

COMMISSION REGULATION (EC) No 449/2000

of 28 February 2000

imposing a provisional anti-dumping duty on imports of malleable cast iron tube or pipe fittings originating in Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand and accepting an undertaking offered by an exporting producer in the Czech Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 905/98 ⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 29 May 1999, the Commission announced by a notice (hereinafter referred to as 'Notice of Initiation') published in the *Official Journal of the European Communities* ⁽³⁾ the initiation of an anti-dumping proceeding with regard to imports into the Community of malleable cast iron tube or pipe fittings originating in Brazil, Croatia, the Czech Republic, the Federal Republic of Yugoslavia (hereinafter referred to as 'Yugoslavia'), Japan, the People's Republic of China (hereinafter referred to as 'China'), the Republic of Korea (hereinafter referred to as 'Korea') and Thailand.
- (2) The proceeding was initiated as a result of a complaint lodged in April 1999 by the Defence Committee of Malleable Cast Iron Tube or Pipe Fittings Industry of the European Union (hereinafter referred to as 'complainant') on behalf of producers representing 100 % of the Community production of malleable cast iron tube or pipe fittings. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the exporting producers and importers/traders known to be concerned as well as their associations, the representatives of the exporting countries concerned and the complainant, about the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.
- (4) A number of exporting producers in the countries concerned, as well as Community producers, Community users and importers/traders made their

views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard were granted the opportunity to be heard.

- (5) The Commission sent questionnaires to parties known to be concerned and to all the other companies which made themselves known within the deadlines set out in the Notice of Initiation. Replies were received from six Community producers, 11 exporting producers in the countries concerned, as well as from their related importers in the Community. The Commission also received replies from 17 unrelated importers/traders in the Community as well as from two users.

Verification visits were carried out at the premises of the following companies:

(a) *Community producers*

- Georg Fischer GmbH, Austria
- R. Woeste Co GmbH & Co. KG, Germany
- Ferriere a Fonderie Di Dongo S.P.A., Italy
- Raccordi Pozzi Spoleto SpA, Italy
- Accesorios de Tuberia, SA, Spain
- Crane Fluid System, United Kingdom

(b) *Unrelated importers in the Community*

- SIRE SA, France
- Sofreco, France
- Hage Fittings GmbH & Co KG, Germany
- Hermann Schmidt, Germany
- Intersantherm, Warenhandels-gesellschaft mbH, Germany
- 'Invest' Import und Export GmbH, Germany
- Euraccordi, Italy
- GT Comis SpA, Italy
- Jannone Arm SpA, Italy
- Jannone SpA, Italy
- OML SRL, Italy
- Gill & Russell Ltd, United Kingdom
- T. Hackett & Sons Ltd, United Kingdom

(c) *Users*

- Società Italiana per il Gas, Italy
- Transco BG plc, United Kingdom

(d) *Exporting producers*

- Brazil
- Indústria de Fundação Tupy Ltda, Joinville

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ C 151, 29.5.1999, p. 21.

- The Czech Republic
 - Moravské Zelezárny as, Olomouc and its related domestic sales company Moze Prodej sro, Olomouc
- Japan
 - Hitachi Metals Ltd, Tokyo
- Korea
 - Yeong Hwa Metal Co. Ltd, Kyongnam
- Thailand
 - BIS Pipe Fitting Industry Company Ltd, Samutsakorn
 - Siam Fittings Co. Ltd, Samutsakorn
 - Thai Malleable Iron & Steel Co. Ltd, Bangkok
- China (Market Economy Status verifications)
 - Jianzhong Malleable Iron Factory, Hebei
 - Jinan Meide Casting Co. Ltd, Jinan

- (6) The investigation of dumping and injury covered the period from 1 April 1998 to 31 March 1999 (hereinafter referred to as 'the investigation period' or 'IP'). The examination of trends in the context of the injury analysis covered the period from 1 January 1995 up to the end of the investigation period (hereinafter referred to as 'the injury investigation period' or 'IIP').

1.2. Submissions received regarding the complaint

- (7) A number of parties questioned why Bulgaria was not included in the investigation as one of the exporting countries. According to them, it was discriminatory to initiate a proceeding only with regard to the eight countries concerned and not against Bulgaria.
- (8) The situation regarding Bulgaria was examined in the framework of the analysis of the complaint prior to the initiation of the proceeding. The complainant provided evidence of normal value and export price for Bulgarian products in the same fashion as for other countries in the complaint (price lists, Eurostat figures). On the basis of this evidence, no dumping appeared to exist, with the consequence that no investigation concerning Bulgaria could be initiated.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (9) The product concerned as described in the Notice of Initiation is malleable cast iron tube or pipe fittings.
- (10) The investigation has shown that there are a number of different types of malleable cast iron tube or pipe fittings such as threaded, grooved, plain end and flanged/weld fittings. All of them fall under the same CN code 7307 19 10. With respect to these different types, it was

found that threaded fittings, on the one hand, and other fittings, on the other, have different basic physical and technical characteristics, in particular in terms of their joining system. Indeed, the former are joined by screwing, while the latter can only be joined by using different technologies, such as welding or coupling.

- (11) On the basis of the result of the investigation, it has also been found that the producers in the exporting countries concerned sell in the Community market exclusively threaded fittings, while the other types of fittings are either not produced or not sold by the parties concerned. Given the difference between threaded and non-threaded malleable fittings and the fact that only threaded malleable fittings are exported to the Community by the countries concerned, it is concluded that the product concerned by this proceeding covers threaded malleable cast iron tube or pipe fittings only (hereinafter 'malleable fittings' or 'product concerned'). These fittings meet the requirements specified in the international standards referred in the complaint (i.e. EN 10242, ISO — 49 and ANSI) ⁽¹⁾ and are currently classifiable within CN code ex 7307 19 10.
- (12) This product is produced in many different types according to, *inter alia*, their size, shape, surface finishing and grade of cast iron used. Despite these differences, all these types have the same basic physical and technical characteristics as well as the same uses. They are, therefore, considered as a single product.

2.2. Like product

- (13) The Commission found that malleable fittings produced by the Community producers and sold on the Community market are like products to the malleable fittings produced in the countries concerned and exported to the Community, since there are no differences in the basic characteristics and uses of the different types of malleable fittings. The same is true with regard to the malleable fittings sold on the domestic market of the exporting countries and the types exported to the Community. Therefore, they were also like products within the meaning of Article 1(4) of Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation'). It was also found that malleable fittings exported from China to the Community and those sold on the domestic market of Thailand, which served as an analogue country, were alike.

2.2.1. Black heart and white heart fittings

- (14) In this respect, some parties claimed that the malleable fittings manufactured and sold by the Community producers could not be considered comparable to those produced and exported to the Community by some of the exporting countries concerned on the grounds that the grade of the material used for the Community-produced ones is, in general, white heart, while the grade of the material used for the exported ones is black heart.

⁽¹⁾ It should be noted that these standards only apply to threaded cast iron tube or pipe fittings.

(15) The investigation has provisionally shown that white heart fittings and black heart fittings have closely resembling physical characteristics, the same end uses and are thus, in general, interchangeable. This has been confirmed by the fact that the users of the product under investigation, such as gas distributors and installers, indeed do not differentiate between white heart or black heart fittings. Furthermore, both white heart and black heart fittings are included in the European Standard EN 10242 and in the international standard ISO 49, which specify the requirements for the design and performance of the malleable fittings under investigation. As concerns, in particular, the grade of the material to be used, both white heart and black heart are permitted.

(16) Given the above, it is provisionally concluded that the white heart malleable fittings manufactured and sold by part of the Community producers should be considered as like product to the black heart malleable fittings produced and exported to the Community by the exporting countries concerned.

2.2.2. Particularities of Korean exports

(17) Korean exporting producers have claimed that their products should not be part of the product concerned since they had certain technical peculiarities. These malleable fittings have taper external threads and taper internal threads, contrary to the other imported malleable fittings, which have taper external threads and parallel internal threads.

(18) However, the investigation has shown that, apart from these technical specifications, the Korean malleable fittings have the same physical and technical characteristics of the other imported malleable fittings. Furthermore, as concerns the use, the investigation has shown that the Korean malleable fittings are used in a similar way to the malleable fittings imported from the other countries concerned. Indeed, in one Member State where both types are used, they have been found to be interchangeable. In fact, users can and do switch from one type to the other and it is mainly by reason of a traditional and historical preference that the taper/taper type is still being preferred in the said Member State. Furthermore, both types are included in the abovementioned European Standard EN 10242, which specifies the requirements for the design and performance of malleable fittings intended for the connection of elements threaded in accordance with ISO 7-1, size 1/8 to 6.

(19) On that basis, it is, therefore, provisionally concluded that the malleable fittings produced by the Korean exporting producers and exported to the Community are similar or comparable to other imported malleable fittings.

3. DUMPING

A. MARKET ECONOMY COUNTRIES

3.1. General methodology

3.1.1. Normal value

(20) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of malleable fittings were representative in comparison with its total export sales of the product concerned to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales of an exporting producer were considered representative when the total domestic sales volume was at least 5 % of its total export sales volume to the Community.

(21) The Commission subsequently identified those types of malleable fittings sold domestically by the companies having representative domestic sales that were identical or directly comparable to the types sold for export to the Community. In general, types with the same size, shape, surface finishing and grade of cast iron used were considered to be comparable.

(22) For each of the types sold by the exporting producers on their domestic markets and found to be directly comparable to types sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of malleable fittings of that type during the IP represented 5 % or more of the total sales volume of malleable fittings of the comparable type exported to the Community.

(23) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of malleable fittings sold at a net sales price equal to or above the calculated cost of production (hereinafter also referred to as 'profitable sales') represented 80 % or more of the total sales volume and where the weighted average price of that type was equal to or above cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether all these sales were profitable or not. In cases where the volume of profitable sales of malleable fittings represented less than 80 % but 10 % or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales only.

- (24) In cases where the volume of profitable sales of any type of malleable fittings represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.
- (25) Wherever domestic prices of a particular type sold by an exporting producer could not be used, constructed normal value had to be used in preference to domestic prices of other similar types or to domestic prices of other exporting producers. Due to the number of different types and the variety of factors (such as quality control, quality of material used, weight, etc.) affecting them, using domestic prices of other exporting producers would have meant in this case making numerous adjustments, most of which would have had to be based on estimates. It was therefore considered that constructed value of each exporting producer formed a more appropriate basis to establish normal value.
- (26) Consequently, in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG & A') and a reasonable margin of profit. To this end, the Commission examined whether the SG & A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.
- (27) Actual domestic SG & A expenses were considered reliable when the domestic sales volume of the company concerned could be regarded as representative when compared to the volume of export sales to the Community. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade, i.e. when these sales to independent customers at prices equal to or above the cost of production represented at least 10 % of the total of domestic sales volume of the product concerned made by the company concerned. Where this criterion was not met, a weighted average profit margin of the other companies with sufficient sales in the ordinary course of trade in the country concerned was used.

3.1.2. Export price

- (28) In all cases where malleable fittings were exported to independent customers in the Community, 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.
- (29) Where the export sale was made to a related importer, the export price was constructed pursuant to Article 2(9) of the basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer. In such cases, adjustments were

made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price. On the basis of the information available from cooperating unrelated importers, this profit was set at around 7 %.

3.1.3. Comparison

- (30) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation.

3.1.4. Dumping margin for the companies investigated

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

3.1.5. Residual dumping margin

- (32) A 'residual' dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.
- (33) For those countries with a level of cooperation close to the information provided by Eurostat, i.e. where there was no reason to believe that any exporting producer abstained from cooperating with the investigation, it was decided to set the residual dumping margin at the level of the cooperating company with the highest dumping margin in order to ensure the effectiveness of any measures.
- (34) For those countries where the level of cooperation was low, information from the cooperating company with the highest dumping margin was used. The residual dumping margin was determined on the basis of the weighted average margin of the dumped types exported in representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

3.2. Brazil

- (35) One company replied to the questionnaire for exporting producers. A company in the Community related to this exporting producer also replied to the questionnaire intended for related importers.

3.2.1. Normal value

- (36) The procedures and methodologies followed by the Commission in order to determine the normal value of products originating in Brazil were the same as those explained under 3.1.1.

- (37) In its reply to the questionnaire, the company used the cost of manufacturing of the units sold as a basis for the allocation of the SG & A to each type of the product concerned in the domestic market, while no such a system was internally used for the allocation of costs. Therefore, it was considered necessary to change the allocation method to the effect that the above costs were allocated on the basis of the turnover according to Article 2(5) of the basic Regulation.
- (38) For about half of the types sold for export to the Community, normal values were established on the basis of the domestic sales price of comparable types in accordance with Article 2(2) of the basic Regulation.
- (39) For all other types of the product concerned sold for export to the Community normal value was calculated in accordance with Article 2(3) of the basic Regulation. The SG & A expenses and profit used were those determined for the exporting producer in question.

3.2.2. Export price

- (40) The procedures and methodologies followed by the Commission to assess the export price of products originating in Brazil were the same as those explained under point 3.1.2.
- (41) Exports were made to both unrelated and related companies. The Commission excluded the sales for export to the Community made via the related company in the Community from the dumping calculations, as they represented a negligible part of the quantity exported by the Brazilian exporting producer and thus could not have had any material impact on the findings.
- (42) All other sales for export were to independent importers in the Community. Consequently, the export price was established according to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.
- (45) The exporting producer claimed adjustments to the normal value and export price for promotion and advertising costs. It was not possible during the verification to establish with a reasonable degree of accuracy the correctness of the amounts of the expenses incurred. Moreover, the company did not demonstrate that these expenses affected price comparability. The Commission decided therefore to make no adjustment for promotion and advertising.
- (46) The company also claimed an adjustment to the normal value for differences in financing costs for keeping stocks. However, it was found that stocks kept for domestic and export sales were either not separately identifiable or that the periods during which products destined for the domestic and the Community market were kept in stock, were by and large the same or even identical. Moreover, the exporting producer could not demonstrate that this affected price comparability. Consequently, the adjustment could not be granted.
- (47) An adjustment to the domestic sales prices for refund of certain indirect taxes was claimed. The claim made was calculated on a wrong basis and largely exaggerated. The adjustment claimed has therefore been reduced provisionally to 50 % of the claimed amount. The Commission will further investigate this issue in order to establish the amount of indirect taxes which was actually refunded on export sales made to the Community and at the same time borne by the product concerned when consumed in Brazil.
- (48) As the exporting producer had used exchange rates which were not linked to the date of the sale, the Commission has recalculated the export price by using exchange rates at the date of the invoice, in accordance with Article 2(10)(j) of the basic Regulation.
- (49) The same adjustments made to the normal value based on domestic sales were also made on the normal value calculated in accordance to Article 2(3) of the basic Regulation.

3.2.3. Comparison

- (43) Allowances for differences in indirect taxes, level of trade, transport, insurance, handling, loading and ancillary costs, credit, commissions and after-sales costs have been granted where applicable and justified.
- (44) The exporting producer claimed an adjustment to the normal value and to the export price for differences in packing costs. However, the company could not submit any evidence showing such a difference and the Commission could therefore not grant the adjustment claimed.

3.2.4. Dumping margin

- (50) As provided under Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.
- (51) The comparison showed the existence of dumping in respect of the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Indústria de Fundação Tupy Ltda: 26,1 %

- (52) Since the level of cooperation was high, the residual provisional dumping margin was set at the same level as for the cooperating company, i.e. 26,1 %.

different cost of manufacturing. The cost of manufacturing of those different product types was consequently used to calculate the normal value as explained above.

3.3. The Czech Republic

3.3.2. Export price

- (53) One company replied to the questionnaire for exporting producers. This reply included data on domestic sales made by a related sales company on the domestic market. A company in the Community related to this exporting producer also replied to the questionnaire intended for related importers.

- (61) The procedures and methodologies followed by the Commission to assess the export price of products originating in the Czech Republic were the same as those explained under point 3.1.2.

3.3.1. Normal value

- (54) The procedures and methodologies followed by the Commission in order to determine the normal value of products originating in the Czech Republic were the same as those explained under point 3.1.1.

- (62) Exports were made to both unrelated and related companies. The Commission excluded the sales for export to the Community made by the related importer from the dumping calculations, as they represented a negligible part of the quantities exported by the Czech exporting producer and thus could not have had any material impact on the calculations.

- (55) The domestic SG & A expenses reported by the exporting producer contained amounts which were either not related to the product concerned or not referring to the investigation period. The reported SG & A expenses were accordingly corrected.

- (63) All other sales for export were to independent importers in the Community. Consequently, the export price was established according to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.

- (56) The domestic SG & A expenses reported for the related domestic sales company were allocated in such a way that the result did not reasonably reflect the costs associated with the sale of the product concerned. The Commission therefore reallocated the SG & A expenses taking into consideration the expenses incurred for the different product categories sold.

3.3.3. Comparison

- (57) When calculating the cost of production of each type sold domestically, the global amount of SG & A expenses, corrected as explained above were allocated, in the absence of any historically applied system, to each product type on the basis of turnover according to Article 2(5) of the basic Regulation.

- (64) Allowances for differences in level of trade, transport, credit and commissions have been granted where applicable and justified.

- (58) For about half of the types sold for export to the Community, normal values were established on the basis of the domestic sales price of comparable types in accordance with Article 2(2) of the basic Regulation.

- (65) The exporting producer and the related domestic sales company claimed an allowance on the normal value for an additional hypothetical quantity discount which would be granted on the domestic market if quantities similar to quantities exported to customers in the Community were sold to customers on the domestic market. It should be noted that the Commission has already taken into account differences in quantities sold by deducting from the sales prices those discounts and rebates given for any such differences which were properly quantified and directly linked to the sales under consideration.

- (59) For all other types of the product concerned sold for export to the Community normal value was calculated in accordance with Article 2(3) of the basic Regulation. The SG & A expenses and the profit used were those determined for the exporting producer in question.

- (66) As the exporting producer had used exchange rates that were not linked to the date of the sale, the Commission has recalculated the turnover of each export sale by using exchange rates at the date of the invoice, in accordance with Article 2(10)(j) of the basic Regulation.

- (60) The cooperating company had classified a number of exported product types as being identical and reported one single cost of manufacturing for those types. The Commission's investigation revealed that the product types in question were in fact different and had a

- (67) The same adjustments made to the normal values based on domestic sales were also made to the normal values calculated in accordance with Article 2(3) of the basic Regulation.

3.3.4. *Dumping margin*

(68) As provided under Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(69) The comparison showed the existence of dumping in respect of the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Moravské Železářny as: 28,4 %

(70) Since the level of cooperation was high, the residual provisional dumping margin was set at the same level as for the cooperating company, i.e. 28,4 %.

3.4. **Japan**

(71) One company replied to the questionnaire for exporting producers. A company in the Community related to this exporting producer also replied to the questionnaire intended for related importers.

3.4.1. *Normal value*

(72) The procedures and methodologies followed by the Commission in order to determine the normal value of products originating in Japan were the same as those explained under point 3.1.1, except where, according to Article 18 of the basic Regulation, information available was used.

(73) Since the company did not provide the cost of production of certain types and in order not to grant a bonus for non-cooperation pursuant to Article 18 of the basic Regulation, the Commission applied to these types the dumping margin of the most dumped types for which there were representative sales.

(74) For some of the remaining types, normal value was established on the basis of the domestic price of comparable types in accordance with Article 2(2) of the basic Regulation.

(75) For all other types of the product concerned, sold for export to the Community normal value was calculated in accordance with Article 2(3) of the basic Regulation. This was done by adding to the manufacturing cost of the exported types the company's own SG & A expenses and its domestic profit margin, in accordance with Article 2(6) of the basic Regulation.

3.4.2. *Export price*

(76) The procedures and methodologies followed by the Commission to assess the export price of products originating in Japan were the same as those explained under point 3.1.2.

(77) A major part of the sales for export to the Community were made to a related importer in the Community. In this case the Commission had to construct the export price according to Article 2(9) of the basic Regulation. Prices for the remaining export transactions were determined according to Article 2(8).

3.4.3. *Comparison*

(78) The company claimed allowances for transport and for costs relating to differences in level of trade. However, as no explanation or reliable evidence was provided by the company during the on-the-spot verification and no justification for these allowances was found in the reply to the questionnaire, the Commission services could not accept them.

3.4.4. *Dumping margin*

(79) As provided by Article 2(11) of the basic Regulation, the comparison was made on the basis of a weighted average normal value to a weighted average export price.

(80) The comparison showed the existence of dumping in respect of the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Hitachi Metals Ltd: 17,6 %

(81) The methodology followed to determine a provisional residual dumping margin for Japan was the one explained under point 3.1.5, for countries where the level of cooperation was low. On this basis, the residual dumping margin is 28,3 %.

3.5. **Korea**

(82) One company replied to the questionnaire for exporting producers.

3.5.1. *Normal value*

(83) The procedures and methodologies followed by the Commission to assess the normal value of products originating in Korea were the same as those explained under point 3.1.1.

(84) In line with the methodology referred to above, it was possible, for about a quarter of the types, to establish normal value on the basis of the domestic price of comparable types.

(85) For all other types of the product concerned sold for export to the Community by the cooperating company, normal value was calculated in accordance with Article 2(3) of the basic Regulation.

- (86) This was done by adding the company's own domestic SG & A expenses and domestic profit margin to the manufacturing cost of the exported types, in accordance with Article 2(6) of the basic Regulation.

3.5.2. Export price

- (87) The procedures and methodologies followed by the Commission to assess the export price of products originating in Korea were the same as those explained under point 3.1.2.
- (88) All sales of the product concerned made by the cooperating company on the Community market were to independent customers in the Community. Consequently, the export price was established by reference to the prices actually paid or payable.

3.5.3. Comparison

- (89) Allowances for differences in transport, insurance, handling charges, packing costs, and credit have been granted where applicable and justified.
- (90) The company also claimed an allowance for credit costs relating to sales on the domestic market. However, these sales were made on an open account basis. In the absence of evidence that credit costs constituted a factor taken into account in the determination of prices no adjustment for credit costs could be granted, in accordance with Article 2(10)(g) of the basic Regulation.
- (91) In addition, the company claimed an allowance for alleged differences in the level of trade to take account of sales expenses on the domestic market that were not incurred on the export market. However, as sales on both markets were in fact made at the same level, i.e. to distributors, the claim is rejected. Moreover, no evidence was provided showing that such difference in sales expenses would have affected price comparability.

3.5.4. Dumping margin

- (92) In line with the provisions of Article 2(11) of the basic Regulation, the comparison was made between a weighted average normal value and a weighted average export price.
- (93) This comparison shows the existence of dumping for the cooperating company. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Yeong Hwa Metal Co. Ltd: 11,8 %

- (94) The methodology followed to determine a provisional residual dumping margin for Korea was the one explained under point 3.1.5, for countries where the level of cooperation was low. On this basis, the residual dumping margin is 24,6 %.

3.6. Thailand

- (95) Three companies replied to the questionnaire for exporting producers.

- (96) For one of the Thai companies it was found that the information provided regarding sales volume and cost of production for malleable fittings sold in the domestic market contained serious deficiencies, which made it impossible to obtain reasonably accurate findings and to calculate a provisional dumping margin on the basis on the reported data. It was therefore decided to partially use facts available in accordance with Article 18 of the basic Regulation. In the absence of any more appropriate alternative, the normal values of the other two exporting producers were used where possible. For those export sales for which no normal value was available the margin of the highest dumped transaction was applied in order not to reward this deficient cooperation.

3.6.1. Normal value

- (97) The procedures and methodologies followed by the Commission to assess the normal value of products originating in Thailand were the same as those explained under point 3.1.1, except where, according to Article 18, information available was used for determining the dumping margin.
- (98) On the basis of the method referred to above, it was partially possible to establish normal value on the basis of the domestic price of comparable types in accordance with Article 2(2) of the basic Regulation.
- (99) For all other types of the product concerned sold for export to the Community by the two cooperating companies for which a dumping calculation was made, normal value was calculated, in accordance with Article 2(3) of the basic Regulation, on the basis of constructed value.

- (100) This was done by adding the companies' own domestic SG & A expenses and domestic profit margin to the manufacturing cost of the exported types, in accordance with Article 2(6) of the basic Regulation.

3.6.2. Export price

- (101) The procedures and methodologies followed by the Commission to assess the export price of products originating in Thailand were the same as those explained under point 3.1.2.

- (102) All sales of malleable fittings by the two companies on the Community market were to independent importers in the Community. Consequently, the export price was established by reference to the prices actually paid or payable.

3.6.3. Comparison

- (103) Allowances for differences in transport, packing, credit costs and commissions have been granted where applicable and justified.
- (104) One of the cooperating companies claimed an allowance for import charges. The company did not demonstrate the relation between the import duty paid and the so-called tax compensation measures to help exporters. Consequently, the claim for the adjustment was rejected.
- (105) One of the cooperating companies claimed an adjustment for physical differences. This claim included in fact three different requests: (i) a claim for an adjustment for level of trade on the basis that price comparability was affected by the differences which arise in OEM (original equipment manufacturer) sales; (ii) a claim for physical differences of the sockets (plain, beaded, or banded); (iii) finally, an adjustment of differences in quantities. However, none of the three claims was sufficiently demonstrated. During the on-the-spot investigation it was found that no distinction was made between different types of customers and sockets, or quantities when deciding on prices. Price comparability was clearly not affected by any of the three alleged differences. Consequently, given that there was no evidence of the claimed differences, no adjustment was granted in this respect.

- (106) The same company claimed an allowance for the credit cost of sales on the domestic market. The allowance claimed was made on the basis of an open account without evidence of an agreement between supplier and buyer of the product at the time of sale. This claim was rejected on the ground that, in accordance with Article 2(10)(g) of the basic Regulation, an adjustment can only be given for the number of days agreed at the time of the sale, as only such an expense related to that number of days agreed at the date of sale can be considered to affect price comparability.
- (107) One of the cooperating companies claimed an allowance for currency conversion based on an alleged difference in exchange rates between the sales order and the actual invoice date. This claim was rejected on the grounds that, in accordance with Article 2(10)(j) of the basic Regulation, the alleged difference in exchange rates was not confirmed by the information received during the on-the-spot investigation, no sustained movement in exchange rates existed during the investigation period

and the sales order did not conclude the sales agreement and had no binding effect.

3.6.4. Dumping margin

- (108) As provided by Article 2(11) of the basic Regulation, the comparison was made on the basis of a weighted average normal value to a weighted average export price for all companies.
- (109) The comparison shows the existence of dumping in respect of all producers fully cooperated with the Commission. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are the following:
- (110) BIS Pipe Fitting Industry Company Ltd, Samutsakorn: 25,8 %
Siam Fittings Co. Ltd, Samutsakorn: 12,4 %
Thai Malleable Iron & Steel Co. Ltd, Bangkok: 25,8 %
- (111) For any non-cooperating companies, the provisional residual dumping margin was assessed on the basis of the margin of the company with the highest dumping margin. Expressed as a percentage of the cif import price at the Community border, the margin is 25,8 %

3.7. Croatia and Yugoslavia

- (112) In view of the provisional finding of *de minimis* market shares for the imports of the product concerned originating in both Croatia and Yugoslavia, it was provisionally decided not to calculate a dumping margin for imports of the product concerned from these countries.

B. NON-MARKET ECONOMY COUNTRIES

3.8. China

3.8.1. Analysis of market economy status

- (113) Three Chinese companies requested market economy status (hereinafter 'MES'), pursuant to Article 2(7)(c) of the basic Regulation.
- (114) The claim made by one company had to be rejected on the grounds that it submitted in its application that its accounts were not audited. Consequently, the company did not comply with the conditions set out in the second indent of Article 2(7)(c) of the basic Regulation. Therefore, an on-the-spot verification was also deemed unnecessary.
- (115) The Commission sought all information deemed necessary and verified all information submitted in the MES applications, on-the-spot, at the premises of the remaining two companies.

- (116) For one of these companies it was established that there was significant State interference in the form of tax rebates and in the setting of the salaries for workers. Furthermore, it was found that there was no clear set of basic accounting records and that the production costs and the financial situation of the company were subject to significant distortion.
- (117) For the other company, the Commission found that its accounts were not independently audited and that the methods used were not in accordance with international accounting standards.
- (118) Consequently, the conditions set out in Article 2(7)(c) of the basic Regulation were not met by any of the other two companies requesting MES. All three companies were informed that their MES applications had to be rejected.

3.8.2. *Choice of analogue country*

- (119) In the absence of any companies qualifying for MES, it was necessary to compare the export prices of the Chinese exporting producers with a normal value established for an appropriate market economy country, pursuant to Article 2(7)(a) of the basic Regulation.
- (120) Poland was suggested by the complainant and proposed by the Commission in the Notice of Initiation. One Polish producer did subsequently cooperate and submitted a reply to the questionnaire. However, this response was found to be deficient in a number of crucial respects, particularly regarding domestic sales and production costs. Consequently, the Commission did not consider it appropriate to use Poland as an analogue country in this investigation.
- (121) In spite of the effort made by the Commission, no other producer in a country not concerned by the present investigation was ready to cooperate. In the absence of cooperation, the Commission had no other option than to select a country included in the complaint.
- (122) The Commission finally decided that Thailand was the most appropriate market economy third country for the purpose of establishing normal value, in accordance with Article 2(7) of the basic Regulation, in view of the volume of domestic sales made by Thai producers as compared to imports into the Community from China and the existence of several domestic producers, which allowed for reasonable profits for this type of product.

3.8.3. *Individual treatment*

- (123) All three cooperating companies requested individual treatment.

- (124) In accordance with Article 9(5) of the basic Regulation, it is the Community institution's policy to calculate a single country-wide duty for non-market economy countries, except in those cases where companies can demonstrate a degree of legal and factual independence so that the risk of circumvention of the country-wide duty is removed. To this end, detailed questions were included in the MES claim form sent to the parties concerned upon the initiation of the proceeding.
- (125) For one of the companies, an examination of the information provided with regard to the application for individual treatment appeared to indicate that the company was eligible for such individual treatment. However, the questionnaire reply submitted by this company was substantially incomplete, notably regarding the reporting of export sales. Consequently, it has been provisionally decided not to grant individual treatment to this company. This issue will nevertheless be further examined until the definitive stage of the investigation.
- (126) With regard to the remaining two cooperating companies, there was clear interference from the State authorities regarding the determination of export prices and quantities.
- (127) Consequently, no individual treatment could be granted to any of the three companies.

3.8.4. *Normal value*

- (128) Normal value for the Chinese exporting producers was calculated on the basis of the normal values established for the cooperating Thai companies by using the methodology described in point 3.1.1. In this context, the types sold on the Thai domestic market which were found to be comparable to the Chinese types exported to the Community were used.

3.8.5. *Export price*

- (129) The procedures and methodologies followed by the Commission in assessing the export price of products originating in China were those described in point 3.1.2. For the cooperating exporting producers, the export price was established by reference to the prices paid or payable. Information available from Eurostat was used to account for exports made by non-cooperating parties.

3.8.6. *Comparison*

- (130) Where applicable, adjustments were made to the export price to take account of differences relating to transport, insurance, handling charges and packing.
- (131) As regards normal value, all allowances granted to the Thai exporting producers and relevant in light of the exports made by the exporting producers were also deducted in the case of China.

3.8.7. Dumping margin

- (132) The provisional dumping margin for China, expressed as a percentage of the cif import price at the Community border is 49,4 %.

4. INJURY

4.1. Community industry

- (133) The complainant Community producers account for 100 % of the Community production of malleable fittings and, therefore, constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.
- (134) One interested party claimed that one producer should not be considered as belonging to the Community industry on the grounds that it imported the product concerned from one of the countries concerned, namely from China. However, this allegation was neither substantiated nor has it been confirmed by the investigation. Furthermore, it was claimed by some interested parties that certain Community producers imported the product concerned from other third countries. The investigation has shown, as regards one producer, that they indeed made such imports. However, these imports were minimal by comparison with the Community produced sales on the Community market. Therefore, this company in its core activity clearly remained a producer in the Community. With respect to the others, the allegations have not been confirmed.
- (135) Therefore, these claims have been rejected.

4.2. Community consumption

- (136) The apparent Community consumption has been established on the basis of the sales volume of the Community industry on the Community market plus the import volume into the Community of malleable fittings from the countries concerned and from all other third countries known to produce and export the product concerned into the Community. On this basis, consumption decreased by around 6 % between 1995 and the IP, from around 65 000 tonnes to around 61 000 tonnes, reaching the lowest level in 1996, a year in which the whole sector suffered from difficult market conditions.

4.3. Cumulative assessment of the effects of the imports concerned

- (137) With respect to some of the countries concerned, it has been argued that the imports should not be assessed cumulatively with the other imports, taking into account the conditions set out in Article 3(4) of the basic Regulation.

tion. In this respect, the investigation has shown the following:

- (138) As regards Croatia and Yugoslavia, it was provisionally found that the volume of imports originating in those countries represented in the IP 0,4 % and 0,3 % of the total Community consumption, respectively. In accordance with Article 3(4) of the basic Regulation, they are provisionally considered not to have contributed to any injury suffered by the Community industry and are, accordingly, excluded from the injury assessment.
- (139) Furthermore, the Brazilian exporting producer argued that exports of malleable fittings from Brazil should not be cumulated with the rest of the countries concerned, in view of the different market behaviour and their difference in export prices. Similarly, the Czech exporting producer argued that exports from the Czech Republic should not be cumulated with those from the other countries concerned, on the grounds that the trade pattern was different to that of these other countries. Thai exporting producers also argued that exports from Thailand should not be assessed cumulatively with those from the other countries concerned, in view of their decreasing export volumes and of their comparatively higher export prices. Finally, Korean exporting producers claimed that exports from Korea should not be cumulated with those from the other countries concerned on the grounds of the specific technical characteristics of their products which they export only to the British market. In this respect, the following provisional conclusions have been reached.

4.3.1. Brazil

- (140) The import volume from Brazil did not follow a stable trend. In this respect, however, imports from some of the other countries concerned followed a similar pattern. As to Brazilian import volumes, in absolute terms they were always significant, whereas their market share remained fairly stable at around 7 to 8 % during the whole IIP. In terms of prices, they followed an unsteady trend during the IIP. However, between 1996 and the IP, they almost continually decreased. Finally, a substantial undercutting of the Community industry's prices has been established as regards Brazilian imports. For these reasons, it is provisionally considered appropriate to cumulatively assess imports from Brazil with those originating in the other countries concerned.

4.3.2. The Czech Republic

- (141) Czech imports increased both in absolute and in relative terms during the IIP. In particular, import volumes increased by 123 %, while their market share rose by around 4 percentage points from around 3 % to around 7 %. Concerning the prices, they were rather stable

during the IIP and significantly undercut the Community industry's prices in the IP. For these reasons, it is provisionally considered appropriate to cumulatively assess imports from the Czech Republic with those originating in the other countries concerned.

4.3.3. *Thailand*

- (142) As regards Thailand, the overall development of the import volumes is not different from those of some other countries concerned, whose evolution similarly followed a unsteady trend. As regards prices, they increased between 1995 and the IP. Nevertheless, a significant undercutting of the Community industry prices has been established. For these reasons it is provisionally considered appropriate to cumulatively assess imports from Thailand with those originating in the other countries concerned.

4.3.4. *The Republic of Korea*

- (143) With respect to the request of decumulation put forward by the Korean exporting producer on the grounds of the specific technical characteristics of the product manufactured by them and exported to the Community market, namely to one Member State, reference is made to the conclusions set out above concerning the like-product issue. Consequently, on the basis of the fact that the malleable fittings manufactured by the Korean exporting producers and sold in the said Member State have been found to be alike to the malleable fittings produced in that Member State and in the rest of the Community, it is provisionally considered appropriate to cumulatively assess imports from Korea with those originating in the other countries concerned.
- (144) In conclusion, the investigation has shown that a number of differences exist between the level and evolution of imports and their respective prices. However, the conditions of cumulation as set out in Article 3(4) of the basic Regulation are met since the dumping margin are above the *de minimis* level and volume of imports under consideration are not negligible. As concerns the conditions of competition between the imported products and the imported products and the like Community product, these were found to be comparable since all imports concerned have been made, during the IP, in significant quantities resulting in significant market shares and have been made at prices, during the same period, significantly undercutting the prices of the Community industry. Moreover, both the Community product and the product imported from the countries concerned have been found to have common or similar channels of distribution. As a consequence, it is provisionally considered appropriate to cumulatively assess the imports from the countries concerned, with the exception of Croatia

and Yugoslavia on the grounds of their negligible imports.

4.4. **Volume and market shares of the imports concerned**

4.4.1. *Volume of the imports concerned*

- (145) According to Eurostat and the replies to the questionnaires obtained from the cooperating exporting producers, the import volume of malleable fittings originating in the countries concerned increased by around 32 % between 1995 and the IP, from around 13 100 to around 17 500 tonnes. More specifically, after a decline between 1995 and 1996, which occurred in line with the decline of the Community consumption in that year, imports from the countries concerned increased steadily. Between 1996 and the IP, the import volume increased by around 45 %, from around 12 000 to around 17 500 tonnes.

4.4.2. *Market share*

- (146) The market share of the imports from the countries concerned increased continuously between 1995 and the IP, from around 20 % to around 29 %.

4.5. **Prices of the imports concerned**

4.5.1. *Price evolution*

- (147) The weighted average import price of the countries concerned decreased by around 5 % between 1995 and the IP, from ECU 1,88 to ECU 1,78 per kilogram. More specifically, prices went up significantly between 1995 and 1996, in line with the general price increase on the market, followed also by the Community industry and the other third countries. Between 1996 and the IP the price decrease was then very marked and amounted to 10 %, from ECU 1,96 to ECU 1,78 per kilogram.

4.5.2. *Price undercutting*

- (148) It was further examined whether the exporting producers of the countries concerned undercut the prices of the Community industry during the IP. For this purpose, the exporting producers' prices of malleable fittings have been duly adjusted to a cif and duty paid level, whereas the Community producers' prices have been adjusted to an ex-works level. In this respect, it was found that both the Community industry and the exporting producers from the countries concerned generally sold to the same categories of customers, e.g. traders and distributors, sometimes even to the same companies concerned. These categories of customers also acted as importers.

- (149) For each type of malleable fittings, as defined in recital 10, the weighted average ex-works prices of the Community producers have been compared to the weighted average export prices of each exporting producer concerned. On this basis, the undercutting margins found per country, expressed as a percentage of the Community industry prices, are all significantly above 20 %.

4.6. Situation of the Community industry

4.6.1. Production

- (150) The Community industry's production of malleable fittings decreased by around 10 % between 1995 and the IP, i.e. from around 54 600 to around 49 300 tonnes. The decrease of the production was particularly strong from 1995 to 1996 for two main reasons: firstly, a plant manufacturing malleable fittings in Germany had to be closed and, secondly, a contraction of consumption had taken place on the Community market. Furthermore, while the Community industry increased its production between 1996 and the IP by around 6 %, in an attempt to reduce its fixed costs, it should be noted that this resulted in increased stocks and not in increased sales, and this even though Community consumption expanded again as from 1996.

4.6.2. Production capacity

- (151) The production capacity of the Community industry decreased by 14 % between 1995 and the IP, from 85 000 to 73 000 tonnes. This development should be seen in the light of the fact that in 1996 a production plant in Germany ceased its activity, as mentioned above.

4.6.3. Capacity utilisation

- (152) Capacity utilisation increased from 64 % in 1995 to 67 % in the IP.

4.6.4. Sales volume

- (153) The sales volume of the Community industry decreased from around 45 500 tonnes in 1995 to around 37 700 tonnes in the IP, i.e. by around 17 %. It should be pointed out that the Community industry's sales decreased in a time period during which the market contracted, while the countries concerned were able to expand their sales volume by around 32 %.

4.6.5. Market share

- (154) The Community industry's share on the Community market decreased from 70 % in 1995 to around 62 % in the IP, i.e. by around 8 percentage points. This downward trend started after 1996, in which year the

Community industry's market shares had reached a peak of around 71 %.

4.6.6. Sales prices

- (155) The investigation has shown that the Community producers' average sales price rose from ECU 3,60 per kilogram in 1995 to ECU 3,88 per kilogram in the IP, i.e. a rise of around 8 %. This rise occurred in two phases, one between 1995 and 1996 and the second one between 1997 and 1998. While the prices of all the economic operators on the market (namely the Community industry, the countries concerned and other third countries), increased in the first phase, the second price increase was undertaken only by the Community industry and the other third countries. As regards the countries concerned, they followed the opposite trend, decreasing their sales prices by around 5 % in the mentioned period between 1997 and 1998.

4.6.7. Stocks

- (156) The closing stocks of the Community industry increased from around 16 300 tonnes in 1995 to around 17 400 tonnes in the IP, i.e. by around 6 %. The rise of the stock volume has been particularly strong as from 1996, in line with the increase of the Community industry's production and decreasing sales volume.

4.6.8. Profitability

- (157) The profitability of the Community industry, expressed as a percentage of net sales, decreased by 2,3 percentage points between 1996 and the IP, from 1,4 % to -0,9 %. When taking 1995 as a starting point, it developed from -2,2 % to -0,9 %. However, the year 1995 and the negative profitability level found on average for the Community industry reflect costs associated with the plant closure which occurred in 1995, as mentioned above. Moreover, the year 1995 was marked by restructuring efforts of two producers in particular, with the aim of production rationalisation and of investments required to implement the Community's environmental legislation.

4.6.9. Employment

- (158) Employment in the Community industry decreased from 2 532 employees in 1995 to 2 370 employees in the IP, a decrease of around 6 %. This decline should be seen in the light of the attempts undertaken by the Community industry to restructure and reduce its costs. In fact, the investigation has shown that the production process of malleable fittings is highly labour intensive.

4.6.10. Investments

- (159) The Community industry decreased its investment from around ECU 20,4 million in 1995 to around ECU 17 million in the IP, i.e. by around 16 %. Within this period, there are important differences. For instance, between 1998 and the IP, investments increased, from ECU 12,7 million to ECU 17 million. It is worth noting that the level of investments is rather significant during the whole IIP, in particular in 1995, coinciding with the restructuring efforts realised that year, as mentioned above. This shows that the Community industry is still viable and is not ready to abandon this segment of production, in particular as these investments were mostly destined to rationalise the production process.

4.7. Conclusion on injury

- (160) The examination of the above mentioned injury factors shows that the situation of the Community industry deteriorated. In particular, the Community industry experienced a decline in production, production capacity, sales and market share. Moreover, the Community industry suffered a significant loss of employment and a decline in investments, as well as an increase of stocks. As to the capacity utilisation, its increase depended on the reduced production capacity.
- (161) It is therefore provisionally concluded that the Community industry suffered material injury within the meaning of Article 4(1) of the basic Regulation.

5. CAUSATION

- (162) According to Article 3(6) and (7) of the basic Regulation, it was examined whether the material injury suffered by the Community industry has been caused by the dumped imports and whether other factors might have caused or contributed to that injury, in order not to attribute possible injury caused by other factors to the dumped imports.

5.1. Effect of the dumped imports

- (163) The Commission found that the trend of imports from the exporting countries concerned and their increasing market share coincided with the deterioration of the Community industry's situation. At a time when Community consumption decreased by around 6 %, the market share of the imports concerned increased by around 9 percentage points, from around 20 % in 1995 to around 29 % in the IP, while the market share of the

Community industry decreased from 70 % to around 62 %. The decrease of the Community industry's market share is almost symmetrical to the increase of the market shares of the imports from the countries concerned, in particular as from 1996.

- (164) Moreover, as regards the prices of the dumped imports, significant margins of undercutting were found. The market for malleable fittings is highly price sensitive, the price level being the crucial element of choice considered by the users, as has been confirmed by the co-operating importers and users.
- (165) In these circumstances, the price pressure exerted by the imports concerned had a major impact on the sales volume and market share of the Community industry. Since the Community industry could not follow the downward trend of the prices of the imports concerned, its sales volume significantly decreased and it suffered financial losses. The significantly smaller sales volumes also had repercussions on the production level as well as on the stock volume, leading to an increase of fixed costs. This in turn had a negative impact on the overall profitability of the Community industry.

5.2. Effect of other factors

- (166) It was also considered whether factors other than the dumped imports from the countries concerned might have caused, or contributed to, the injury suffered by the Community industry.

5.2.1. Third countries' imports

- (167) Some interested parties, based on Eurostat information, alleged that any injury suffered by the Community industry had been caused by imports from third countries not covered by the proceeding, in particular Turkey, Bulgaria and Poland.
- (168) According to this information, import volumes of malleable fittings from all other third countries decreased from around 6 200 tonnes in 1995 to around 5 300 in the IP, i.e. by around 14 %, while market shares were relatively stable throughout the period with a slightly decreasing trend, representing around 10 % in 1995 and around 9 % in the IP. As regards the weighted average prices of imports from other third countries, as reported by Eurostat, they increased from ECU 1,93 per kilogram to ECU 2,22 per kilogram. It is to be noted that they were significantly higher than the weighted average prices of the countries concerned during the whole IIP.

- (169) When analysing the imports from individual countries, it appears, firstly, that imports from Turkey were stable at almost negligible levels during the entire IIP. As regards import volumes, they were 553 tonnes in 1995 and 632 tonnes in the IP, while market shares were stable at around 1 % during the whole IIP. Concerning the unit price, according to Eurostat it was higher than the imports concerned throughout the whole IIP.
- (170) As concerns Bulgaria, imports increased both in absolute and in relative terms: between 1995 and the IP, the import volume rose from 43 tonnes to 1 109 tonnes and market shares increased from 0,1 % to 1,8 %. thus remaining relatively small. As to the unit price, it increased during the IIP being higher, in the IP, than the weighted average prices of exports from the countries concerned
- (171) Concerning imports from Poland, their market share remained relatively stable during the IIP at around 4 to 5 %, although increasing in absolute terms from around 2 500 tonnes in 1995 to around 3 000 tonnes in the IP. However, in the IP, the unit price was significantly higher than the weighted average prices of the countries concerned
- (172) In addition, some interested parties claimed on the basis of Eurostat information that any injury suffered by the Community industry had been caused in particular by imports of malleable fittings from the United States of America. However, since the investigation has shown that the American imports consist of products other than those concerned, it is concluded that imports from the United States of America could not have caused any material injury to the Community industry.
- (173) Furthermore, there was no indication that the imports from third countries not subject to the proceeding have been dumped.

5.2.2. *Other points raised*

- (174) Some interested parties claimed that the injury suffered by the Community industry was the result of its own imports from one country concerned and from other third countries, for resale on the Community market. As mentioned in recital 127, the investigation has shown that one Community producer did import the product concerned from one third country. However, since these volumes were very low and represented only a negligible part of its sales in the Community, no significant influence on the situation of that Community producer could have resulted from these imports.
- (175) In addition, certain interested parties alleged that the main cause of any injury suffered by the Community industry was the substitution of fittings made of materials such as copper and plastic for those made of malleable cast iron. Certain interested parties further claimed that one of the factors that could have caused injury to

the Community industry was the slowdown of the construction sector and the ensuing diminution of the Community consumption of the product concerned. In this respect, the investigation has shown that a significant substitution of cast iron by different materials, such as copper and plastic, took place in the 1980s. Afterwards, the substitution effect slowed down and the utilisation of malleable fittings remained stable, in particular for those uses where the physical durability, resistance as well as a specific tensile strength and elongation are requirements.

- (176) These general findings are supported by the development of Community consumption established in the investigation. Indeed, even if consumption decreased by 6 % during the IIP, this decline is not such as to have contributed in any significant way to the material injury suffered by the Community industry. On the contrary, in this situation, even taking into account a slowdown of the construction industry, the countries concerned were able to significantly increase their import volumes into the Community by around 32 %, further penalising the Community industry, whose sales in turn decreased by around 17 %.

5.3. **Conclusion on causation**

- (177) It is therefore provisionally concluded that the dumped imports originating in Brazil, the Czech Republic, Japan, China, Korea and Thailand have caused material injury to the Community industry. Any other factors that may have contributed to the injurious situation of the Community industry, in particular imports from third countries, are such that they cannot be considered to break the causal link between the dumping and the material injury found in light of the strong increase in the imports concerned made at particularly low prices.

6. **COMMUNITY INTEREST**

6.1. **General considerations**

- (178) In accordance with Article 21 of the basic Regulation, the Commission examined whether the Community interest calls for the imposition of anti-dumping measures, giving special consideration to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers and traders as well as the users of the product concerned.
- (179) In order to assess the impact of the imposition or non-imposition of the anti-dumping measures, the Commission requested information from all interested parties mentioned above. Questionnaires were sent to 52 importers. Seventeen importers replied and data

provided by 13 of them were verified. Moreover, 11 associations of users deemed to be concerned by the proceeding were advised of the opening of the investigation. No replies or submissions were received from these associations. With respect to individual users of malleable fittings, out of the 34 to which questionnaires were sent, two replied and the data provided were verified.

6.2. Community industry

- (180) The Community industry has been affected by the low-priced imports of malleable fittings from the countries concerned during the IIP. Not to take anti-dumping measures with respect to the dumped imports concerned would aggravate the already difficult situation of the Community industry, in particular in consideration of the downward sales trend. The production of malleable fittings is, in fact, characterised by significant fixed costs (e.g. warehousing, depreciation, etc.), which renders reaching a certain level of production and, consequently sales, indispensable. In view of the steady increase of the imports concerned and the corresponding decrease of the Community industry's sales, it appears that if anti-dumping measures should not be imposed, it would be difficult for the Community industry to recover its lost sales and reach the level of profitability needed.

6.3. Unrelated importers/traders

- (181) With regard to the unrelated importers/traders of the product concerned, given the good cooperation in certain cases it was possible to isolate the profitability for malleable fittings, this being on average around 7 % during the IP. Moreover, it was found that the mark-up charged on the sales price varies significantly depending on the purchase price, the mark-up being higher when the latter is low and vice versa.
- (182) It appears, therefore, that the unrelated importers/traders of the product concerned might pass on to their clients a part of any duties paid. In addition, it has to be borne in mind that some traders importing from the countries concerned also purchase malleable fittings from the Community producers and other third countries, thus having available alternative sources of supply. Moreover, the investigation has shown that although some traders/importers deal exclusively with malleable fittings, these are in many cases supplied from a variety of origins, among which the countries concerned are only a part. It has been found, furthermore, that other traders/importers deal with a far larger product range.
- (183) Given the above, it is provisionally concluded that the likely impact of anti-dumping measures on the importers/traders of the product concerned would not be such as to put their economic activity at serious risk.

6.4. Users

- (184) The most common users of the product concerned are the gas and water distributors as well as plumbers, installers of heating and installers of sanitary fittings. Minor uses are in industrial services and engineering. The low level of cooperation (only two replies) seems to indicate that the impact of the imposition or non-imposition of anti-dumping measures on the users of malleable fittings would be minimal. This minor impact has been confirmed by the investigation, which has shown that the product under consideration represents a negligible part of the total costs sustained by the users. For instance, in the gas distribution market, in particular in domestic installations, the main cost item largely relates to the service, whereas the fittings used for the installation represent approximately 1 % of the total costs sustained.
- (185) Given the limited effect on the users described above, it can be provisionally concluded that anti-dumping measures will not have any significant negative influence on their situation. On the contrary, should the Community industry disappear, users would be deprived of an important source of supply, which ensures good service and delivery time.

6.5. Conclusion on Community interest

- (186) Given the above reasons, it is provisionally considered that there are no compelling reasons against the imposition of anti-dumping duties.

7. PROVISIONAL ANTI-DUMPING MEASURES

7.1. Injury elimination level

- (187) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be taken in order to prevent further injury being caused to the Community industry by the dumped imports.
- (188) For establishing the level of duty, account has been taken of the dumping margins found and of the amount of the duty necessary to eliminate the injury suffered by the Community industry. In order to establish the level of duty required to remove injury caused by dumping, the price underselling has been calculated. The necessary price increase was determined on the basis of a comparison of the weighted average export price per type, as established for the undercutting calculations, with the non-injurious price of the different types sold by the Community industry on the Community market. The non-injurious price has been obtained by adding to the sales price of the Community industry its average actual profit shortfall and by further adding a profit margin of 7 %. This profit margin seems appropriate in order to allow the Community industry to reach a level of profit which it would be likely to obtain in the absence of dumping. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value resulting in the injury threshold.

7.2. Provisional measures

- (189) In the light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margins found, which were in all cases lower than the injury threshold, in accordance with Article 7(2) of the basic Regulation.
- (190) As regards the residual duty to be applied to the non-cooperating exporting producers, in those cases where the level of cooperation for specific exporting countries has been high, the residual duty was fixed at the highest anti-dumping duty found for the cooperating exporting producers. In those cases where the level of cooperation has been low for specific exporting countries, the residual duty was fixed on the basis of the highest dumping margin or injury threshold found for a representative range of exported types of the cooperating exporting producers, whichever is the lower.
- (191) On the basis of the above, the provisional duty rates, expressed as a percentage of the cif Community border price, customs duty unpaid, are as follows:

7.2.1. Countries concerned

Country	Company	Provisional duty (%)
Brazil	Indústria de Fundição Tupy Ltda	26,1
	Others	26,1
The Czech Republic	Moravské Zelezářny as	28,4
	Others	28,4
Japan	Hitachi Metals Ltd	17,6
	Others	28,3
Korea	Yeong Hwa Metal Co. Ltd	11,8
	Others	24,6
Thailand	BIS Pipe Fitting Industry Company Ltd	25,8
	Siam Fittings Co. Ltd	12,4
	Thai Malleable Iron & Steel Co. Ltd	6,3
	Others	25,8
China	All companies	49,4

7.2.2. Croatia and Yugoslavia

- (192) As the market shares found were *de minimis* it is provisionally not considered appropriate to impose any anti-dumping duty on imports of malleable fittings originating in Croatia and Yugoslavia at this stage of the proceeding. However, the Commission will continue to investigate the matter in order to arrive at a definitive determination.

7.2.3. Individual duty rates

- (193) 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 country-wide 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'.

- (194) 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 e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual, duty rates.

7.3. Undertaking

- (195) The exporting producer in the Czech Republic has offered a price undertaking in accordance with Article 8(1) of the basic Regulation. The Commission considers that the undertaking offered by the exporting producer concerned can be accepted since it eliminates the injurious effect of the dumping. Furthermore, the regular and detailed reports which the company undertook to provide to the Commission will allow an effective monitoring.
- (196) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented, exemption from the duty is conditional upon presentation to the relevant Member States' customs services of a valid undertaking invoice issued by the exporting producer from whom the undertaking is accepted and containing the information listed in the Annex. Where no such invoice is presented or when it does correspond to the product presented to the customs services, the appropriate rate of antidumping duty will be payable in order to avoid circumvention of the undertaking.
- (197) In the event of a breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Articles 8(9) and 10 of the basic Regulation.
- (198) The investigation of dumping, injury and Community interest will be completed, notwithstanding the acceptance of undertakings in the course of the investigation, in accordance with Article 8(6) of the basic Regulation.

8. FINAL PROVISION

- (199) In the interest of sound administration, a period should be fixed within which the interested parties may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of threaded malleable cast iron tube or pipe fittings, falling within CN code ex 7307 19 10 (TARIC code 7307 19 10*10) and originating in Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand.
2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows for products originating in:

Country	Provisional duty (%)	Taric additional code
Brazil	26,1	—
The Czech Republic	28,4	A999
Japan	28,3	A999
The People's Republic of China	49,4	—
The Republic of Korea	24,6	A999
Thailand	25,8	A999

⁽¹⁾ European Commission
Directorate-General Trade
Directorate C
DM 24 — 8/38
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B-1049 Brussels

The above rates shall not apply to the products manufactured by the companies listed below, which shall be subject to the following anti-dumping duty rates:

Country	Company	Provisional duty (%)	Taric additional code
Japan	Hitachi Metals Ltd Seavans North 2-1, Shibaura 1 — Chome Minato-Ku Tokyo 105-8614 Japan	17,6	A092
The Republic of Korea	Yeong Hwa Metal Co. Ltd 363-6 Namyang-Dong Chinhae Kyongnam Korea.	11,8	A093
Thailand	BIS Pipe Fitting Industry Company Ltd 107 Moo 4, Petchkasem Rd Omnoi, Krathumban Samutsakorn 74130, Thailand	25,8	A094
	Siam Fittings Co., Ltd 100/1-100/2, Moo 2, Settakit 1 Road Omnoi, Krathumban Samutsakorn 74130 Thailand	12,4	A095
	Thai Malleable Iron & Steel Co., Ltd 469/19 Rama III Road, Yannawa Bangkok 10120, Thailand	6,3	A096

3. Notwithstanding paragraph 1, the provisional duty shall not apply to imports of the product concerned manufactured and directly exported (i.e. shipped and invoiced) to the first independent customer in the Community acting as an importer by the company named in Article 2(1) when such imports are in conformity with Article 2(2).

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

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

Article 2

1. The undertaking offered by the following company in connection with the anti-dumping proceeding concerning threaded malleable cast iron tube or pipe fittings, falling within CN code ex 7307 19 10 and originating in Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand is hereby accepted:

Country	Company	Taric additional code
The Czech Republic	Moravské Zelezářny as Repcinska 86 77900 Olomouc 9 Czech Republic	A097

2. When the request for release for free circulation pursuant to an undertaking is presented, exemption from the duty shall be conditional upon presentation to the relevant Member States' customs services of a valid undertaking invoice issued by the company mentioned in Article 2(1). The essential elements of the undertaking invoice are listed in the Annex to this Regulation. Imports accompanied by such an invoice shall be declared under the Taric additional code provided for in Article 2(1).

Exemption from the duty shall further be conditional on the goods declared and presented to customs corresponding precisely to the description on the undertaking invoice.

Article 3

1. The Parties referred to in Article 20(1) of Regulation (EC) No 384/96 may make their views known in writing and apply to be heard orally by the Commission within 30 days of the date of entry into force of this Regulation.
2. The parties referred to in Article 21(4) of Regulation (EC) No 384/96 may comment on the application of this Regulation within one month of the date of its entry into force.

Article 4

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

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, 28 February 2000.

For the Commission
Pascal LAMY
Member of the Commission

ANNEX

Elements to be indicated in the undertaking invoice referred to in Article 2(2):

1. The TARIC additional code under which the goods on the invoice may be customs-cleared at Community borders (as specified in the Regulation).
 2. The exact description of the goods, including:
 - the product reporting code number (PRC) (as established in the undertaking offered by the producing exporter in question), including type number, diameter, and surface,
 - CN code,
 - quantity (to be given in units).
 3. The description of the terms of the sale, including:
 - price per unit,
 - the applicable payment terms,
 - the applicable delivery terms,
 - total discounts and rebates.
 4. Name of the unrelated importer to which the invoice is issued directly by the company.
 5. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by ... [company], and accepted by the European Commission through Regulation (EC) No 449/2000. I declare that the information provided in this invoice is complete and correct.'
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