically two fabrication processes. Hollow sections can be cold or hot formed. Both types are used primarily in the construction industry, although the latter is normally used for more demanding applications (e.g. load-bearing, engineering). Amongst the cold-formed hollow sections, the most common type, the so-called 'structural' hollow sections, are primarily used in the construction industry, but which may also be found in various applications (e.g. construction, storage, farm equipment, trailers, trucks, earth movers). By opposition, the so-called 'precision' hollow sections, generally of a smaller size, which are used in end-consumer activities like the automotive industry, office and design furniture, gardening tools and childcare applications. Volume wise, the 'structural' hollow section is by far the most employed.

2. Product concerned

- (15) The product concerned is hollow sections originating in Russia and Turkey (the product concerned).
- (16) The investigation showed that all types of the product concerned, despite differences in the production methods have the same basic physical and technical characteristics and are used for the same purposes.
- (17) Therefore and for the purpose of the present anti-dumping proceeding all types of the product concerned are provisionally regarded as one product concerned.

3. Like product

- (18) It is provisionally determined that the hollow sections produced and sold by the Community industry on the Community market are a like product within the meaning of Article 1(4) of the basic Regulation to the hollow sections exported to the Community originating in the countries concerned. Similarly, the hollow sections produced and sold in the countries concerned are alike to the hollow sections exported to the Community and originating in the countries concerned.

C. DUMPING

1. General methodology

- (19) The general methodology set out hereinafter has been applied for all exporting producers in Turkey and for the sole cooperating Russian exporting producer, for which MET was granted, as explained under recitals 34 to 39. The presentation of the findings on dumping for each of the countries concerned therefore only describes what is specific for each exporting country.

Normal value

- (20) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of the product concerned were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.
- (21) The Commission subsequently identified those types of hollow sections, sold domestically by the companies having representative domestic sales and that were identical or directly comparable to the types sold for export to the Community.
- (22) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type of hollow sections sold for export to the Community, 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 type of hollow sections were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable hollow sections type exported to the Community.
- (23) An examination was also made as to whether the domestic sales of each hollow sections type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the hollow sections type in question. In cases where the sales volume of hollow sections 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 price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of hollow sections type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.
- (24) In cases where the volume of profitable sales of any type of hollow sections represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

- (25) Wherever domestic prices of a particular type of hollow sections sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used the prices of the product concerned charged on the domestic market by the other producers, in accordance with Article 2(1) of the basic Regulation. In all cases where this was not possible, constructed normal value was used, in accordance with Article 2(3) of the basic Regulation.
- (26) In all cases where constructed normal value was used and in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit. In all cases SG&A and profit were established pursuant to the methods set out in Article 2(6) of the basic Regulation.

Export price

- (27) In all cases where the product concerned was exported to independent customers in the Community, the export price was therefore established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.
- (28) In the case sales were made via a related importer, the export price was constructed on the basis of the resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale by that importer, including SG&A expenses, and a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation.

Comparison

- (29) 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 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.

Dumping margin

- (30) According to Article 2(11) of the basic Regulation, for each exporting producer the weighted average normal value was compared with the weighted average export price.
- (31) For non-cooperating companies, a 'residual' dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.
- (32) For those countries where the level of cooperation was high and where there was no reason to believe that any exporting producer abstained from cooperating, it was decided to set the residual dumping margin at the level of the cooperating company with the highest dumping margin, in order to ensure the effectiveness of any measures.
- (33) In a case where the level of cooperation for one country was low, the residual dumping margin was determined on the basis of the highest dumped export sales to the Community of representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

2. Russia

Market economy treatment

- (34) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in Russia, normal value shall be determined in accordance with Article 2(1) to 2(6) for those producers which were found to meet the criteria laid down in Article 2(7)(c), i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the product concerned.

- (35) Only one Russian company, JSC Severstal, made itself known within the relevant deadlines and requested MET pursuant to Article 2(7)(b) of the basic Regulation by replying to the MET claim for exporting producers.
- (36) In order to be granted MET, the company concerned had to demonstrate that market economy conditions prevailed for it.
- (37) The Commission sought all information deemed necessary and verified on the spot all information submitted in the MET applications at the premises of the company in question.
- (38) It was confirmed that its decisions regarding prices and costs were made without significant state interference within the meaning of Article 2(7)(c) and that costs and prices reflected market values. This company had accounts independently audited in line with international accounting standards and their production costs and financial situation was not subject to significant distortions carried over from the former non-market-economy system. It was also confirmed that the company is subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of firms and that exchange rate conversions are carried out at the market rate.
- (39) It was therefore concluded that JSC Severstal fulfils the conditions set out in Article 2(7)(c) of the basic Regulation and could therefore be granted the MET. The Advisory Committee was consulted and did not object to the Commission's conclusions.

Normal value

- (40) JSC Severstal was requested to submit a full questionnaire reply including information concerning domestic sales and cost of production of the product concerned. As explained under recital 10, this reply was verified at the premises of the company.
- (41) The normal value was established as described in recitals 20 to 26, i.e. either on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation or constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

Export prices

- (42) The investigation showed that the exports of the Russian exporting producer were made directly to unrelated customers in the Community and also via a related company located in Switzerland. Therefore, the export price was established according to the methodology explained under recitals 27 and 28, i.e. respectively on the basis of either the export prices actually paid or payable or a constructed export price based on the resale price to the first independent customer in the Community.
- (43) In the second case, adjustments were made for all relevant costs incurred by the related importer, including SG&A expenses, and a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation.

Comparison

- (44) The comparison was made on an ex-factory basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability. On this basis, allowances for differences in transport, level of trade, insurance, handling, loading and ancillary costs, credit, commissions and import charges were made.

Dumping margin for the cooperating company

- (45) The weighted average normal value of each type of the product concerned exported to the Community was compared with the weighted average export price of the corresponding type of the product concerned, as provided for under Article 2(11) of the basic Regulation.
- (46) On this basis, the provisional dumping margin, expressed as a percentage of the cif Community frontier price duty unpaid, is 9,5 %.

Residual dumping margin

- (47) In view of the established high level of cooperation for Russia, around 90 %, and in absence of indication that any exporting producer deliberately abstained from cooperating, the residual dumping margin is set at the level of the margin established for the only cooperating company, i.e. 9,5 % of the cif Community frontier price.

3. Turkey

- (48) As explained in recitals 4 and 7, and given the large number of exporting producers concerned in Turkey, sampling was applied. The companies selected in the sample are:
- Cayirova Boru San Ve Tic AS, Istanbul,
 - Yücel Boru Profil Endüstrisi AS, Istanbul,
 - Özdemir Boru Profil San.ve Ticaret AS, Eregli,
 - Toscelik Profil ve Sac. Endüstrisi AS, Iskenderun,
 - MMZ Onur Boru Profil Uretim, Istanbul.
- (49) As mentioned in recital 11, it should be noted that the company Toscelik Profil ve Sac was finally not able to supply all the requested information to the Commission services in due time. Therefore, it was eventually excluded from the sample but, for the reasons set out above in recital 11, was however still considered as cooperating.
- (50) The following companies were granted individual examination:
- Noksel Celik Boru Sanayi AS, Ankara,
 - Guven Boru ve Profil Sanayi ve Ticaret Ltd, Istanbul.
- (51) The following companies were not selected but agreed to cooperate:
- Goktas Yassi Hadde Mamülleri Sanayi ve Ticaret AS, Gebze-Kocaeli,
 - Yasan Yassi Metal San. Tic. AS, Istanbul,
 - Boral Boru Profil San. ve Tic. Ltd, Istanbul,
 - Umran Celik Boru Sanayii AS, Istanbul,
 - Borusan Birlesik Boru Fabrikalari AS, Istanbul,
 - Mannesmann Boru Endustrisi AS, Istanbul,
 - Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri,
 - Borutas Boru Sanayii ve Ticaret AS, Adapazari,
 - Cinar Boru Profil San. Tic. Ltd STI, Eregli,
 - Sevil Boru-Profil Sanayii ve Ticaret AS, Istanbul,
 - Özborsan Boru San.ve Ticaret AS, Istanbul.

Normal value

- (52) Given the significant inflation in Turkey, around 45 % in 2002, the Commission established normal value on a monthly basis for those types of the product concerned which were directly comparable to the types of hollow sections exported to the Community. In those cases where there were no sales or no representative sales of comparable types of hollow sections on the domestic market or where monthly domestic sales were not made in the ordinary course of trade, the Commission used the average prices of other exporting producers in the domestic market of the exporting country as a basis for establishing the normal value. Only in cases where the same types of hollow sections were not found in the sales of other exporting producers in the domestic market of the exporting country, normal values were constructed in accordance with Article 2(6) of the basic Regulation. For five cooperating exporting producers, their own cost of manufacturing plus the companies' own SG&A expenses and profits were used. For one company, given that its total domestic sales of the product concerned were not representative in comparison with its total export sales to the Community the Commission used the prices of other exporting producers in the domestic market of the exporting country as a basis for establishing the normal value.

Export price

- (53) The export price of products originating in Turkey is based on export sales made directly to independent customers in the Community and is thus established pursuant to Article 2(8) of the basic Regulation.

Comparison

- (54) Adjustments were made for rebates, discounts, transport, handling, charging, discharging costs, ancillary costs (bank charges), insurance and credit costs where appropriate.

Dumping margin

- (55) According to Article 2(11) of the basic Regulation, for each exporting producer the monthly weighted average normal value was compared to the monthly weighted average export price.

1. Cooperating exporting producers in the sample and exporting producers granted with an individual examination

- (56) It is the Commission's standard practice to establish one dumping margin for related exporting producers, in order to preclude the possibility that future exports to the Community might be channelled through the companies having the lower margin.
- (57) The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:
- Özdemir Boru Profil San.ve Ticaret AS, Eregli: 14,7 %,
 - MMZ Onur Boru Profil Uretim, Istanbul: 14,4 %,
 - Guven Boru ve Profil Sanayi ve Ticaret Ltd, Istanbul: 6,4 %,
 - Noksel Celik Boru Sanayi AS, Ankara: 5,3 %,
 - Yücel Boru Profil Endüstrisi AS, Istanbul: 4,2 %,
 - Cayirova Boru San Ve Tic AS, Istanbul: 4,2 %.

2. Other cooperating exporting producers not included in the sample

- (58) In order to establish the dumping margin to be applied to the cooperating Turkish producers not included in the sample, the Commission calculated a weighted average dumping margin for the producers in the sample, as stipulated in Article 9(6) of the basic Regulation.

(59) This exercise led to a weighted average dumping margin of 6,4 % for the following companies:

- Goktas Yassi Hadde Mamülleri Sanayi ve Ticaret AS, Gebze-Kocaeli,
- Yasan Yassi Metal San. Tic. AS, Istanbul,
- Boral Boru Profil San. ve Tic. Ltd, Istanbul,
- Umran Celik Boru Sanayii AS, Istanbul,
- Borusan Birlesik Boru Fabrikalari AS, Istanbul,
- Mannesmann Boru Endustrisi AS, Istanbul,
- Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri,
- Borutas Boru Sanayii ve Ticaret AS, Adapazari,
- Cinar Boru Profil San. Tic. Ltd STI, Eregli,
- Sevil Boru-Profil Sanayii ve Ticaret AS, Istanbul,
- Toscelik Profil ve Sac. Endüstrisi AS, Iskenderun,
- Özborsan Boru San.ve Ticaret AS, Istanbul.

3. Non-cooperating companies

(60) The level of cooperation for Turkey was high and the residual provisional dumping margin was set at the same level as for the highest margin level of a cooperating company, i.e. 14,7 %.

D. COMMUNITY INDUSTRY

1. Total Community production

(61) Within the Community, the product concerned is manufactured by 14 producers located in Austria, Belgium, Germany, Greece, France, Finland, Italy, Luxembourg, the Netherlands, Spain and the United Kingdom, on behalf of which the complaint was lodged, and by 12 other producers. It is considered that all the above 26 producers constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

(62) As provided for in the abovementioned notice of initiation, a sample of eight companies ⁽¹⁾ amongst the 14 complainant Community producers was selected. These companies fully cooperated in the investigation. The selection of the sample was made by the Commission primarily on the basis of the size of the relevant Community producers in terms of production and sales volume. Additionally, attention was also paid to the criterion of geographic coverage, in order to have a geographically balanced picture of the relevant industry.

(63) For information, the eight sampled Community producers alone account for 54 % of the total Community production, for 69 % of the Community industry's production and held, during the IP, a market share of 47 %.

(64) It is therefore considered that the 14 complainant Community producers (i.e. both the eight sampled Community producers and the six non-sampled but supporting Community producers) fulfil the requirements of Article 5(4) of the basic Regulation, since they account for a major proportion of the total Community production of the product concerned, in this case around 80 %. The 14 complainant Community producers are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the 'Community industry'.

⁽¹⁾ SRW GmbH, KEM SA, Arcelor Tubes France SA, ILVA SpA, Marcegaglia SpA, Voestalpine Krems GmbH, Rautaruukki Oyj Metform, Corus UK Ltd.

E. INJURY

1. Community consumption

	1998	1999	2000	2001	IP
Total EC consumption (tonnes)	2 566 399	2 779 176	2 811 285	2 796 609	2 722 450
<i>Index (1998 = 100)</i>	100	108	110	109	106

- (65) Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, the sales volumes of the other Community producers on the Community market, and Eurostat data for all EU imports, duly adjusted where appropriate.
- (66) On this basis, between 1998 and the IP, Community consumption of the product concerned increased by 6 %. Specifically, it increased by 8 % between 1998 and 1999 and remained broadly stable at this level until 2001. Between 2001 and the IP, it declined by 3 %. As the product concerned is primarily used in the engineering and construction sector, the development of consumption has to be seen against the background of activity growth in the Community economy at large and more precisely in the construction sector.

2. Decumulation of the imports from Russia from the imports from Turkey

- (67) 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. The margin of dumping established in relation to the imports from Russia and Turkey was more than *de minimis* as defined in Article 9(3) of the basic Regulation.
- (68) As regards the conditions of competition, the investigation showed that the product concerned imported from Russia and Turkey and those of the Community industry, considered on a type-by-type basis, were alike in all their essential physical and technical characteristics. Furthermore, on that basis, these products were interchangeable and were marketed in the Community during the period considered mostly through comparable sales channels (i.e. traders). Therefore, the imports of the products concerned were considered to compete with each other and with the ones produced in the Community.
- (69) The Commission assessed whether the volume of imports from each of these countries was not negligible. During the IP, consumption, as defined above, amounted to around 2 720 000 tonnes. During the same period, Russian exports to the Community of the product concerned amounted, according to Eurostat, to around 26 000 tonnes. To this amount should be added around a further 1 000 tonnes, as it was found during the verification visit that the cooperating Russian exporter had declared sales of the product concerned to a tariff heading which fell outside the scope of the proceeding. It is therefore provisionally considered that Russia has exported slightly less than 27 000 tonnes of the product concerned to the Community, which is just below the *de minimis* threshold. As a consequence, it is considered that provisional measures should not be imposed on imports originating in Russia. However, the proceeding should remain open and the matter will be investigated further in order to arrive at a definitive determination in this respect.

3. Imports originating in Turkey (the country concerned)

Volume

- (70) The volume of imports of the product concerned from Turkey into the Community increased by 30 % between 1998 and the IP. In detail, imports from Turkey remained relatively stable between 1998 and 1999. Subsequently, they increased sharply by 43 % between 1999 and 2000 from 135 357 tonnes to 195 331 tonnes. Between 2000 and 2001, they decreased by 8 %, and by a further 2 % between 2001 and the IP.

Market share

	1998	1999	2000	2001	IP
Volume of dumped imports (tonnes)	139 721	135 357	195 331	184 755	181 253
<i>Index (1998 = 100)</i>	100	97	140	132	130
Market share of dumped imports	5,4 %	4,9 %	6,9 %	6,6 %	6,7 %
<i>Index (1998 = 100)</i>	100	89	128	121	122

- (71) The market share held by the country concerned increased by 1,3 percentage point during the period considered from 5,4 % to 6,7 %. It first declined by 0,5 percentage point between 1998 and 1999, then increased by 2 percentage points to 6,9 % in 2000 before declining slightly to 6,7 % in the IP.
- (72) It should be noted that over the period 1998 to the IP, the increase in imports and market shares from the country concerned coincided with an increase in consumption of 6 %. Another element to take into consideration is the fact that Turkish producers of the product concerned make substantial profits on their domestic market. In these conditions, the volumes exported depend directly on what the Turkish domestic market can or cannot absorb. For this reason, Turkish export volumes and market share show this relatively uneven behaviour over time.

Prices

(a) Price evolution

- (73) Between 1998 and the IP, the average cif prices of imports of the product concerned originating in Turkey first decreased from 331 EUR/tonne in 1998 to 283 EUR/tonne in 1999, but then increased again to 370 EUR/tonne in 2000, declined to 310 EUR/tonne in 2001 and finally ended up a little lower than in 1998 at 314 EUR/tonne during the IP. Average import prices decreased by 14 % between 1998 and 1999 following the decrease in prices of the principal raw material (hot-rolled coils), before rising again by 26 % between 1999 and 2000. In 2001, they declined again, by 18 % and remained practically flat at this level during the IP.

(b) Price undercutting

- (74) A comparison for comparable models of the product concerned was made between the exporting producers' and the Community industry's average selling prices in the Community. To this end, Community industry's ex-works prices to unrelated customers, net of all rebates and taxes have been compared with the cif Community frontier prices of exporting producers of Turkey, duly adjusted for post importation costs, and at the same level of trade. The comparison showed that during the IP the products concerned originating in Turkey were sold in the Community at prices which undercut the Community industry's prices, ranging from 3,8 % to 5,6 %.
- (75) It should be noted that these price undercutting margins do not fully illustrate the effect of the dumped imports on prices of the Community industry, given that both price depression and price suppression were observed. These are evidenced by the fact that the Community industry made losses between 2000 and the IP, despite the fact that, during this period, it could have made a reasonable profit in the absence of dumping.

4. Situation of the Community industry

- (76) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.

Preliminary remarks

- (77) In view of the fact that sampling had been used with regard to the Community industry, the injury has been assessed both on the basis of information collected at the level of the entire Community industry (CI) and on the basis of information collected at the level of the sampled Community producers (SP).
- (78) Where recourse is made to sampling within the Community industry, it is the Commission's practice to establish certain injury indicators such as production, capacity, stocks, sales, market share and employment for the Community industry as a whole and to establish those injury indicators relating to the performances of individual companies, i.e. prices, costs of production, profits, on the basis of information found for the sampled Community producers.
- (79) The investigation carried out for the sampled Community producers has shown that their production, capacity, sales, market share and employment data are properly reflected in the information collected at the level of the Community industry.
- (80) The examination of certain injury indicators (sales volumes, sales prices, profitability ratios) was limited to the sales to unrelated customers. The investigation provisionally found that given that sales to related customers represented on average less than 10 % of the total sales volumes, these sales had no significant impact on the injury trends.

Data relating to the Community industry as a whole

(a) Production

	1998	1999	2000	2001	IP
CI production (tonnes)	1 832 957	2 006 449	1 958 808	2 011 134	1 967 189
<i>Index (1998 = 100)</i>	100	109	107	110	107

- (81) Community industry's production increased slightly (by 7 %) between 1998 and the IP. After an initial increase of around 9 % between 1998 and 1999, it then declined in 2000 by 2 %, increased again in 2001 by 3 % and finally declined by 3 % in the IP. The increase experienced in 1999 was due to the good economic climate, which also translated into a rising capacity utilisation rate. The production increase observed in 2001 aimed at recovering lost market shares, but this took place at the expense of profit margins.

(b) Capacity and capacity utilisation rates

	1998	1999	2000	2001	IP
CI production capacity (tonnes)	4 199 632	4 360 742	4 322 935	4 431 340	4 451 540
<i>Index (1998 = 100)</i>	100	104	103	106	106
CI capacity utilisation	44 %	46 %	45 %	45 %	44 %
<i>Index (1998 = 100)</i>	100	105	104	104	101

- (82) The reported capacity figures refer to technical capacity, by opposition with theoretical capacity, which implies that adjustments, considered as standards by the industry, for normal holidays, set-up time, maintenance and other normal stoppages have already been discounted. In spite of these adjustments, the complainant himself considers that it is impossible for an individual company to reach a capacity utilisation ratio of a 100 % over a full year. Instead, 80 to 85 % would be considered as an absolute maximum. It should also be noted that the same tube lines are used to manufacture either the product concerned or round tubes. Therefore an apportionment was consistently made for the full tube line capacity reported by each individual company in order to ensure that the capacity described below reflects only the capacity exclusively dedicated to the product concerned. On this basis, the production capacity increased slightly over the period under review. Between 1998 and the IP, the rise amounted to 6 %. It should be noted that a large part of this increase occurred in 1999, i.e. at a time when the Community industry was still profitable. Capacity remained stable in 2000, increased again in 2001 and remained stable at this level in the IP.
- (83) Capacity utilisation started from a level of 44 % in 1998, before increasing to 46 % in 1999, driven by strong demand and positive profit levels. In 2000, 2001 and the IP, it subsequently declined marginally to 45 % and then back to 44 %.

(c) Stocks

	1998	1999	2000	2001	IP
CI closing stock (tonnes)	206 252	210 124	211 253	213 275	234 515
<i>Index (1998 = 100)</i>	100	102	102	103	114

- (84) Community producers generally produce to order and therefore stocks are goods awaiting dispatch to customers. Therefore, the development of inventories does not appear to be relevant for the examination of the economic situation of the Community industry. However, for the sake of completeness, the evolution of stocks is analysed below. Inventories of finished products represent on average 13 % of the EC sales volumes. The level of closing stocks of the Community industry increased progressively throughout the period under review. At the end of the period under consideration, the level of stocks was 13 % higher than in 1998.

(d) Sales volume

	1998	1999	2000	2001	IP
CI EC sales volume to unrelated customers (tonnes)	1 572 688	1 745 239	1 680 037	1 746 527	1 684 314
<i>Index (1998 = 100)</i>	100	111	107	111	107

- (85) The sales by the Community industry on the Community market to unrelated customers increased by 7 % during the period considered from around 1 570 000 tonnes in 1998 to around 1 680 000 tonnes in the IP. It increased by 11 % in 1999, declined by 4 % in 2000, increased again by 4 % in 2001 and declined again by 4 % in the IP.
- (86) The development of sales volume should be seen in the light of the fact that the Community industry, when faced with increasing low priced imports originating in the country concerned, had the choice of either maintaining its sales prices at the expense of a negative development of its sales volume and market share, or to lower its sales prices and follow the trend of the imports concerned at the expense of its profitability. Between 1998 and 1999, the Community industry benefited from the growing market and increased both its sales volume and profit. However, in 2000, while the market was still growing, the Community industry lost both in terms of sales volumes and profits. In the following years, the Community industry attempted to maintain its sales volumes in a contracting market, but this took place at the expense of profitability.

(e) Factors affecting domestic prices

- (87) The investigation showed that dumped imports were undercutting the average depressed sales price of the Community industry by 5 % on average in the IP. However, on a type-by-type basis it was found that in some instances prices charged by the exporting producers concerned were even significantly lower than the 5 % average, undercutting off the Community industry's prices. The combination of this kind of undercutting with the increased level of dumped imports from Turkey certainly affected the domestic prices of the Community industry.

(f) Market share

- (88) The market share held by the Community industry first increased by almost one percentage point between 1998 and 1999, and then sharply dropped by almost three percentage points in 2000. It increased by some two percentage points in 2001 before declining marginally in the IP. As a result, the market share of the Community industry was, at the end of the period under review very close to the initial level observed in 1998.

(g) Growth

- (89) Between 1998 and the IP, when the Community consumption increased by 6 %, the sales volume of the Community industry increased by 7 %. The Community industry thus maintained broadly its market share, whereas the market share of the imports concerned increased by 1,3 percentage points during the same period. Thus, the Community industry maintained its presence in the market but this should be seen in the light of the development of profitability and return on investments.

(h) Employment

	1998	1999	2000	2001	IP
CI employment product concerned	2 750	2 766	2 787	2 780	2 772
<i>Index (1998 = 100)</i>	100	101	101	101	101

- (90) The level of employment of the Community industry remained stable between 1998 and the IP. It should be noted that these figures show a somewhat too positive picture as several companies were occasionally forced to resort to short time working, when demand was low.

(i) Productivity

	1998	1999	2000	2001	IP
CI productivity (tonnes per employee)	666	725	703	723	710
<i>Index (1998 = 100)</i>	100	109	105	109	106

- (91) Productivity of the Community industry's workforce, measured as output per person employed per year, first increased strongly by 9 % from 1998 to 1999, before dropping by 4 % between 1999 and 2000, before rising in 2001 and then declining slightly in the IP. At the end of the period under review, the productivity was 6 % higher than that observed at the start of the period. It should be noted that productivity, as it is calculated here (production per employee per year) by definition does not capture either the reduction of working time observed since 1998, notably in France with the implementation of the 35-hour working week, or the fact that certain companies resorted to short-time working (as mentioned above). If the productivity per worker per year rose by a mere 6 % since 1998, this hides that productivity per hour worked progressed much more.

(j) Magnitude of dumping margin

- (92) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the country concerned, this impact cannot be considered to be negligible, especially in transparent and thus highly price sensitive markets like the one of the product concerned.

(k) Recovery from the effects of past dumping or subsidisation

- (93) Considering that this is a new anti-dumping proceeding and that no evidence of previous dumping has been provided, the issue is not considered relevant.

Data relating to the sampled Community producers

(a) Sales prices

- (94) Unit sales price first decreased by 9 % in 1999, from EUR/tonne 400 to 365, then increased by 16 % in 2000 to EUR 427, before dropping by 11 % in 2001 to EUR 385, and stabilising at that level in the IP. This relatively uneven development is explained by the following. The prices of the product concerned sold by the Community industry are driven by two major forces: the price of the raw material, normally hot-rolled coils (HRC), which typically represents some 70 % of the total costs of production of the final product, and the competitive situation on the market.
- (95) Between 1998 and 1999, the costs of production of the Community industry decreased by 10 % due to an important decrease in the prices of HRC. Between 1999 and 2000 the Community industry's costs increased by 20 % as a consequence of an increase in the cost of HRC. Between 2000 and 2001, costs of production decreased by 5 %, and remained broadly flat during the IP. Therefore, during the whole period under review (1998 — IP), total costs of production increased by 3 %, whereas unit sales prices declined by 5 % and as a consequence, the Community industry suffered in terms of decreasing profitability.

(b) Wages

	1998	1999	2000	2001	IP
SP annual labour cost per employee (000 EUR)	39,4	39,5	40,3	40,9	41,3
<i>Index (1998 = 100)</i>	100	100	102	104	105

- (96) Between 1998 and the IP, the average wage per employee increased by 5 %. This figure is lower than both the consumer price inflation observed in the Community during the same period (7 %) and than the rate of increase of the average nominal compensation per employee (12 %) observed during the same period in the Community (all sectors).

(c) Investments

	1998	1999	2000	2001	IP
SP net investments (000 EUR)	20 227	28 432	26 223	30 079	32 656
<i>Index (1998 = 100)</i>	100	141	130	149	161

- (97) The Community industry's total investments in the product concerned increased by around 60 % between 1998 and the IP. The investigation showed that it is vital for this industry to maintain a certain level of investment in order to stay competitive. Most of the investments were made for modernisation purposes, and very little for capacity augmentation purposes. However, it should be noted that even a replacement investment normally tends to raise slightly the technical capacity, simply because the new equipment is more efficient and productive than the previous one.

(d) Profitability and return on investments

	1998	1999	2000	2001	IP
SP profitability of EC sales to unrelated (% of net sales)	1,4 %	3,3 %	- 1,0 %	- 6,5 %	- 6,1 %
<i>Index (1998 = 100)</i>	100	231	- 69	- 455	- 428
SP ROI (profit in % of net book value of investments)	20,0 %	24,5 %	5,0 %	- 14,3 %	- 9,8 %
<i>Index (1998 = 100)</i>	100	122	25	- 71	- 49

- (98) During the period considered, profitability of sales in the Community to unrelated customers in terms of return on net sales before taxes decreased from 1,4 % in 1998 and 3,3 % in 1999 to - 1,0 % in 2000, - 6,5 % in 2001 and - 6,1 % in the IP. The Community industry was still making profits in the years 1998 and 1999, when dumped imports had a relatively small market share and when demand was growing strongly (+ 8 % between 1998 and 1999).
- (99) Profitability became negative after 1999, reaching a level insufficient to ensure the long term viability of the Community industry. It should be recalled that prices increased by 5 % between 1999 and the IP while costs increased by 14 %.
- (100) The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the above profitability trend over the whole period considered. It went down from 20 % and 24 % in 1998 and 1999 to - 14 % in 2001 and - 10 % in the IP.

(e) Cash flow and ability to raise capital

	1998	1999	2000	2001	IP
SP cash flow (000 EUR)	39 936	46 518	22 698	- 6 475	- 6 017
<i>Index (1998 = 100)</i>	100	116	57	- 16	- 15

- (101) The net cash in (out) flow from operating activities, developed from around EUR 40 000 000 EUR in 1998 to around EUR - 6 000 000 in the IP. It peaked in 1999, but subsequently dropped sharply in 2000 and reached a low in 2001. As a consequence, the Community industry is, on average, increasingly resorting to debt in order to help finance its current activity and investment.
- (102) The investigation has shown that capital requirements of several sampled Community producers have been adversely affected by their difficult financial situation. Although most of these companies are part of large steel companies, capital requirements are not always met to the desired level, as financial resources are generally allocated within these groups to the most profitable entities.

5. Conclusion on injury

- (103) Between 1998 and the IP, the volume of the dumped imports of the product concerned originating in Turkey increased significantly by 30 % and its share of the Community market went from 5,4 % in 1998 to 6,7 % in the IP. The largest increase took place between 1999 and 2000, when the volume of dumped imports increased by 43 % gaining two percentage points in market shares. The average prices of dumped imports from Turkey were consistently lower than those of the Community industry during the period considered. Furthermore, during the IP, the prices of the imports from the country concerned undercut those of the Community industry by around 5 % on average.
- (104) A deterioration of the situation of the Community industry has been found over the period considered. Between 1998 and the IP, several injury indicators developed negatively: the unit sales price declined by 4 % while the unit cost of production increased by 3 %, the profitability went from 1 to 4 % in 1998 and 1999 to - 6 % in 2001 and the IP, the return on investments and the cash-flow from operating activities followed the same negative trend. Some injury indicators remained broadly stable: capacity utilisation, market share of the Community industry, employment. Finally, some indicators experienced apparent positive developments: over the whole period under review, production increased by 7 %, capacity by 6 %, EC sales volumes by 7 %, in line with the development of consumption, investments (consisting mainly of replacement investments) by 61 %. However, it should be noted that the hike in the production volume, in capacity utilisation and in the EC sales volume occurred mostly between 1998 and 1999, at a time when demand was booming. Subsequently, all three data series generally declined. In the light of the foregoing it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

F. CAUSATION

1. Introduction

- (105) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports of the product concerned originating in the country concerned have caused injury to the Community 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 be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effects of the dumped imports

- (106) The significant increase in the volume of the dumped imports by 30 %, i.e. from 140 000 tonnes in 1998 to 181 000 tonnes in the IP, and of its corresponding share of the Community market, i.e. from 5,4 % in 1998 to 6,7 % in the IP as well as the undercutting found (around 5 % on average during the IP) coincided with the deterioration of the economic situation of the Community industry. This market penetration of the dumped imports was particularly significant between 1999 and 2000, when the import volume increased by 43 % and the market share of the dumped imports rose by two percentage points. During the same period, the Community industry suffered a loss of sales volume (- 4 %), market share (- 3 percentage points) and a deterioration of profitability (- 4,3 percentage points). This development should be seen against the background of the slightly growing Community consumption of the product concerned during the years 1999 and 2000. In addition, dumped prices were below those of the Community industry throughout the period considered and exerted a pressure on them which prevented the Community industry's prices from developing at the same rate as the increase in the costs of production between 1999 and the IP, thereby triggering the observed drop into negative financial results from 2000 onwards. It is therefore considered that the dumped imports had a significant negative impact on the situation of the Community industry.

3. Effects of other factors

(a) *Relatively small market share of the dumped imports*

- (107) The Commission examined whether the fact that dumped imports originating in Turkey held a relatively small and slightly growing market share was such as to break the causal link between the dumped imports from the country concerned and the material injury suffered by the Community industry. As already addressed under recitals 71 and 72, the market share of dumped imports originating in Turkey increased by 1,3 percentage points, from 5,4 % in 1998 to 6,7 % in the IP. A permanent undercutting of Community industry's prices by prices of the product concerned originating in Turkey has been found under recitals 73 and 74.
- (108) It should first be recalled that the investigation found that Turkish producers of the product concerned made substantial profits on their domestic market. In these conditions, the volumes exported depend directly of what the Turkish domestic market can or cannot absorb. For this reason, Turkish export volumes and market share show a relatively uneven behaviour over time.
- (109) The market structure of the product concerned is characterised by the relative scattering of the production and by the absence of a genuine dominant position held by one single producer. Indeed, the largest Community producer held during the IP a market share of 10,6 %, whilst seven other Community producers held a market share comprised between 5 % and 10,5 %
- (110) The product concerned is typically a commodity. It is homogeneous, interchangeable and sold in a transparent market. It should be noted that in terms of volumes, the primary buyers of the product concerned are stockists, who permanently compare prices and, to a large extent, set the final price.
- (111) All these elements bring the Commission to the conclusion that in this highly price sensitive market, even relatively small quantities can trigger a depressive price effect on the whole Community market.

(b) *Performance of other Community producers*

- (112) No other Community producer not belonging to the Community industry cooperated in the investigation. Based on best available evidence, the EC sales volume of the other producers has remained relatively stable around 490 000 tonnes per year throughout the period under review. As far as their market share is concerned, it declined from 19,2 % in 1998 to 18,1 % in the IP. The above indicates that other producers in the Community did not gain any market shares at the expense of the Community industry, but rather experienced similar market losses as the Community industry.

(c) *Trade protective measures imposed by the United States of America and other countries, impact of the 11 September 2001 event and export performance of the Community industry*

- (113) One interested party claimed that part of the injury suffered by the Community industry could be attributed to the closure of several important export markets for the Community industry, due to the various safeguard clauses imposed in the United States of America and other countries on the product concerned, and to the impact on global demand of the 11 September 2001 event.
- (114) Indeed, EC exports of the product concerned are subject to several national safeguard measures implemented from 2001 onward in the wake of the US measures. However, the Community industry increased its export sales volumes by 33 %, namely from around 85 000 tonnes in 1998 to around 114 000 tonnes in the IP, the major part of this increase taking place between 1998 and 2000. Export sales represented some 7 % of the total sales of the product concerned of the Community industry during the IP. It should also be noted that the aforementioned profitability refers exclusively to EC sales of the product concerned. By contrast, the profitability of export sales was positive throughout 1998 — IP, with ratios ranging between 18 % and 9 %. It is therefore considered that the export activity cannot have contributed to the injury suffered by the Community industry.

	1998	1999	2000	2001	IP
CI sales volume export (tonnes)	85 220	98 878	111 910	113 228	114 037
<i>Index (1998 = 100)</i>	100	116	131	133	134

(d) *Impact of the economic crisis in South East Asia*

- (115) One interested party argued that any injury suffered by the Community industry was caused by the 1997 and 1998 economic crisis in South East Asia. It should be noted that the Asian crisis may be a cause of the decrease in the price of the steel products and therefore of the main raw material (HRC) used in the production of the product concerned. Therefore, if it could have affected the upstream industry, the producers of the product concerned could benefit from lower prices of the main raw material. In fact when in 1999 the HRC prices were at their lowest level, the Community industry was able to decrease its prices and increase its sales. It should also be noted that the investigation did not show any surge in imports of the product concerned from Asian countries. In view of the above, it is provisionally concluded that the Asian crisis did not contribute to the injury suffered by the Community industry.

(e) *Imports from other third countries*

- (116) According to the available information, the total import volume of the product concerned originating in third countries increased by 7 % from 197 000 tonnes in 1998 to 211 000 tonnes in the IP, and their market share first increased from 7,7 % in 1998 to 10 % in 2000, before decreasing to 7,7 % in the IP. As regards the weighted average cif prices of these imports, they decreased by 12 % between 1998 and the IP, from EUR/tonne 444 in 1998 to EUR/tonne 390 in the IP. It should be noted that the prices of imports from other third countries remained substantially higher than the prices of the imports from the country concerned throughout the period considered.
- (117) It was further found that only imports originating in two countries other than Turkey had a share of the Community market above 1 % during the IP, i.e. Hungary and Slovenia. Regarding Hungary, it was found that its market share decreased from 1,9 % in 1998 to 1,7 % in the IP. Concerning Slovenia, its market share, which was nil in 1998, decreased from 1,5 % in 1999 to 1,2 % in the IP. Although they appear to undercut the Community industry's prices, cif import prices of these two countries have always been above those of the country concerned. Furthermore, no evidence is available that would indicate that these imports may have been made at dumped prices. In conclusion, any effect of these imports on the Community industry's situation was only marginal, given the average prices, the small volume of these imports and their limited market share. It is therefore provisionally concluded that the imports from third countries only contributed to the injury suffered by the Community industry to a very limited extent, if at all, and that their effect was consequently not such as to alter the finding that there is a genuine and substantial relationship of cause and effect between the dumped imports from the country concerned and the material injury suffered by the Community industry.

(f) *Over-investment and over-capacity*

- (118) Several interested parties claimed that the Community industry, like the global steel industry, suffers from chronic over-capacity, due, *inter alia*, to the slow world market growth for steel products, the fact that steel is increasingly replaced by other materials in some applications, and the improvement in steel's own mechanical properties such as strength and stiffness. It is therefore argued that any injury felt by the Community industry is merely the result of a systematic over-spending in investment goods, conducive to the accumulation of excess capacities.

- (119) Investment carried out by the Community industry has consisted mainly in the replacement and modernisation of obsolete tube lines, and in the construction of new, fully-automated warehouses. Little of this investment has served for capacity augmentation purposes. It should be noted that even a replacement investment normally tends to raise slightly the technical capacity, simply because the new equipment is more efficient and productive than the previous one. The augmentation of capacity, which is rather limited (6 % over four years) has also to be seen against the following background: the Community industry was profitable at the start of the period under review and demand was booming. *A contrario*, the already high capacity figures observed in the years 1998 and 1999, at a time when volumes of dumped imports were low, did not prevent the Community industry from making profits in these years. Finally, it should be noted that one sampled Community producer closed one plant in 1998, representing a capacity of 50 000 tonnes. It is therefore provisionally concluded that the alleged over-investment and over-capacity only contributed to the injury suffered by the Community industry to a very limited extent, if at all, and that their effect was consequently not such as to alter the finding that there is a genuine and substantial relationship of cause and effect between the dumped imports from the country concerned and the material injury suffered by the Community industry.

(g) *Decline in demand illustrated by the drop in the activity of the construction sector*

- (120) One interested party claimed that any injury felt by the Community industry was linked to the downturn experienced by the primary consumer of the product concerned, namely the construction sector. To support its allegation, the said party presented a Eurostat data series referring to the EU production in the construction sector, which shows a flattening of growth in this specific sector in 2000 and 2001, followed by a decline from the last quarter of 2001 onwards.
- (121) The 2002 recession in the construction sector is acknowledged and is indeed confirmed by the consumption figures of the product concerned presented above. These latter show that consumption of the product concerned peaked in 2000, and subsequently declined in both 2001 and the IP. However, it should be borne in mind that the major shift from a profitable situation of 3,3 % to a loss situation of around 1 % occurred between 1999 and 2000, in spite of the market peaking that year. The same year, import volumes from Turkey had sharply increased by 43 % and their market share from 4,9 % to 6,9 %. It is therefore provisionally concluded that the decline in demand illustrated by the drop in the activity of the construction sector only contributed to the injury suffered by the Community industry to a very limited extent, if at all, and that the effect was consequently not such as to alter the finding that there is a genuine and substantial relationship of cause and effect between the dumped imports from the country concerned and the material injury suffered by the Community industry.

4. Conclusion on causation

- (122) In conclusion, it is confirmed that the material injury of the Community industry, which is characterised especially by the decline in unit sales price (4 %) while the unit cost of production increased by 3 %, the drop in profitability from 1998 and 1999 to 2001 and the IP, the similar drop in the return on investments and the cash flow from operating activities was caused by the dumped imports concerned.
- (123) Indeed, the effects of the relatively small market share of the dumped imports, of the performance of other Community producers, of trade protective measures imposed by the US and other countries, of the impact of the 11 September 2001 event and of the export performance of the Community industry, of the economic crisis in South East Asia, of the imports from other third countries, of alleged over-investment and over-capacity, of the decline in demand illustrated by the drop in the activity of the construction sector on the Community industry's negative developments was non-existent or only very limited and consequently not such as to alter the finding that there is a genuine and substantial relationship of cause and effect between the dumped imports from the country concerned and the material injury suffered by the Community industry.

- (124) It is therefore provisionally concluded that the dumped imports originating in Turkey have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

G. COMMUNITY INTEREST

- (125) The Commission examined whether, despite the conclusions on dumping, injury and causation, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the Commission considered the likely impact of measures for all parties concerned in the investigation.

1. Interest of the Community industry

Nature and structure of the Community industry

- (126) The Community industry is composed of 14 companies. Almost all of them are part of international groups acting mainly in the steel sector. Many of them purchase the main raw material from other companies of their group at market prices. The Community industry employed a total of around 160 000 people out of which 2 772 were employed directly for the product concerned in the IP.

Possible effects of the imposition/non-imposition of measures on the Community industry

- (127) Following an imposition of measures, it is expected that the volume of sales of the product concerned by the Community industry on the Community market would rise. This would enable the Community industry to gain market shares and, by increasing capacity utilisation, decrease unit production costs and further increase productivity. Furthermore, the level of the Community industry's prices could increase moderately, although certainly not by the level of any anti-dumping duty since competition will still remain amongst Community producers, imports originating in the country concerned made at non-dumped prices and imports originating in other third countries. In conclusion it is expected that the increase in production and sales volume, on the one hand, and the further decrease in unit costs, on the other hand, perhaps combined with a moderate price increase, will allow the Community industry to improve its financial situation.
- (128) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the Community industry will continue. The Community industry suffers particularly from its loss-making situation. Indeed, in view of the material injury already suffered during the IP and also given the downturn evident in the construction industry since the start of 2002, it is obvious that the financial situation of the Community industry will deteriorate further in the absence of any measures. This will in all likelihood lead to cuts in production, closures of certain production lines and therefore threaten employment and investments in the Community.

Conclusion

- (129) In conclusion, the imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping found.

2. Interest of unrelated importers/traders in the Community

- (130) The distribution of the product concerned in the Community is characterised by the presence of importers/traders who trade in a large number of other products as well. Both Community industry and exporting producers sell their products in the Community through traders. Given the large number of importers involved, the Commission decided to apply sampling pursuant to Article 17 of the basic Regulation and announced this in the notice of initiation accordingly. The Commission requested all 102 importers listed in the complaint to reply to the questions listed in the Notice of Initiation, i.e. basically their total turnover, their total number of employees, their volume and value of imports into and resales made in the Community market during the IP of the product concerned.

- (131) Twelve importers agreed to be included in the sample and provided the requested basic information within the deadline. In view of this situation, it was decided to send the questionnaire intended for importers to all the 12 abovementioned companies. Only six ⁽¹⁾ out of these 12 importers finally fully cooperated and filled out the questionnaire.
- (132) The six cooperating importers represent about 45 % of the total import volume of the product concerned from the country concerned in the Community during the IP. Should anti-dumping measures be imposed, it is possible that the level of imports originating in the country concerned may decrease. Furthermore, it cannot be excluded that the imposition of anti-dumping measures may result in a moderate increase in the prices of the product concerned in the Community, thus affecting the economic situation of importers and traders. However, the impact of any anti-dumping duty on the situation of importers and traders should be seen in the light of the small part of their overall activities represented by trade in the product concerned. On the basis of the information provided by the above cooperating importers, it has been found that the product concerned imported from Turkey represented on average about 12 % of the cooperating companies' total turnover. Likewise, the investigation showed that the proportion of employees directly or indirectly involved in the trading of the product concerned represented only 23 % of a total staff of 107 employees of the above cooperating importers. Thus, the effect of any measures on the importers' overall business would be limited. Furthermore, the effect on importers of the increase in the prices of imports of the product concerned will depend on their ability to pass on increases in prices to their customers. The low proportion of the product concerned in users' total costs should make it easier for the importers to pass any price increase on to users. On this basis, it has been provisionally concluded that the imposition of anti-dumping measures is not likely to have a serious negative effect on the situation of importers in the Community.

3. Interest of the user industry

- (133) The main user of the product concerned in the Community is the construction industry. Consequently, the demand for the product concerned is primarily dependent upon the evolution of construction works in the private and industrial sectors. Questionnaires were sent to 11 associations of users which were invited to forward copies of the questionnaire intended for users to those of their members which were concerned by the investigation. No questionnaire replies were received by the Commission either from interested users or their representative associations. Given the absence of interest of the users of the product concerned, it can be provisionally concluded that the imposition of any antidumping measure is unlikely to affect seriously their situation.

4. Conclusion on Community interest

- (134) The effects of the imposition of measures can be expected to afford the Community industry with the opportunity to regain lost sales and market shares and to improve its profitability. On the other hand, in view of the deteriorated situation of the Community industry, there is a risk that in the absence of measures, certain Community producers may close down their production lines or even whole production facilities and lay-off part of their workforce. Whilst some negative effects are likely to result in the form of decrease in the volumes imported and moderate price increases for the importers/traders, the extent of these may be reduced by passing the increase on to the users. Users, in turn, are unlikely to suffer serious consequences from such an increase given the likely low incidence of the product concerned on their final products. In the light of the above, it is provisionally concluded that no compelling reasons exist for not imposing measures in the present case and that the application of measures would be in the interest of the Community.

⁽¹⁾ Metallurgica Piemontese Sas, Transider SA, Bemaco Steel Ltd, Eurosteel Products Ltd, Steel Traders Ltd, Thyssen Mannesmann UK Ltd.

H. PROVISIONAL ANTI-DUMPING MEASURES

- (135) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be taken in order to prevent further injury to the Community industry by the dumped imports.

1. Injury elimination level

- (136) The level of the provisional anti-dumping measures should be sufficient to eliminate the injury to the Community industry caused by the dumped imports, without exceeding the dumping margins found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs and obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.
- (137) On the basis of the information available, it was preliminarily found that a profit margin of 3,3 % of turnover, which the Community industry achieved in 1999, could be regarded as an appropriate level which the Community industry could be expected to obtain in the absence of injurious dumping. The necessary price increase was then determined on the basis of a comparison, at the same level of trade, of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of each company composing the Community industry to a break-even point and by adding the abovementioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.
- (138) The individual company anti-dumping duty rates specified in this document 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 country 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'.
- (139) 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 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. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

2. Proposed provisional measures

- (140) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, a provisional anti-dumping duty should be imposed in respect of imports originating in Turkey at the level of the dumping margins found, as these were found to be lower than the injury margins.

3. Undertakings

- (141) Pursuant to Article 46 of Decision No 1/95 of the EU-Turkey Association Council on implementing the final phase of the customs union, cooperating exporting producers in the Turkey received early information on the findings of the investigation. A number of exporting producers, namely Özdemir Boru Profil San.ve Ticaret AS, MMZ Onur Boru Profil Uretim and Guven Boru ve Profil Sanayi ve Ticaret Ltd, offered price undertakings in accordance with Article 8(1) of the basic Regulation.
- (142) In this respect, the Commission has noted that:
- the product concerned is a commodity product with a considerable volatility in prices even in the very short term, and therefore not suitable for a fixed price undertaking: the volatility is partially due to the variation in prices of raw materials, namely hot-rolled coils, which constitute major but variable components of the cost of production. Moreover, volatility is also linked to currency exchanges rates, which are stable within the Community except for the United Kingdom, Sweden and Denmark, but fast changing with regard to the United States Dollar, the currency in which the transactions are made in Turkey. A monthly revision of prices would be necessary,
 - if the MIPs (minimum import prices) were indexed to the price of hot-rolled coils, different indexing formulae would have to be established by subproduct group, since the energy and manpower per tonne vary between sizes. For this reason, should a review formula system be implemented, it would be necessary to establish between three and four subformulae for each category of product according to the size range,
 - the product has a very large number of presentations (up to 250) given that several factors (steel grade, sizes, thickness,..) affect prices. This renders customs control unduly burdensome and complicated.
- (143) Moreover, some of the producers who offered price undertakings export a variety of steel products such as welded tubes, structural pipes, carbon steel tubes, square tubing, rectangular tubing, etc., which are only partially subject to the anti-dumping investigation. The risk of compensation in prices for the different products exported to the same customers is therefore high. On a general basis, the Community industry also claimed that undertakings, and thus minimum prices, would clearly not be appropriate measures with regard to the product concerned for the same reasons.
- (144) In light of the above, these offers of price undertakings were rejected.

I. FINAL PROVISION

- (145) 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 duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of hollow sections which consist of welded pipes, tubes and hollow profiles of a square or rectangular cross-section of iron or steel with the exception of those made of stainless steel or of a perimeter greater than 600 mm, currently classifiable within CN codes ex 7306 60 31 (TARIC code 7306 60 31 90) and ex 7306 60 39 (TARIC code 7306 60 39 90), and originating in Turkey, and originating in Turkey.

2. The rate of the provisional duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following manufacturers shall be as follows:

Country	Company	Provisional anti-dumping duty (%)	TARIC additional code
Turkey	Özdemir Boru Profil San.ve Ticaret AS, Eregli	14,7	A446
	MMZ Onur Boru Profil Uretim, Istanbul	14,4	A447
	Guven Boru ve Profil Sanayi ve Ticaret Ltd, Istanbul	6,4	A448
	Noksel Celik Boru Sanayi AS, Ankara	5,3	A449
	Yücel Boru Profil Endüstrisi AS, Istanbul	4,2	A450
	Cayirova Boru San Ve Tic AS, Istanbul	4,2	A451
	Goktas Yassi Hadde Mamülleri Sanayi ve Ticaret AS, Gebze-Kocaeli	6,4	A452
	Yasan Yassi Metal San. Tic. AS, Istanbul	6,4	A453
	Boral Boru Profil San. ve Tic. Ltd, Istanbul	6,4	A454
	Umran Celik Boru Sanayii AS, Istanbul	6,4	A455
	Borusan Birlesik Boru Fabrikalari AS, Istanbul	6,4	A456
	Mannesmann Boru Endustrisi AS, Istanbul	6,4	A457
	Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri	6,4	A458
	Borutas Boru Sanayii ve Ticaret AS, Adapazari	6,4	A459
	Cinar Boru Profil San. Tic. Ltd STI, Eregli	6,4	A460
	Sevil Boru-Profil Sanayii ve Ticaret AS, Istanbul	6,4	A461
	Toscelik Profil ve Sac. Endüstrisi AS, Iskenderun	6,4	A462
	Özborsan Boru San.ve Ticaret AS, Istanbul	6,4	A463
All other companies	14,7	A999	

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

4. The release for free circulation in the Community 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.

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties requesting disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, shall present their views in writing and request a hearing from the Commission within one month of the date of entry into force of this regulation.

2. Pursuant to Article 21(4) of Regulation No 384/96, 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, 14 July 2003.

For the Commission
Pascal LAMY
Member of the Commission
