

COMMISSION REGULATION (EC) No 289/2009

of 7 April 2009

imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China

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 Communities ⁽¹⁾, (basic Regulation) and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 9 July 2008, the Commission announced, by a notice published in the *Official Journal of the European Union* ⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of certain seamless pipes and tubes (SPT) of iron or steel originating in the People's Republic of China (the 'country concerned' or 'the PRC').
- (2) The proceeding was initiated as a result of a complaint lodged on 28 May 2008 by the Defence Committee of the Seamless Steel Tubes Industry of the European Union (complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of certain seamless pipes and tubes of iron or steel. The complaint contained evidence of dumping of the said product and of a foreseeable and imminent threat 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 complainant, other known producers in the Community, the exporting producers, importers, suppliers and users known to be concerned, as well as their associations, and the representatives of the exporting country, 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.

- (5) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Ten (groups of) companies requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET.

- (6) In view of the apparent high number of exporting producers, importers and Community producers, sampling was envisaged in the notice of initiation for the determination of dumping and injury, 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, importers and Community producers 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 concerned during the investigation period (1 July 2007 – 30 June 2008).

- (7) After examination of the information submitted, and given the high number of exporting producers and Community producers which indicated their willingness to cooperate, it was decided that sampling was necessary with regard to these producers. Given the limited number of importers that indicated their willingness to cooperate it was decided that sampling was not necessary with regard to unrelated importers.

- (8) The Commission sent questionnaires to the sampled exporting producers, sampled Community producers, to importers, and to all known users and user associations. Full questionnaire replies were received from the sampled exporting producers in the PRC, from all sampled Community producers with the exception of one company which only provided partial information, six importers and five users.

- (9) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury or threat of injury and Community interest. Verification visits were carried out at the premises of the following companies.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ C 174, 9.7.2008, p. 7.

Exporting producers in the PRC

- Yan Link Steel Group (Hubei Xinyegang Steel Co., Ltd and Daye Special Steel Co., Ltd),
- Hengyang Valin Group (Hengyang Valin Steel Tube Co., Ltd and Hengyang Valin MPM Co., Ltd), and,
- Shandong Luxing Steel Pipe Co. Ltd.

Community producers

- Vallourec & Mannesmann France, Boulogne-Billancourt, France,
- Vallourec & Mannesmann Germany GmbH, Düsseldorf, Germany,
- Tenaris-Dalmine SpA, Dalmine, Italy,
- ArcelorMittal Tubular Products Ostrava, Ostrava, Czech Republic,
- ArcelorMittal Tubular Products Roman SA, Roman, Romania,
- Tubos Reunidos SA, Amurrio Spain,
- Productos Tubulares SA, Valle de Trapaga, Spain.

Related traders

- Almacenes Metalurgicos, SA, Barcelona, Spain.

Unrelated importers

- Jan van Meever BV, Meerkerk, the Netherlands,
- Comercial de Tubos SA, Alcalá de Henares, Spain.

Community user

- Erne Fittings GmbH, Schlins, Austria.

- (10) In light of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

- Vallourec & Mannesmann Tubes, Houston, Texas, USA.

3. Sampling

- (11) With regard to exporting producers the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which can reasonably be investigated within the time available. The sample selected consists of four (groups of) companies, representing 70 % of the

export volume of the cooperating parties from the PRC to the Community. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

- (12) With regard to Community producers, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of production of the like product in the Community, which could reasonably be investigated within the time available. The sample selected consists of 5 groups of companies (a total of 9 companies), representing 62 % of total production in the Community. In accordance with Article 17(2) of the basic Regulation, the cooperating producers were consulted and raised no objection to the selected sample. Since the number of cooperating Community importers was limited, it was decided that in their case the use of sampling techniques was not necessary.

4. Investigation period

- (13) The investigation of dumping and injury covered the period from 1 July 2007 to 30 June 2008 (IP). The examination of trends relevant for the assessment of injury covered the period from 2005 to the end of the investigation period (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. Product concerned**

- (14) The product concerned is certain seamless pipes and tubes, of iron or steel, of circular cross-section, of an external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis⁽¹⁾, originating in the People's Republic of China (the product concerned). The notice of initiation (see recital 1 above) indicated that normally the product concerned is declared within CN codes ex 7304 11 00, ex 7304 19 10, ex 7304 19 30, ex 7304 22 00, ex 7304 23 00, ex 7304 24 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 80, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 89, ex 7304 59 92 and ex 7304 59 93 and that these CN codes were only given for information. However, the investigation established that three of these CN codes do not refer to the product concerned, i.e. ex 7304 11 00, ex 7304 22 00 and ex 7304 24 00, and that five other CN codes were missing, i.e. ex 7304 31 20, ex 7304 39 10, ex 7304 39 52, ex 7304 51 81 and ex 7304 59 10.

⁽¹⁾ The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-535-67, published by the International Institute of Welding (IIW).

- (15) The product concerned is used in a wide variety of applications, like for mechanical uses (including automotive and engineering), in the construction business for piling, for power generation like boiler tubes, as oil country tubular goods (OCTG) used for drilling, casing and tubing in the oil industry, and as line pipes to transport liquids or gases.
- (16) SPT take very different forms at the time of their delivery to the users. They can be e.g. galvanised, threaded, delivered as green tubes (i.e. without any heat treatment), with special ends, cut to size or not. There are many different parameters defining the properties of a tube, which explains why most of the SPT are made upon customers' order. SPT are normally connected by welding. However, in particular cases they can be connected by their thread or be used alone, although they remain weldable.
- (17) The investigation has shown that, despite differences in final applications of various types of seamless pipes and tubes, the different types of the product concerned all share the same basic physical, chemical and technical characteristics. They are therefore considered to constitute one single product.
- (18) An association of Chinese producers claimed that OCTG pipes and tubes should be excluded from the definition of product concerned because they have different uses, different specifications, and different characteristics and are not interchangeable with other pipes and tubes, and the volumes of export from the PRC to the EU are limited. However, the investigation showed that OCTG pipes and tubes have, *inter alia*, comparable chemical characteristics to other SPT types since they all fall within the 0,86 CEV threshold. Furthermore, they share other basic characteristics with the remaining SPT types, such as outside diameter and wall thickness. As far as the end-uses of the OCTG pipes and tubes are concerned, it was found that certain OCTG pipes and tubes are interchangeable with other non-alloy steel tubes. Given that OCTG pipes and tubes have the same essential characteristics as other seamless pipes and tubes and they are interchangeable to a certain extent, it was provisionally concluded that there were no grounds to exclude this type from the product definition.

2. Like product

- (19) The product concerned and the seamless pipes and tubes produced and sold on the domestic market of the PRC, and on the domestic market of the USA, which served provisionally as an analogue country, as well as the seamless pipes and tubes produced and sold in the Community by the Community industry were found to have the same basic physical, chemical and technical

characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment (MET)

- (20) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (21) Briefly, and for ease of reference only, these criteria are set out in summarised form below:
1. business decisions and costs are made in response to market conditions and without significant State interference;
 2. accounting records are independently audited, in line with international accounting standards and applied for all purposes;
 3. there are no significant distortions carried over from the former non-market economy system;
 4. legal certainty and stability is provided by bankruptcy and property laws;
 5. currency exchanges are carried out at the market rate.
- (22) In the present investigation, three of the sampled exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines:
- Yan Link Steel Group (Hubei Xinyegang Steel Co., Ltd and Daye Special Steel Co., Ltd),
 - Hengyang Valin Group (Hengyang Valin Steel Tube Co., Ltd and Hengyang Valin MPM Co., Ltd), and,
 - Shandong Luxing Steel Pipe Co. Ltd.
- (23) For the abovementioned cooperating exporting producers, the Commission sought all information deemed necessary and verified the information submitted in the MET claim at the premises of the companies in question as deemed necessary.
- (24) The investigation revealed that MET could not be granted to any of the three Chinese company groups as none of them fulfilled all the criteria set out in Article 2(7)(c) of the basic Regulation, for the following reasons.

- (25) All three (groups of) companies failed to demonstrate that they fulfil criterion 3 and significant distortions appear to have been carried over from the former non-market economy system – i.e. all three (groups of) companies benefited from preferential tax treatment and two (groups of) companies obtained assets below market value. Following disclosure of the MET findings two (groups of) companies claimed that the fact that they enjoyed special tax benefits could not be in contradiction with regard to criterion 3 as tax reductions would be applied in market economy countries as well. It is noted that the said companies were subject to several preferential tax policy treatments as they enjoyed an exemption from local income tax, and also received the so-called ‘2 years free, 3 years half’ tax holiday available to foreign invested companies and Sino-foreign joint ventures. In sum, these preferential tax regimes gave the companies a significant benefit which likely had an important impact on costs and prices during the IP. The third (group of) company(-ies) claimed that the tax benefit they enjoyed is not applicable anymore since 1 January 2008 and that it was a one-off tax reduction scheme that could not have any impact on the company costs in the following years and that on top of it the tax exemption was very minor. It is noted that this group of companies benefited from the tax reduction for domestically bought machinery in 2006 as well as in 2007 (i.e. during the IP). The benefit received cannot be considered insignificant and consequently it is concluded that it clearly had an important impact on costs and prices during the IP.
- (26) In addition, two (groups of) companies did not fulfil criterion 2 concerning accounting as one was found to offset accounts payable and receivables and the other had no complete financial statements and accrual principle was not applied consistently. Following disclosure of the MET findings one company claimed that because of its small size, the fact that it is not stock listed and that it is placed in a rural area, International Accounting Standards (IAS) would not be binding. This claim however has to be rejected as the breaches found were very serious, notably the audited accounts were incomplete in important areas and the accrual principle was not respected. These rather basic accounting principles have to be respected regardless of the legal status of the company, its size and location. The other group of companies claimed that the auditor insured that the balance sheet in the audited financial statement is in line with IAS and re-classified the already offset accounts as receivables and payables. It is noted that this claim was not made before the disclosure and in particular not during the verification visit and consequently cannot be verified. It is moreover noted that the said group of companies does not deny the offsetting practice, which in itself is simply not in line with IAS. Consequently, the argument is rejected.
- (27) Moreover, two groups of companies have not shown that decisions regarding their costs and inputs are made in response to market signals and without significant State interference, and therefore have not demonstrated that criterion 1 is fulfilled. Following disclosure, one company argued that the reasons invoked to reject the fulfilment of this criterion would not be based on objective evidence as the company would be free in its sales and pricing decision despite the stipulation found in its audited financial statements regarding pricing policy between associated parties. The company argued that this was not a restriction, but rather a disclosure requirement to the auditor when reviewing transactions amongst ‘associated parties’. However, this statement is not a sufficient explanation for an explicit stipulation in the audited financial statements that ‘where the price is determined by the state commodity department, then price of the state commodity department should prevail’. The argument is therefore rejected. The other company claimed that despite the fact that they are majority State-owned, it is in fact mainly controlled by a private enterprise and is free from State interference. The company, however, did not provide any new arguments that could alter the conclusion that considering the actual composition of the board of directors with majority of directors representing State-owned enterprises, the State interference cannot be excluded and that the company has not shown that the decisions are made without significant State interference and consequently failed this criterion. It is also noted that the disclosure of the MET findings for this group of companies included an example of a decision taken not in response to market signals and possibly under undue State influence (rental of land use right for free) and the company did not comment.

2. Individual treatment (IT)

- (28) Pursuant to Article 2(7)(a) of the basic Regulation, a countrywide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation.
- (29) All three Chinese companies or company groups, which requested MET, also claimed IT in the event that they would not be granted MET.
- (30) On the basis of the information available, it was found that two of the three companies or company groups demonstrated that they cumulatively met all the requirements for IT as set forth in Article 9(5) of the basic Regulation.

- (31) As far as the third company or company group is concerned, the majority of its shares are owned by the State. In addition, given the majority shareholding of the State, and its significant influence on the Chinese steel industry, possible circumvention cannot be excluded.
- (32) It was therefore concluded that IT should be granted to the following two exporting companies only:
- Hubei Xinyegang Steel Co.,
 - Shandong Luxing Steel Pipe Co. Ltd.

3. Normal value

3.1. Analogue country

- (33) In accordance with Article 2(7) of the basic Regulation, normal value for companies to which MET could not be granted was established on the basis of the prices or constructed value in an analogue country.
- (34) In the notice of initiation, the Commission indicated its intention to use the USA as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment on this.
- (35) One interested party commented on the choice of analogue country and suggested that Ukraine or India would be more appropriate for establishing a normal value.
- (36) The Ukraine was claimed to be a more appropriate choice as besides having free competition on its market, the production process and access to raw material would be similar to the situation in the PRC. It is noted that since 30 June 2006, there are anti-dumping duties imposed on imports of SPT originating in the Ukraine ranging between 12,3 % and 25,7 %. Although there are several producers on the Ukrainian market, the fact that dumping was found in 2006 points to possibly distorted market conditions and it appears doubtful to use those domestic prices and costs. In any event, no Ukrainian producer cooperated with the investigation.
- (37) The same interested party claimed that India would also be a better alternative than the USA and provided the name of an Indian producer of the like product. This producer, however, was not willing to cooperate. Considering that there is no cooperation offered by Indian producers, India cannot be selected as analogue country.
- (38) Moreover, the size of the US market, the number of domestic producers and the significant quantities of imports indicate that the US market is competitive and therefore provisionally selected as the most appropriate analogue country. As indicated under recital 10 above, one US producer cooperated with the investigation and provided all necessary information. Another US producer also provided some incomplete information which in general confirmed the information submitted by the cooperating US producer.
- #### 3.2. Determination of normal value
- (39) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of the verified information received from the producer in the analogue country, in accordance with the methodology set out below.
- (40) In accordance with Article 2(2) of the basic Regulation, the Commission first established for the producer in the analogue country whether its total domestic sales of the product in question were representative during the IP, i.e. whether the total volume of such sales represented at least 5 % of Chinese export sales of the product concerned to the Community.
- (41) Next, for each type of the product in question sold by the US producer on its domestic market and found to be directly comparable with the type of product concerned 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 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 at least 5 % of the total volume of the comparable product type sold by Chinese producers for export to the Community.
- (42) 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 IP.
- (43) 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 price of that type was equal to or above the cost of production, normal value was based on the actual domestic price. This price was 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.
- (44) Where the volume of profitable sales of a product 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.

4. Export price

- (45) In all cases the product concerned was exported to independent customers in the Community, 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.

5. Comparison

- (46) 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. An adjustment was granted for ocean freight and insurance, handling, loading and ancillary expenses, inspection expenses, commissions and bank charges.

- (47) Where physical differences existed between the product in question sold domestically by the companies in the analogue country and the product concerned sold for export to the Community, an adjustment was made pursuant to Article 2(10)(a) of the basic Regulation. This adjustment corresponds to a reasonable estimate of the market value of the difference.

6. Dumping margins

- (48) The provisional dumping margins were expressed as a percentage of the cif Community frontier price, duty unpaid.
- (49) For the cooperating exporting producers which could be granted IT, individual dumping margins were established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation.
- (50) The dumping margin for sampled companies not granted MET or IT and for the non-sampled cooperating companies was calculated as an average of the sampled four companies.
- (51) Given that the level of cooperation in the investigation was considered low, the cooperating companies representing about 40 % of all imports from the PRC during the IP, for the non-cooperating companies, the countrywide

margin was established using the highest margin found for representative types of one cooperating producer granted neither MET nor IT.

- (52) On this basis the provisional levels of dumping are as follows:

Company	Provisional dumping margin
Hubei Xinyegang Steel Co. Ltd	38 %
Shandong Luxing Steel Pipe Co. Ltd	47 %
Other cooperating companies	35 %
Residual	51 %

D. INJURY

1. Community production and Community industry

- (53) Within the Community, the like product is manufactured by 23 producers. The output of these 23 Community producers is therefore deemed to constitute the Community production within the meaning of Article 4(1) of the basic Regulation.
- (54) Of these 23 producers, a total of 15, most of them being members of the complaining association (ESTA), declared their interest in cooperating in the proceeding within the time limit set out in the notice of initiation and cooperated with the investigation. These 15 producers were found to account for a major proportion, in this case more than 90 %, of the total Community production of the like product. The 15 cooperating producers therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will be hereafter referred to as the 'Community industry'. The remaining Community producers will be hereafter referred to as the 'other Community producers'. These other Community producers have not actively supported the complaint, but do not oppose it either.

- (55) As indicated under recital 12 above, a sample of five producers was selected, representing 62 % of the total Community production. These producers being groups of companies, the sample was constituted by 9 individual companies in total.

2. Community consumption

- (56) Community consumption was established on the basis of the volumes of the Community industry's sales to the EU, the import volumes data for the Community market obtained from Eurostat and, concerning the other Community producers, from estimations made by the complainant.

- (57) The Community market for the product concerned and the like product grew steadily between 2005 and the IP by approximately 24 %. The most significant increase occurred between 2006 and 2007 when consumption increased by 17 percentage points.

	2005	2006	2007	IP
Total EC consumption (tonne)	2 565 285	2 706 560	3 150 729	3 172 866
<i>Index (2005 = 100)</i>	100	106	123	124

- (58) In this respect it is important to note that the Community market of the product concerned is divided in these main market segments: Mechanicals and Construction (around 60 %), Power Generation (around 10 %), OCTG (around 8 %) and Line Pipe (around 8 %). The product concerned is therefore mainly used in the mechanicals and construction sectors, and these sectors have seen a very rapid progression in 2007.

3. Imports from the country concerned

(a) Volume of the imports concerned

- (59) The volume of imports into the Community of the product concerned from the PRC showed a spectacular increase throughout the period considered. Imports into the EU have increased by more than 20 times since 2005.

Imports	2005	2006	2007	IP
PRC tonnes	26 396	136 850	470 413	542 840
<i>Index (2005 = 100)</i>	100	518	1 782	2 057

- (60) The breakdown of imports from the PRC in the various market segments shows that Chinese imports are particularly present in Mechanicals and Construction (around 65 %) and Line Pipes (around 15 %), while OCTG and power generation account for less than 5 %.

(b) Market share of the imports concerned

- (61) The market share held by imports from the PRC stood at 1 % during 2005 and increased steadily by almost 16 percentage points throughout the period considered. In detail, it rose by 4 percentage points between 2005 and 2006, by further 10 percentage points between 2006 and 2007 and by 2 percentage points during the IP. In the IP, the market share of Chinese imports was 17,1 %.

Market share	2005	2006	2007	IP
PRC	1,0 %	5,1 %	14,9 %	17,1 %

- (62) However, the presence of the Chinese imports is not evenly distributed within the various segments which compose the Community market. The Chinese imports held during the IP a market share of about 38 % in the line pipes segment 19 % in mechanical and constructions, 9 % in OCTG, and around 7 % in the power generation segment.

(c) Prices

(i) Price evolution

- (63) From 2005 to 2007, the average price of imports of the product concerned originating in the PRC decreased sharply by 9 % and then increased by 2 percentage points from 2007 to the IP. Overall, the average price of imports of the product concerned originating in the PRC decreased by 7 % between 2005 and the IP.

Unit prices	2005	2006	2007	IP
PRC (EUR/tonne)	766,48	699,90	699,10	715,09
<i>Index (2005 = 100)</i>	100	91	91	93

(ii) Price undercutting

- (64) A model-to-model price comparison was made between the selling prices of the Chinese exporting producers and the Community industry's selling prices in the Community. To this end, Community industry's prices to unrelated customers have been compared with the prices of cooperating exporting producers of the country concerned. Adjustments were applied where necessary to take account of differences in the level of trade and post-importation costs.
- (65) For the purposes of calculating price undercutting, information from all sampled cooperating Community producers providing complete and verifiable information for the IP has been used. The comparison showed that, during the IP, the weighted average price undercutting margin, expressed as a percentage of the Community industry's sales prices, was 24 %.

4. Situation of the Community industry

- (66) 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. The data presented below relates to the whole Community Industry for sales and market shares, and to the sampled companies for all the remaining indicators. The data relating to three sampled companies was excluded because: (i) one company had been part of a large steel-working group until a spin-off in May 2007, which means that the information before and after the spin-off would not be comparable, (ii) another company had not submitted sufficiently detailed data, and (iii) one company could not provide actual figures for 2008 and a forecast for 2009. In order to have consistent information for the analysis of the injury indicators and the threat of injury analysis, the third company had to be excluded from the analysis of the injury indicators as well. However, given the relatively low weight of these three companies in the sample this exclusion does in no way affect the general picture shown by the indicators.

(a) Production

- (67) From a level of around 2 000 000 tonnes in 2005, the sampled producers' production increased to a peak in 2007 of more than 2 200 000 tonnes, due to increased demand as explained at recital 57 above, before decreasing in the IP. Overall, production increased over the period considered by 7 % to around 2 150 000 tonnes during the IP.

sample	2005	2006	2007	IP
Production (tonne)	2 022 596	2 197 964	2 213 956	2 158 096
<i>Index (2005 = 100)</i>	100	109	109	107

(b) Capacity and capacity utilisation rates

- (68) The production capacity was established on the basis of the nominal capacity of the production units owned by the sampled producers, taking into account interruptions in production as well as the fact that in certain cases part of the capacity had been used for other products manufactured with the same production lines.
- (69) The production capacity of the sampled producers remained stable, at a level of around 2 400 000 tonnes, throughout the period considered.

Sample	2005	2006	2007	IP
Production capacity (tonne)	2 451 187	2 469 365	2 446 462	2 398 283
<i>Index (2005 = 100)</i>	100	101	100	98
Capacity utilisation	83 %	89 %	90 %	90 %
<i>Index (2005 = 100)</i>	100	108	110	109

- (70) Capacity utilisation was 83 % in 2005, and increased to around 90 % for the remainder of the period considered. This reflects the variations in production volumes as described at recital 67 above. Overall, capacity utilisation moved up by only 7 percentage points, a small increase when compared to the substantial increase in consumption described at recital 57 above.
- (71) However, it is important to note that, due to the high level of consumption, the sampled producers were running at high production capacity rates. The possibility to obtain high rates of capacity utilisation is considered as an important element to reach satisfactorily levels of profitability for the like product. For example, the situation during the period considered clearly differs from the situation prevailing between 2002 and 2004, where, because of the pressure exerted by dumped imports originating, *inter alia*, in Croatia, Russia and Ukraine, the capacity utilisation of the Community industry only was of around 66 %–75 %, and the Community industry incurred losses of between 5 % and 10 %.

(c) *Stocks*

- (72) The level of closing stocks of the sampled producers increased by 16 % in 2006, and subsequently slightly decreased by 3 percentage points in 2007 and another percentage point IP. It should be noted that the vast majority of production is made in response to orders. Therefore, it is considered that the relevance of this indicator in the injury analysis is limited.

Sample	2005	2006	2007	IP
Closing stock (tonne)	142 303	165 070	160 668	159 924
<i>Index (2005 = 100)</i>	100	116	113	112

(d) *Sales volume*

- (73) The sales volume by the Community industry of its own production to unrelated customers on the Community market during the IP was around 2 000 000 tonnes, an increase of 14 % against its level in 2005. This increase is to be attributed to the substantial increase in consumption described in recital 56, the positive effect of which however was only partially reflected in the increased Community Industry sales.

Community industry	2005	2006	2007	IP
EC sales (tonne)	1 766 197	1 907 126	2 061 033	2 017 525
<i>Index (2005 = 100)</i>	100	108	117	114

- (74) It is to be noted that Chinese imports and Community Industry sales are in competition mainly on three market segments: mechanicals, construction and line pipes. Indeed, 65 % of Community Industry sales and around 80 % of Chinese imports are for these three market segments.

(e) *Market share*

- (75) During the period considered, the Community industry lost 5 percentage points of market share, which decreased from 69 % in 2005 to 64 % in the IP. This loss of market share reflects the fact that, notwithstanding a substantial increase in consumption, the Community industry was only able to benefit partially from it, due to the presence of massively increasing Chinese imports. It is recalled that the market share of the Chinese imports went up from 1 % to 17,1 % over the same period (see recital 61 above).

	2005	2006	2007	IP
Market share of the Community industry	68,8 %	70,5 %	65,4 %	63,6 %
<i>Index (2005 = 100)</i>	100	102	95	92

(f) *Growth*

- (76) Between 2005 and the IP, whilst the Community consumption increased by 24 %, the volume of sales by the Community industry on the Community market increased by only 14 %, and the Community industry's market share decreased by 5 percentage points. On the other hand, the volume of Chinese imports grew more than 20 times, and their market share increased by 16 percentage points over the same period. It is thus concluded that, although the Community industry experienced some growth, it could certainly not benefit fully from the substantially increased market demand, while the Chinese imports benefited from it in a more than proportional way.

(g) *Employment*

- (77) The employment level of the sampled producers steadily increased by 6 % between 2005 and 2007. It decreased by 6 percentage points between 2007 and the IP. Overall, employment of the sampled producers remained stable between 2005 and the IP at around 9 100 persons. This indicates that the sampled producers improved efficiency since, at the same time, production volumes increased by 7 % (see recital 67 above).

Sample	2005	2006	2007	IP
Employment (persons)	9 119	9 444	9 644	9 151
<i>Index (2005 = 100)</i>	100	104	106	100

(h) *Productivity*

- (78) Productivity of the sampled producers' workforce, measured as output (tonnes) per person employed per year, steadily increased over the period considered, and finished during the IP at a level 7 % higher than 2005. This is in line with the fact that employment remained stable over the period considered while at the same time production increased by 7 %.

Sample	2005	2006	2007	IP
Productivity (t per employee)	369	387	386	395
<i>Index (2005 = 100)</i>	100	105	105	107

(i) *Wages*

- (79) The average wage per employee increased by 7 % between 2005 and 2006, by a further 8 percentage points between 2006 and 2007 and remained almost stable between 2007 and the IP. Overall, the average wage per employee increased by 16 % over the period considered. The increase in average wage costs is partly due to the fact that job reductions for those Community producers where average wages were relatively low were balanced by staff increases by Community producers where average wages were relatively high. Since the average increase in wages was partly compensated by an important increase in productivity, the total impact in terms of labour costs was not particularly significant.

Sample	2005	2006	2007	IP
Annual labour cost per person (EUR)	46 527	49 968	53 704	54 030
<i>Index (2005 = 100)</i>	100	107	115	116

(j) *Factors affecting sales prices*

- (80) The sales prices of the sampled producers increased substantially by 21 % between 2005 and 2007, and remained stable during the IP. The increase in sale prices at the same time as the increase in sales volumes is explained by the fact that costs have been also increasing during the same period. The Community producers managed to reflect this increase in costs in their selling prices, and pass it on to their customers. It is therefore only during the IP that the increasing pressure by the Chinese products started to produce the first clear effects on sales prices, where the Community industry's prices remained stable despite an increase in costs of 4 percentage points.

Sample	2005	2006	2007	IP
Unit price EC market (EUR/t)	983	1 047	1 188	1 192
<i>Index (2005 = 100)</i>	100	106	121	121

- (81) As it can be seen from the table below, the increase in costs was mainly due to an increase in raw material prices. Indeed, the Community industry proved to be very efficient in containing increases in labour costs and other general costs. However, the increase in raw material prices could only be balanced by a corresponding increase in selling prices and this became more and more difficult over the period considered.

Sample	2005	2006	2007	IP
Total costs per tonne	863	863	974	1 007
<i>Index (2005 = 100)</i>	100	100	113	117
Raw material costs	498	532	603	622
<i>Index (2005 = 100)</i>	100	107	121	125

(k) Profitability and return on investments

- (82) During the period considered, the profitability of the sampled producers' sales of the like product, expressed as a percentage of net sales, increased from 12,1 % in 2005 to 17,9 % in 2007. It then decreased to 15,4 % in the IP. Profitability therefore increased by 3 percentage points between 2005 and the IP.

Sample	2005	2006	2007	IP
Profitability of EC sales to unrelated (% of net sales)	12,1 %	17,3 %	17,9 %	15,4 %
<i>Index (2005 = 100)</i>	100	143	147	127
ROI (profit in % of net book value of investments)	47,1 %	85,1 %	79,2 %	51,7 %
<i>Index (2005 = 100)</i>	100	181	168	110

- (83) The return on investments (ROI), expressed as the profit in percent of the net book value of investments, broadly followed the profitability trend. It increased from a level of 47 % in 2005 to 85 % in 2006. It decreased to 79 % in 2007 and further decreased to 52 % in the IP. Overall, the return on investments increased by 4,6 percentage points over the period considered.

(l) Cash flow and ability to raise capital

- (84) The net cash flow from operating activities was almost EUR 367 million in 2005. It increased to around EUR 684 million in 2006, to EUR 1 billion in 2007, before returning to around EUR 630 million in the IP. There were no indications that the Community industry encountered difficulties in raising capital.

Sample	2005	2006	2007	IP
Cash flow (EUR)	367 215 052	684 541 347	1 034 223 612	634 658 147
<i>Index (2005 = 100)</i>	100	186	282	173

(m) Investments

- (85) The sampled companies' annual investments in the production of the like product increased by 83 % between 2005 and 2006, by a further 94 percentage points between 2006 and 2007 and then only slightly increased in the IP. Overall, investments increased by around 185 % between 2005 and the IP. These Community industry's investments had, as main objectives, the improvement of product quality, the increased of plant efficiency, the development of new products and processes, the improvement of the industrial safety and environmental protection. They did not result in an increase of production capacity.

Sample	2005	2006	2007	IP
Net investments (EUR)	99 895 036	182 508 624	276 813 902	284 860 412
<i>Index (2005 = 100)</i>	100	183	277	285

(86) It is considered that the Community Industry has directed a very substantial amount of resources to investments during the period considered. This should be read in the context of the very low level of investments which was possible in previous years, when the profitability levels of the Community Industry were extremely low or even negative. Due to extended periods during which the CI was suffering, *inter alia*, from dumped imports originating in Croatia, Russia and Ukraine and during which investments had to be severely cut back ⁽¹⁾, the necessary level of investment could not be made. The improved level of profits during the period considered was therefore essential to allow the Community Industry to make those investments which had been postponed for so long. No investments were made with the purpose of increasing production capacity because of growing concerns about the possibility to profit from the increasing demand in the presence of the aggressive expansion of Chinese imports.

(n) *Magnitude of dumping margin and recovery from past dumping*

(87) Given the volume, the market share and the prices of the imports from the country concerned, the impact on the Community industry of the actual margins of dumping could be considered significant. It is important to recall that antidumping measures were imposed in 2006 to counteract the injurious dumping caused by imports from a number of other countries. The good financial results achieved by the Community industry during the period considered certainly allowed it to somewhat recover from the past dumping. However, it has also been shown that the Community industry could not benefit fully from the exceptional market expansion that took place during the analysis period (see recital 75 above), since the market shares previously held by the imports under measures have been substituted by low priced Chinese imports, which have also partially eroded the Community industry market shares. This certainly had an effect in limiting the full recovery of the Community industry and its inclination to invest and expand production capacity to follow the expansion in the market (see recital 86 above). It can therefore be concluded that the recovery of the Community industry from the past dumping cannot be considered as complete and that the Community industry remains vulnerable to the injurious effect possibly caused by the presence of substantial quantities of dumped imports in the Community market.

5. Conclusion on injury

(88) The data verified shows some signs of injury. In fact, in a market growing significantly (+ 24 %), the Community

Industry could increase its sales to the Community market only partially (+ 14 %), which led to a decrease of its market share (from 69 % to 64 %). However, in this context the Community industry managed to keep a sufficiently high level of capacity utilisation and prices, so that its profitability remained at good levels (around 15 % in the IP). In conclusion, any injury suffered by the Community industry was limited and did not lead to any significant economic problem.

(89) In the light of the foregoing, it is concluded that the Community industry has not suffered material injury in the IP within the meaning of Article 3(5) of the basic Regulation. It should also be underlined however, that the Community industry was coming from a period in which it had been subject to injurious dumping, which led to the adoption of antidumping measures in the year 2006. If the Community industry managed to partially recover from its past injurious situation this was mainly due to the very significant market expansion that took place between 2005 and the IP. Although the adoption of antidumping measures in June 2006 has eliminated the injurious effects of the dumping from a number of countries, there was in the Community market during the IP an important share of dumped products sold at very low prices, these being the Chinese imports. Should the market circumstances change and the market expansion observed during the period considered stop and the previous trend of growth reverse, the Community industry would be fully exposed to the possible injurious effect deriving from these dumped imports. It is therefore concluded that, although the Community industry had not suffered material injury during the IP, it was in a vulnerable state at the end of it.

E. THREAT OF INJURY

1. Likely development of Community consumption, imports from the country concerned and of the situation of the Community Industry after the investigation period

(90) In order to be able to assess whether the Community industry was possibly subject to a threat of injury, some of the elements established for the period considered and the IP had to be further analysed. This further analysis was conducted on the basis of the information collected in respect of the major injury indicators for the years 2008 and 2009. For this purpose, information had been requested to the sampled companies in their questionnaires, statistical information was updated and any other element submitted by the parties was analysed. On this basis, the following was established:

⁽¹⁾ See Council Regulation (EC) No 954/2006 of 27 June 2006, OJ L 175, 29.6.2006, p. 4, recitals 160 and 168. In 2001, the only profitable year during the IP of the previous investigation, investments amounted to EUR 65 million. By 2004 (a year in which the CI suffered heavy losses), this amount had to be reduced to EUR 26 million.

1.1. Community consumption

(91) Community consumption, which has been increasing until the IP, is estimated to decrease considerably, by at least 30 % between the end of the IP and the year 2009. This estimate is based on available public information, which was also supported by data submitted by the complainant and the forecasts presented by the sampled Community producers.

(92) Moreover, the complainant has submitted information by market segment forecasting an important decrease in all sectors, except for the OCTG segment, which is considered to be less affected by the otherwise generalised strong decrease in demand.

1.2. Imports from the PRC and related market share

(93) Dumped imports from the PRC continued to increase substantially until the end of the IP. Their increasing trend on an annual basis is at least confirmed until the end of 2008. Given the shrinking consumption since the last months of 2008, their market share is expected to increase also in 2009.

(94) Chinese imports are forecasted to remain mainly concentrated in the mechanicals and construction, as well as line pipe market segments, as indicated at recital 60 above.

(95) Even, if as a result of the decreasing market, demand of the total imports volume will decrease – which decrease is however expected not to be significant – the Chinese imports will proportionally increase their market share in these segments where they have been historically strong. Indeed, it is likely that low-priced imports will become even more attractive in a market which is increasingly seeking cost reductions.

(96) As a consequence, the estimated market share of Chinese imports is forecasted to increase. Depending on the development of consumption, the market share of Chinese imports could even increase by some percentage points between 2008 and 2009 given the aggressive policy of market expansion showed in recent years, see recital 61 above and 114 and 115 below.

(97) As for the prices of imports of the product concerned, the association of Chinese exporters (CISA) has claimed that these prices have substantially increased after the IP.

(98) It is confirmed that Eurostat data shows indeed such an increase after the IP. In this respect, it is noted that this increase in some cases is significant (up to 33 %-43 %). However, the investigation has shown that this increase is the reflection of a general price increase in certain raw materials (steel, iron scrap and pig iron) and energy costs which took place worldwide between April and October

2008 and that this increase has not eliminated price undercutting, which apparently remains substantial.

1.3. Production, production capacity and capacity utilisation of the CI

(99) Production of the Community Industry is forecasted to decrease by between 20 and 35 percentage points between the IP and 2009. This trend was confirmed by the forecasts submitted by the sampled companies. From the analysis of these forecasts it can be inferred that the overall decrease in production also reflects the fact that within a general decrease of consumption, the demand for certain product types has decreased less than the demand for others so that a change in product mix is forecasted to take place.

(100) From information submitted by the sample companies it appears that the production capacity is forecasted to remain stable in 2009, whereas capacity utilisation is forecasted to decrease sharply at a level close to 70 % in the same year. This is in line with the sharp drop in the consumption as described in recital 91. Indeed, verification visits have already shown: (i) a reduction in shifts (most commonly from 18 to 15 per week), (ii) increasing use of redundancy schemes and of staff temporary lay offs, (iii) extended closures during the holiday period. It is recalled that past investigations have already shown that at capacity utilisation rates of below 75 % the Community industry is unlikely to perform in a sustainable way (see recital 71 above).

1.4. EC Sales of the Community industry (volumes and prices)

(101) Sales of the Community industry in the EC market are forecasted to decrease significantly, for the same reasons explained at recital 99 above, at least in line with the decrease of consumption but probably even more, according to the forecasts made by the sample Community producers.

(102) Since the Community industry is forecasted to further lose market share on the EC market to dumped Chinese imports, it will be forced to rely more heavily on export markets. The sampled companies have indeed reported a decrease in sales in the Community higher than the decrease in total production, because production for exports would remain rather stable in comparison to the production of goods destined to the Community market. This is because the export activity of the Community industry is concentrated on OCTG (35 %), line pipes (25 %) and power generation (13 %), while mechanical and construction pipes only accounted for 16 % of the Community industry's exports (compared to 60 % of their EC sales, see recital 73 above).

- (103) The Community industry has submitted information showing that sale volumes have already decreased and/or are forecasted to decrease significantly, in particular on certain market segments where the presence of the Chinese goods exert more its penetrating strength (i.e. mechanicals and constructions and line pipes).
- (104) As far as sale prices are concerned, these have been forecasted by the sampled producers to remain stable on average in respect to the prices in the IP.
- (105) However, the development in selling prices would not be fully representative of the real price reduction which is expected to take place on a product by product basis. This would be because the Community industry tries to move to higher grade pipes, due to price pressure from Chinese imports. As a consequence, the share of lower grade products in the total sales of the Community Industry would decrease considerably more than the average decrease in total sales, thereby the weight of the products which have a higher selling price will be proportionally higher. This is the reason why the average decrease in price is forecasted to be more limited than the price decrease which will be suffered by those products which are in more direct competition with the Chinese dumped imports.
- (106) Therefore, information was collected from the Community industry relating to the price evolution of a number of representative product types which were found to be in direct competition with the dumped Chinese imports during the IP. On the basis of this analysis it was established that the prices of important product types which were imported in significant quantities from the PRC during the IP has increased in the second half of 2008 in order to partially reflect the increase in costs also mentioned at recital 98 above.

1.5. Prices/costs of the CI

- (107) The sampled companies were also requested to submit data relating to the forecasted evolution of their costs for the product concerned, as well as the major costs.
- (108) The data submitted shows that an overall increase in cost is likely. This is due to two main factors. Firstly, the decrease in manpower caused by the lower production and capacity utilisation rates is expected to not result in a corresponding decrease of labour costs because of the use of temporary unemployment and reduced working hours which may increase the average cost of labour. Secondly, the change in product mix towards high-value products (although not necessarily with a higher profitability) means that on average also costs (including raw material costs) would increase. Moreover, the obvious decrease in efficiency due to the reduced volumes and sub-optimal capacity utilisation would lead to a proportional increase in fixed costs.

1.6. Market share of the CI

- (109) The market share of the Community industry is forecasted to decrease by some percentage points between the IP and 2009, due to the increased pressure from dumped Chinese imports (see recitals 93 and 101 above), in a strongly decreasing European market.

1.7. Profitability of the CI

- (110) According to data submitted by the Community producers, the profitability of the Community industry has slightly decreased by 0,5 percentage point between the IP and the year of 2008. However, this profitability is reported to have fallen considerably by the end of year 2008 and is forecasted to be severely reduced to around 2 % for the year 2009.
- (111) It is recalled that already in the past it was shown that the profitability of the Community industry was particularly low in periods where the capacity utilisation rate was below 75 %. This has been proven to be the case during the period covered by the investigation concluded by Council Regulation (EC) No 954/2006 ⁽¹⁾, when the capacity utilisation had decreased significantly due to the pressure of dumped imports, *inter alia*, from Croatia, Russia and Ukraine.

1.8. Conclusion on the likely development of Community consumption, imports from the country concerned and the situation of the Community industry after the investigation period

- (112) The above analysis relating to the likely development of consumption, imports of dumped Chinese products and major injury indicators for the period between the IP and 2009 (see recitals 90 to 111 shows that a considerable deterioration of the economic situation of the Community industry is already taking place and is foreseen to continue if not further aggravate in the near future. This is clearly indicated by an evident reduction in production, EC sales volumes, market shares and profitability (around -13 percentage points). This assessment was made on the basis of data which relate to forecasts supported by sufficiently detailed evidence. In particular, the trends reflected for the period after the IP and until the end of 2008 could to a large extent be verified already in the course of the verification visits which took place. Further evidence (particularly relating to decrease in selling prices and volumes and for the year 2009) was submitted in the course of the investigation. Even if, as in the case of any forecast, there can be no certainty that the indicated trends will realise exactly as expected, it is considered very likely that this will be the case. It is therefore concluded that the Community industry has been facing a situation of material injury during the first months of 2009 already.

⁽¹⁾ OJ L 175, 29.6.2006, p. 4.

2. Threat of injury

- (113) In accordance with Article 3(9) of the basic Regulation, it was examined which facts, if any, would create a situation in which the dumped imports would cause injury to the Community industry. In this context, specific consideration was given to: (i) the development of dumped imports, (ii) the availability of free capacities of the exporters, (iii) the level of prices of the Chinese imports and (iv) the level of inventories.

2.1. Development of volumes of dumped imports

- (114) Imports from the PRC have spectacularly increased from 26 000 to 543 000 tonnes between 2005 and the IP, as explained at recital 59 above. These imports have consistently taken place at very low prices, which significantly undercut any other price offered in the Community market from other supply sources. The substantial increase of the market share held by these dumped imports (see recital 61 above) confirms that the development of these imports was not the consequence of an increase in demand. On the contrary, it would appear that such development was for its major part driven by an underlying strategy based on substituting the market place previously held by dumped imports from other sources (see recital 141 below), with the objective of penetrating aggressively a new market. The increase in import prices observed in the second part of 2008 was entirely due to a substantial increase in raw material costs, which has translated in a worldwide increase of the costs for seamless pipes and tubes and does not correspond to any intention to reduce the price differential with the prices of other suppliers in the EC market.

- (115) On this basis, it is considered that a direct correlation between development of consumption and level of the dumped imports cannot be established. It is instead considered that the increase in dumped imports between 2005 and the IP would have taken place anyway, even in a situation of stable consumption, with the only difference that it would have impacted more on the market shares of the other suppliers. It cannot be excluded that already during the period considered, should consumption have not increased at the pace at which it actually did, this would have caused material injury to the Community industry. Therefore, it is considered that a downward trend in the overall situation of the Community market would not have any considerable impact on the development of the volumes of dumped imports. In all likelihood, the aggressive strategy used to penetrate the Community market during the period considered will continue, with the overall objective of gaining market shares at the expenses of the other economic actors with dumped low-priced imports.

- (116) The most recent figures available, relating to the full year 2008, show imports of 507 589 tonnes, i.e. higher than

2007 although slightly lower than the IP. Moreover, figures relating to the last two months of 2008, show that imports have even increased in comparison to the same period of the previous year (84 000 tonnes in 2008 against 79 000 tonnes in 2007), notwithstanding the fact that the investigation has shown that clear signs of decrease in demand were already present in the Community market in November 2008. It can therefore be concluded that, according to the most recent information available, the volume of imports from the PRC can be considered as being at least stable. In this respect, it is noted that, even in the case where the development of the dumped imports would show in the short term a different trend in comparison to the past, i.e. they would remain stable or start to decrease, this information should always be read and analysed in the context of the development of consumption. In other words, the findings concerning this factor should not be based on a simple observation of the development of the volume of dumped imports in absolute terms, but should take due account of the market context in which this development is taking place and of whether or not they might have resulted in an increase or decrease of the market share held by these dumped imports. From the information available, it is clear that not only the dumped imports have shown a substantial increase of their market shares during the period considered, but they have also shown no sign of stopping or reversing this trend in a period when demand had already started to contract. As a consequence, the market share of the dumped Chinese imports is set to increase (see recital 96 above). Consequently, it is concluded that, given the expected substantial decrease in consumption, the pressure of these dumped imports on the Community market is likely to increase substantially.

2.2. Availability of free capacity of the exporters

- (117) The analysis of the information submitted by the sampled exporting producers has shown that an increase in capacity of at least 740 000 tonnes was forecasted to take place in these companies alone during the year 2008. Moreover, the CI alleges that two sampled companies plan the construction of seamless mills, the capacities of which are worth 500 000 tonnes by mid-2009. The verification of forecasted capacity increases can of course only be made once such capacity is on line; it is therefore difficult to assess the future availability of free capacity existing in the PRC. However, even by just considering the replies of the sampled Chinese exporters, it can be concluded that, in the light of the fact that the total Community consumption was calculated to be 3 300 000 tonnes during the IP, there is substantial available production capacity in China. In addition, the complainant submitted credible information about the commissioning of two new seamless pipe plants in the PRC in January 2009. These two plants, with a capacity of around 400 000 tonnes each, have the capacity to supply one quarter of the EC market alone.

- (118) Moreover, information provided by the Chinese Association of producers (CISA) sets the total Chinese production at around 20 million tonnes. The sampled Chinese producers have reported that, on average, their exports accounted for 27 % of their total sales during the IP, up from 17 %, which was their export ratio in 2005. It can therefore be concluded that over the period considered the Chinese exporters have substantially increased their inclination to export, which translated in a very considerable increase of exports in absolute terms, since the total sales of sampled producers grew by more than 56 % during the period considered. There is no indication that this trend, which is the combined effect of an increase in production with an increase of the rate of export, should be reversed in the near future.
- (119) The percentage of Chinese exports to the Community (as a percentage of total Chinese exports) significantly increased during the period considered from 1 % in 2005 to 9 % during the IP. This confirms that during the period considered a considerable shift has already taken place in the exporting activities and the Community has gained importance in the overall market strategy of the Chinese exporters. The other main markets are the USA with 36 % (up from 31 % in 2007), Algeria (6 %, up from 2 % in 2006) and South Korea (6 %, up from 3 % in 2005). On this basis, it can be expected that a significant part of the newly created excess capacity will be directed to the EC market. Moreover, a significant shrinking of some of these markets, and in particular of the US market, can be expected shortly so that the volumes freed from those markets could be easily re-directed to the EC. This re-direction might not have taken place more substantially until now because, according to Chinese statistics and information collected from the sampled Chinese producers, the prices in the EC market have been so far somewhat lower than in other markets. However, it can be expected that, in case of substantial reduction of the volumes sold in other markets, considerations regarding price levels will be easily disregarded in the face of the need to keep production output and capacity utilisation at sufficiently high levels. Moreover, it is expected that markets like the Community, where penetration has proven relatively easy and very successful will become the preferred target of any such re-direction policy.
- 2.3. *Prices of the imports from the PRC*
- (120) Prices of the Chinese imports were during the period considered substantially lower not only than the prices of the Community industry, but also than prices from other countries. This is confirmed by the undercutting analysis mentioned at recitals 65 and 142 below. The very substantial and systematic (i.e. relatively homogeneous on a type by type basis) undercutting found has ensured the continuous expansion of the market share held by the dumped imports during the period considered. There was, therefore, during the period considered a clear link between the increase in market shares of the dumped imports and the decrease in market shares of sales from other sources, including the Community industry, and this could be obtained via the advantage gained by the conspicuous difference in selling prices. If this did not result in a material injury for the Community industry during the period considered, this is only because the expansion of the Community market provided the Community industry with sufficient ground to maintain its production, production capacity, sales and profitability levels.
- (121) There is no reason to believe that in an economic environment characterised by a substantial contraction in demand there may be a tendency for low prices to increase. On the contrary, from the supplier's side in a context of shrinking consumption, low prices are expected to be kept low, with the objective of gaining further market shares or at least maintaining and consolidating the existing ones. At the same time, those producers of goods incorporating the product concerned which were already buying low-priced goods will exert pressure to maintain such prices low or even decrease them, in order to contain their cost budgets. Producers that in the past had favoured higher priced products will tend to reduce their production costs whenever possible, and therefore give preference to lower priced inputs even if this may require some sacrifice in terms of, e.g. quality of the product and reliability of supply.
- (122) It has been mentioned at recital 98 above that prices of the Chinese imports have shown a certain increase after the IP. Because this increase above all reflects a worldwide increase in the price of some important raw materials, it cannot be excluded that such increase is only temporary and will be reverted as soon as the price of these raw material decreases. Moreover, this raw material being commodities, the increase observed in their prices has been reflected in the final price of seamless pipes and tubes by all producers to the extent possible. The Community industry also has been obliged to reflect such increase in costs in its selling prices which have therefore gone up. Consequently, since all prices in the market have shown an increase, the prices of the dumped imports continue to be substantially lower than the selling prices of the Community industry even in the period following the IP.

(123) In conclusion, the negative effect of the very low prices of the dumped imports is found to be twofold: (i) on the one hand, the significant price differential is likely to cause a shift towards the dumped imports, because users will be more likely to buy increasing quantities of goods that are sold at low prices; (ii) on the other hand, the existence of such low prices in the market is likely to be used by buyers as a negotiating tool to depress the prices offered by the Community producers and other sources, thereby causing a depressive effect in terms of both diminishing volumes and lower prices. While these effects can be questioned in situations where the price differentials are not substantial, in the case at stake, and considering the very high price undercutting found, the resulting damage is expected to be serious.

2.4. Level of the inventories

(124) This factor is not of any particular significance for the analysis because normally stocks are kept by traders (stockists) and not by producers. Although some allegations were made by the CI, no evidence could be found that stockpiling activities might have taken place to an extent which may significantly influence the market in the near future.

2.5. Other elements

(125) It should also be pointed out that none of the sampled Chinese producers was found to meet the MET criteria, *inter alia*, because these companies are all considered as still operating under State influence (all of them in fact fail at least either criterion 1 or 3). In a situation of worldwide economic crisis, it is likely that the Chinese government be tempted to further intervene to support these companies (or their suppliers), thereby helping them to keep their costs low, and maintaining, if not increasing, their price advantage in the EC market. In conclusion, it is considered that the Chinese exporters are operating in an environment that may easily provide them with opportunities to further maintain their price advantage even in the case that other suppliers of the Community market would reduce prices in order to reduce the gap with the prices of the dumped imports prevailing during the period considered. Even in the case that the pressure exerted by the significant undercutting shown by the dumped imports during the IP would lead to a reduction of the level of prices of the Community industry, a further reduction of prices made by the Chinese exporters with the objective of maintaining the differential observed during the IP cannot be ruled out.

3. Conclusion on threat of injury

(126) The threat of injury factors analysed at recitals 113 to 125 above need to be read in the context of the specific market situation that changed after the IP and is likely to remain at least in the near future in the EC market. In the context of a substantially decreasing consumption,

referred to at recital 91 above, Chinese imports constitute a significant threat of injury because of:

- (i) their historical volumes increase in absolute and relative terms in the Community market, which underlines a strategy of market penetration, coupled with a stable development after the IP, although in presence of a shrinking demand;
- (ii) their potential future increase in absolute and/or relative terms due to the existence of large unused production capacities in the PRC and the likely shrinking of other markets which could free further volumes to be re-directed to Europe; and
- (iii) the significant price difference compared to that of the like product in the Community or from other countries, which is likely to both favour a switch towards the Chinese dumped imports and to depress the level of prices in the Community market.

It is provisionally concluded that in the absence of measures the Chinese dumped imports would imminently cause material injury to the vulnerable Community industry, in particular, in terms of reduced sales, market share, production and profitability.

F. CAUSATION

1. Introduction

(127) In accordance with Article 3(6) and Article 3(7) of the basic Regulation, the Commission examined whether dumped imports have caused injury or constitute a threat of 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 or be the cause of a threat to the Community 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

(128) Between 2005 and the IP, the volume of the dumped imports of the product concerned originating in the PRC increased by more than 20 times from 26 273 tonnes to 542 840 tonnes, and their share of the Community market increased by more than 16 percentage points (from 1 % to 17,1 %). The average price of these imports decreased between 2005 and the IP, and remained significantly lower than the average price of all other supply sources.

(129) As indicated at recital 65 above, price undercutting of the Chinese imports was 24 % overall on a weighted average basis. It should also be pointed out that for the same period the same dumped imports were sold at prices significantly lower than imports from any other sources (see recital 143 below).

- (130) Imports from the PRC have not caused injury which can be considered material during the period 2005 to the IP. However, there is a clear coincidence in time between the substantial increase of the Chinese imports and the deterioration of some injury indicators, such as the decrease in the market share held by the Community industry, which decreased by 5 percentage points in a context of an increasing consumption. The increase in dumped Chinese imports has therefore been the reason why the Community industry has not been able to fully benefit from the increase in demand which took place in the Community market. It should also be noted in this respect that there is a clear coincidence in time between the rapid increase in the market share of the Chinese products and the corresponding substantial erosion of the market shares held by imports from Russia and Ukraine, which were their closest competitor in terms of prices.
- (131) Moreover, in view of the substantial undercutting of the Community industry's prices by imports from the PRC, it is considered that these dumped imports exerted an overall pressure on the prices in the Community market, starting from the IP, thereby preventing the Community industry from increasing its sales prices to the extent necessary to maintain the achieved level of profitability.
- (132) As mentioned at recital 89 above, notwithstanding the downward trend exerted on certain injury indicators by the Chinese imports, it was concluded that overall the injury suffered by the Community industry was not material. However, these findings are to be read in the light of the prospective analysis concerning the development of consumption, imports and certain injury indicators made for the period following the IP and reported at recitals 91 to 112 above.
- (133) As explained under recital 93 above, information relating to the most recent period between the IP and December 2008 shows that the volume of dumped imports has not decreased during the last two months of that year when compared to 2007, and this despite clear signs of an already decreasing Community consumption during the months of November and December 2008. This shows that the incipient reduction of consumption did not have any effect on the volume of imports which instead increase their market share. There is no reason to believe that in a similar, even worse short term scenario, this trend will be reversed.
- (134) However, even in case dumped imports would decrease to a certain extent in absolute terms, their market share is set to remain stable or increase in a market which is forecasted to contract relatively fast. Finally, even in the case that volumes of Chinese imports would start to decrease proportionally more than the decrease in consumption, it is considered that the presence itself of substantial volumes of low priced Chinese goods in a context of decreasing consumption should be considered as a cause of injury, because it will exert an important downward pressure on the general level of prices in the market. In a situation of oversupply, and with customers trying to reduce their production costs in order to maintain competitiveness, prices of inputs will be more likely to align towards their lowest level (which is the Chinese price). Considerations of quality and security of supply that for the moment may have played in favour of the Community industry are likely to play a lesser role and the Community industry will be obliged to reduce its prices because of the pressure exerted on the market by the low priced Chinese products.
- (135) In conclusion, considering that, although the Community industry had not suffered material injury during the period considered but was at the end of the IP in a vulnerable state (see recital 89), that all the conditions for the injury to fully appear after the IP are present (see recital 112 above), and the condition of threat of injury are also fulfilled as explained at recital 126 above, it is concluded that there is a causal link between the imminent threat of dumped Chinese imports and the injury that is foreseen to be suffered by the Community industry.
- ### 3. Effect of other factors
- #### 3.1. Import and export activity of the Community industry
- (136) It was found that some members of the Community industry imported limited quantities of the product concerned from the PRC and from other countries. These imports (estimated to be less than 2 % of the total imports from the PRC) were made in order to cover specific requests of customers which either ask products with specifications which are not produced by these Community producers, or request goods at an extremely low price. Given the very low quantities imported it is not considered that these imports may be considered as breaking the causal link identified above.
- (137) Furthermore, one group of Community producers is related to a Chinese exporting producer through a minority shareholding. It was, however, established that no export sales to the Community of that Chinese exporting producer are made to companies related to the said Community producer. Therefore, it has been concluded that such minority shareholding has no impact on the situation of the Community industry nor is it likely to have an impact in the future.

- (138) One group of Community producers has imported substantial quantities of steel pipes and tubes originating in Argentina and Mexico from related companies. These products were mostly high-value products such as line pipes and OCTG, and accounted for less than 10 % of Community production of that group. In addition, a model-by-model comparison showed that these imports did not undercut the Community industry's sales prices. Therefore, it has been concluded that these imports have not caused or are going to cause in the future any injury to the Community industry.
- (139) As it can be seen from the table below, the volume of export sales remained stable during the period considered. The export activity of the Community industry was also examined and it can be excluded that it would contribute to the injury of the Community industry. First of all, the possible effects of these activities have been properly isolated and examined during the investigation. Secondly, as mentioned at recital 102 above, the exports by the Community industry are forecasted to remain stable compared to decreasing production and sales in the Community market, as the exports focus on different market segments, as explained in recital 102 above.

Community industry	2005	2006	2007	IP
Export sales (tonne)	1 651 514	1 825 543	1 711 165	1 646 927
<i>Index (2005 = 100)</i>	100	111	104	100

3.2. Imports from third countries (Russia + Ukraine)

- (140) Imports from Russia and Ukraine have both decreased significantly in volumes during the period considered, as it can be seen from the table below. Their combined market share steadily dropped from 15,4 % in 2005 to 4,4 % during the IP. At the same time the average price of these sales had increased by 33 %. It is important to note that both Russian and Ukrainian imports have been subject to antidumping measures since 2006 (see also recital 86 above). Therefore, the prices reported in the tables below are not those at which the goods actually entered the EC market. If the antidumping duty applicable is added to these prices, the average price of imports from Russia and Ukraine increases at 860 EUR/tonne during the IP.
- (141) Given the consistent price difference between the average price at which imports from the PRC and imports from Russia and Ukraine entered the EC market, and the fact that Russian and Ukrainian imports were the obvious competitors to Chinese imports in the closest market-price range, it is concluded that the dramatic decrease in market shares of these two latter countries is due to the fact that the antidumping duties imposed have rendered these imports less competitive in respect of the Chinese dumped imports, which have consequently eroded the market share previously held by the Russian and Ukrainian imports. It is also noted that such erosion was already so substantial that any further expansion of the market share of the Chinese imports will occur at the expenses of their most obvious competitors in the closest market price range, which would be the Community Industry.

Russia + Ukraine	2005	2006	2007	IP
Volume of imports (tonnes)	395 926	255 394	172 155	140 910
<i>Index (2005 = 100)</i>	100	65	43	36
Market share of imports	15,4 %	9,4 %	5,5 %	4,4 %
Price of imports (EUR/tonne)	613	672	777	814
<i>Index (2005 = 100)</i>	100	110	127	133

Source: Eurostat.

3.3. Imports from other third countries

- (142) Imports from other countries have increased significantly in volumes and market prices between 2005 and the IP. However, their market share has remained substantially stable during the period. From the analysis of the market prices it is shown that the products originating in these countries have very high prices in comparison with the products produced and sold by the Community industry and the dumped Chinese imports.

Other third countries	2005	2006	2007	IP
Argentina				
Volume of imports (tonnes)	54 082	53 423	60 556	70 804
<i>Index (2005 = 100)</i>	100	99	112	131
Market share of imports	2,1 %	2,0 %	1,9 %	2,2 %
Japan				
Volume of imports (tonnes)	40 686	61 807	45 719	41 028
<i>Index (2005 = 100)</i>	100	152	112	101
Market share of imports	1,6 %	2,3 %	1,5 %	1,3 %
USA				
Volume of imports (tonnes)	25 866	18 006	26 875	41 226
<i>Index (2005 = 100)</i>	100	70	104	159
Market share of imports	1,0 %	0,7 %	0,9 %	1,3 %
Mexico				
Volume of imports (tonnes)	16 211	18 412	30 001	25 771
<i>Index (2005 = 100)</i>	100	114	185	159
Market share of imports	0,6 %	0,7 %	1,0 %	0,8 %
All others				
Volume of imports (tonnes)	63 107	64 620	77 647	90 788
<i>Index (2005 = 100)</i>	100	102	123	144
Market share of imports	2,5 %	2,4 %	2,5 %	2,9 %
Total other third countries				
Volume of imports (tonnes)	199 952	216 268	240 798	269 617
<i>Index (2005 = 100)</i>	100	108	120	135
Market share of imports	7,8 %	8,0 %	7,6 %	8,5 %
Price of imports (EUR/tonne)	1 332	1 911	1 875	1 709
<i>Index (2005 = 100)</i>	100	143	141	128

Source: Eurostat.

(143) Import prices from Argentina and Mexico have been, on average, substantially higher than average sales prices of the Community industry. As explained at recital 138 above, prices from Argentina and Mexico did not undercut Community industry's prices.

(144) Imports from Japan and the USA were also made, on average, at prices substantially higher than average sales prices of the Community industry. In addition, these imports have not gained market share at all. Therefore, these imports are not considered as being as possible source of injury for the Community industry either.

(145) Imports from all other countries are made in volumes which are so low that cannot be considered to cause any injury. It is therefore concluded that imports from sources other than China have not caused any injury to the Community industry and that there is no element to think that they could possibly contribute to injury in the near future.

3.4. Competition from the other Community producers

(146) There is no reason to think that the other Community producers not actively supporting the complaint have had a situation substantially different from that of the Community industry during the IP or are going to face a different one in the near future. There is no element to indicate that the behaviour of these producers may be a cause of injury of the Community industry in the foreseeable future.

3.5. Cost of production (raw materials)

(147) As it was mentioned in recital 80 above, the Community industry has managed to reflect the increase in costs which took place during the period considered by a sufficient increase in selling prices. Consequently, in the period 2005 – IP it can be stated that the Community industry has shown its capability under normal condition to operate efficiently and react appropriately to the changes in their purchase prices.

(148) As indicated at recital 107 above, costs have substantially increased for the period following the IP and are still forecasted to increase for the following period. Mainly because of a forecasted increase, in relative terms, of fixed costs due to the reduced capacity utilisation. It should be in any case considered that an increase in the overall average costs of the Community industry may also be caused by the shift in product mix to which the Community industry could be obliged because of the severe downward pressure exerted by the certain dumped Chinese product types.

(149) As indicated above at recital 105 above, because of the high undercutting the market for certain product types may be substantially reduced or totally precluded to the Community industry, thereby obliging it to shift

production to product types having a higher selling prices but proportionally higher production costs. Contrary to what has happened during the analysis period, however, the Community industry – because of the pressure exerted by the Chinese imports in terms of loss of market shares and sale price depression – does not appear to have any more sufficient means to reflect increase in costs in a corresponding increase in selling prices.

3.6. Downturn in the Community market of seamless pipes and tubes due to economic downturn

(150) As for the likely effects of decrease in consumption and shrinking demand, this will certainly have an effect on the overall performance of the Community industry. However, this likely negative effect will be rendered more or less significant depending on the development of the market share held by the Chinese imports. Even if the economic downturn could therefore be considered as being a possible cause of injury for the period stating from November 2008, this cannot in any way diminish the damaging injurious effects that will be caused by the existence of significant quantities of very low priced dumped Chinese imports in the EC market. For example, even in a situation of decreasing volumes, the Community industry might be able to maintain an acceptable level of prices and therefore limit the negative effects of a decrease in consumption, should there not be the unfair competition of very low priced dumped Chinese goods which will depress the general level of prices in the market. Therefore, the economic downturn cannot be considered as a possible cause breaching the causal link between the threat of injury and the dumped Chinese imports.

4. Conclusion on causation

(151) The coincidence in time between, on the one hand, the increase in dumped imports from the PRC, the increase in market shares and the undercutting found and, on the other hand, the existence of all elements pointing to a clear and imminent threat of injury which is going to cause a significant deterioration in the economic situation of the Community industry, leads to the conclusion that the dumped imports will be the cause of the material injury which would be suffered by the Community industry within the meaning of Article 3(6) of the basic Regulation if no protective action is taken against these imports.

(152) Other factors were analysed but were found not to be a determining reason for the injury which is likely to be suffered. In particular neither imports from other countries, nor costs, nor a general reduction in demand for the product concerned due to the economic downturn may in any way diminish the potentially disruptive effect of the threat exercised by the Chinese imports on the situation of the Community industry.

- (153) Based on the above analysis, which has properly distinguished and separated the effects of all known factors which may have had or are likely to have an effect on the situation of the Community industry from the likely injurious effect of the dumped imports, it is concluded that the imports from the PRC constitute an imminent threat to the Community industry within the meaning of Article 3(6) and Article 3(9) of the basic Regulation.

G. COMMUNITY INTEREST

- (154) The Commission examined whether, despite the conclusions on dumping, injury, threat of 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 on all parties involved as well as the likely consequences of not taking measures.

1. Interest of the Community industry

- (155) In the light of the foregoing, measures would be imposed on imports from the PRC. It is expected that the imposition of these measures would lead to an increase in prices from that country and would provide the Community industry with an opportunity to improve its situation through the maintaining of a sufficient level of production volumes, sales and therefore market share. In the absence of measures it is expected that, in a context of decrease of consumption, imports from the PRC would continue at very low prices, thereby increasing their market share and exercising a depressive effect on the overall level of prices in the market. In this situation, the Community industry faces an imminent threat of injury due to the loss of volume caused by the presence of the Chinese imports and the possible decrease in price caused by the downward pressure on market prices created by the increasing presence of the Chinese imports in the Community market.

2. Interest of the other Community producers

- (156) There no indication that the interests of the other producers in the Community that have not actively supported the complaint would be different from those indicated for the Community industry. According to the information available in fact there is no reason why the analysis carried out for the Community industry would not equally apply to these other companies.

3. Interest of unrelated importers in the Community

- (157) Only six importers have cooperated in this investigation. Only one importer, which accounts for around 1,5 % of the total Chinese imports into the EC, buys exclusively from China; this importer has a profitability below 5 % and it is the only one to have expressed clear opposition to the possible imposition of measures. It is however worth noting that during the IP, the product concerned accounted for less than 10 % of company turnover. In addition, as anti-dumping duties will be imposed on all Chinese producers, it is likely that this importer will be able to pass on the cost increase to its customers, as his direct competitors are equally affected. All other cooperating importers also buy from other sources, including the Community industry (their sourcing from the Community industry varies between 25 % and 95 % of their needs) and their profitability is much higher.

4. Interest of the users

- (158) Only one of the only five cooperating users buys from China (around 20 % of purchases in volume, the balance is sourced mostly from the Community industry) and alleges that the imposition of measures would have a major impact on its business. However, the profitability of this company for products incorporating the product in question is very high, standing at more than 10 %. A calculation has shown that, even in the worst case, i.e. all Chinese material is purchased at the prices of the Community industry, and none of the price increase can be passed on to customers, the impact on the profitability of this user would be minor (around 1 % of turnover). It is therefore considered that the possible imposition of measures would in no way create a serious prejudice to the interests of this user.

5. Conclusion on Community interest

- (159) To conclude, it is expected that the imposition of measures on imports from the PRC would, in a context of decreasing consumption have no effect in terms of the volume offered in the EC market for which there is enough production capacity available from the Community industry. No negative effects can therefore be foreseen concerning security of supply (it is recalled that the product types imported are also produced by the Community industry). From the analysis it also appears that there are no major interests of importers or users which would be put at stake in case measures are imposed, and the relatively low cooperation of importers and users in this case supports this finding.

H. PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES

(160) In view of the conclusions reached with regard to dumping, injury, threat of injury, causation and Community interest, provisional measures should be imposed on imports of the product concerned originating in the PRC in order to prevent the emergence of material injury to the Community industry by the dumped imports which is imminent and would otherwise occur.

1. Injury elimination level

(161) The provisional measures on imports originating in the PRC should be imposed at a level sufficient to eliminate the threat of injury caused to the Community industry by the dumped imports, without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it is normally considered that any measures should allow the Community industry to cover its costs 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.

(162) The Community industry has claimed that a margin profit of 12 % would be necessary to ensure the normal competitive situation on the Community market, in the absence of injurious dumping. The association of Chinese exporters has admitted that a profit of 8 % can in some circumstances be considered as an appropriate margin of profit.

(163) However, an investigation based on threat of injury necessarily involves a more substantial number of assessments and assumptions than an investigation based on material injury in the IP. This is because the concept of threat of injury necessarily implies that predictions be made about the future materialisation of injury which was not present during the investigation period. In this uncertain scenario, it is considered a prudent approach to provisionally use the margin of profit which was established in the course of the last proceeding concerning the same product⁽¹⁾, i.e. 3 %. It is however recognised that this issue will need to be further examined at the definitive stage, when it will be possible to collect some more evidence in relation to the forecasted injury.

(164) In the light of this, the required 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, determined as indicated at recital 162 above.

(165) Any difference resulting from the comparison mentioned at recital 163 above was then expressed as a percentage of the total cif import value established for the IP. Given that two of the cooperating Chinese producers were granted IT, and in view of the low level of cooperation, the provisional single countrywide injury elimination level was calculated as the highest injury margins found for representative product types sold by a non-market-economy exporting producer.

(166) The injury margin thus established for the PRC was significantly lower than the dumping margin found.

Name of company	Injury Margin
Hubei Xinyegang Steel Co., Ltd	15,6 %
Shandong Luxing Steel Pipe Co., Ltd	15,1 %
Other cooperating companies	22,3 %
All Other companies	24,2 %

2. Provisional measures

(167) 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 the PRC at the level of the lowest of the dumping and injury margins found, in accordance with the lesser duty rule, which is in all cases the injury margin.

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

Company	Anti-dumping duty (%)
Hubei Xinyegang Steel Co., Ltd	15,6 %
Shandong Luxing Steel Pipe Co., Ltd	15,1 %
Other cooperating companies	22,3 %
All other companies	24,2 %

⁽¹⁾ See Council Regulation (EC) No 954/2006 of 27 June 2006, OJ L 175, 29.6.2006, p. 4, recital 233.

(169) 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 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'.

(170) 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.

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

I. FINAL PROVISION

(172) 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 Document 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 seamless pipes and tubes, of iron or steel, of circular cross-section, of an external diameter not exceeding 406,4 mm with a Carbon Equivalent Value (CEV) not

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

exceeding 0,86 according to the International Institute of Welding (IIW) formula and chemical analysis ⁽²⁾, falling within CN codes ex 7304 19 10, ex 7304 19 30, ex 7304 23 00, ex 7304 29 10, ex 7304 29 30, ex 7304 31 20, ex 7304 31 80, ex 7304 39 10, ex 7304 39 52, ex 7304 39 58, ex 7304 39 92, ex 7304 39 93, ex 7304 51 81, ex 7304 51 89, ex 7304 59 10, ex 7304 59 92 and ex 7304 59 93 ⁽³⁾ (TARIC codes 7304 19 10 20, 7304 19 30 20, 7304 23 00 20, 7304 29 10 20, 7304 29 30 20, 7304 31 20 20, 7304 31 80 30, 7304 39 10 10, 7304 39 52 20, 7304 39 58 30, 7304 39 92 30, 7304 39 93 20, 7304 51 81 20, 7304 51 89 30, 7304 59 10 10, 7304 59 92 30 and 7304 59 93 20) and originating in the People's Republic of China.

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

Company	Anti-dumping duty (%)	TARIC additional code
Hubei Xinyegang Steel Co., Ltd, Huangshi City	15,6	A948
Shandong Luxing Steel Pipe Co., Ltd, Qingzhou City	15,1	A949
Companies listed in the Annex	22,3	A950
All other companies	24,2	A999

3. 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.

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

Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 384/96, interested parties may request disclosure of the details underlying 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.

⁽²⁾ The CEV shall be determined in accordance with Technical Report, 1967, IIW doc. IX-535-67, published by the International Institute of Welding (IIW).

⁽³⁾ As defined in Commission Regulation (EC) No 1031/2008 of 19 September 2008 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 291, 31.10.2008, p. 1). The product coverage is determined in combining the product description in Article 1(1) and the product description of the corresponding CN codes taken together.

Pursuant to Article 21(4) of Regulation (EC) 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 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, 7 April 2009.

For the Commission
Catherine ASHTON
Member of the Commission

ANNEX

List of cooperating producers referred to in Article 1(2) under Taric additional code 950

Company Name	City
Hengyang Valin MPM Co., Ltd	Hengyang
Hengyang Valin Steel Tube Co., Ltd	Hengyang
Handan Precise Seamless Steel Pipes Co., Ltd	Handan
Jiangsu Huacheng Industry Group Co., Ltd	Zhangjiagang
Jiangyin Metal Tube Making Factory	Jiangyin
Jiangyin City Seamless Steel Tube Factory	Jiangyin
Pangang Group Chengdu Iron & Steel Co., Ltd	Chengdu
Shenyang Xinda Co., Ltd	Shenyang
Suzhou Seamless Steel Tube Works	Suzhou
Tianjin Pipe (Group) Corporation (TPCO)	Tianjin
Wuxi Dexin Steel Tube Co., Ltd	Wuxi
Wuxi Dongwu Pipe Industry Co., Ltd	Wuxi
Wuxi Seamless Oil Pipe Co., Ltd	Wuxi
Zhangjiagang City Yiyang Pipe Producing Co., Ltd	Zhangjiagang
Zhangjiagang Yichen Steel Tube Co., Ltd	Zhangjiagang