

## COMMISSION REGULATION (EC) No 358/2002

of 26 February 2002

**imposing a provisional anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia and accepting an undertaking offered by an exporting producer in Slovakia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

**2. Present investigation**

Having regard to the Treaty establishing the European Community,

*Initiation*

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 <sup>(1)</sup>, as last amended by Regulation (EC) No 2238/2000 <sup>(2)</sup>, and in particular Article 7 thereof,

- (3) On 17 April 2001 a complaint was lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry ('the complainant'), on behalf of producers representing a major proportion of certain tube and 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.

After consulting the Advisory Committee,

- (4) Consequently, on 1 June 2001, the Commission announced by a notice ('notice of initiation') published in the *Official Journal of the European Communities* <sup>(9)</sup> the initiation of an anti-dumping proceeding with regard to imports into the Community of certain tube and pipe fittings, of iron or steel originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia ('the countries concerned').

Whereas:

**A. PROCEDURE****1. Proceedings concerning other countries***Investigation*

- (1) By Regulation (EC) No 584/96 <sup>(3)</sup>, as amended by Regulation (EC) No 1592/2000 <sup>(4)</sup>, the Council imposed a definitive anti-dumping duty on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China ('China'), Croatia and Thailand. The measures applying to these imports consisted of a specific duty, except for three Thai exporting producers from which undertakings were accepted by Commission Decision 96/252/EC <sup>(5)</sup>. In July 2000, the anti-dumping measure applicable to the imports of one of these three companies was repealed, following an interim review requested by this company, pursuant to Article 11(3) Regulation (EC) No 384/96 (the 'basic Regulation') and which showed the absence of dumping <sup>(6)</sup>.

- (5) The Commission officially advised the exporting producers, importers/traders, users and associations of users known to be concerned, as well as the representatives of the exporting countries concerned and the Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

- (2) Following the publication, in September 2000, of a notice <sup>(7)</sup> of the impending expiry of the anti-dumping measures in force, the Commission received a request for an expiry review lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry, on behalf of producers representing a major proportion of the total Community production of certain tube or pipe-fittings of iron or steel. An examination relating to these measures was initiated in April 2001 <sup>(8)</sup>.

- (6) The Commission sent questionnaires to the Community producers, all exporters/producers, all importers/traders as well as all users known to be concerned as well as to all parties which made themselves known within the deadline set out in the notice of initiation. Replies to these questionnaires were received from four Community producers and six exporting producers, as well as from nine importers, two user organisations and seven users.

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

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(2)</sup> OJ L 257, 11.10.2000, p. 2.

<sup>(3)</sup> OJ L 84, 3.4.1996, p. 1.

<sup>(4)</sup> OJ L 182, 21.7.2000, p. 1.

<sup>(5)</sup> OJ L 84, 3.4.1996, p. 46.

<sup>(6)</sup> Commission Decision 2000/453/EC (OJ L 182, 21.7.2000, p. 25).

<sup>(7)</sup> OJ C 271, 22.9.2000, p. 4.

<sup>(8)</sup> OJ L 103, 3.4.2001, p. 5.

<sup>(9)</sup> OJ C 159, 1.6.2001, p. 4.

- Community producers
  - Erne Fittings GmbH & Co, Schlins, Austria
  - Interfit, Maubeuge, France
  - Siekmann Fittings GmbH & Co. KG, Lohne, Germany
  - Virgilio CENA & Figli SpA, Brescia, Italy
- Exporting producers
  - Czech Republic
    - Mavet a.s./Bovex s.r.o., Trebic
  - Malaysia
    - Anggerik Laksana SDN BHD, Kepong, Selangor Darul Ehsan
    - Wing Tiek Ductile Pipe SDN BHD, Petaling Jaya
  - Slovakia
    - Bohus s.r.o., Hronec
    - Zeleziarne Podbrezova a.s., Podbrezova
- Importer related to Zeleziarne Podbrezova
  - Pipex Italia, Milano, Italy
- Unrelated importers in the Community
  - IN.RA.BO, Bologna, Italy
  - I.R.C. SpA, Cortemaggiore, Italy
  - Van Leeuwen, Vilvoorde, Belgium.

- (8) The investigation of dumping and injury covered the period from 1 April 2000 to 31 March 2001 ('investigation period' or 'IP'). As for the trends relevant for the assessment of injury, the Commission analysed the period from 1996 to the end of the investigation period ('period under examination').

### 3. Product concerned and like product

#### *Product concerned*

- (9) The product under examination ('product concerned') is certain tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently classifiable within CN codes ex 7307 93 11 (TARIC code 7307 93 11 91), ex 7307 93 19 (TARIC code 7307 93 19 91), ex 7307 99 30 (TARIC code 7307 99 30 92) and ex 7307 99 90 (TARIC code 7307 99 90 92). The product is commonly known as tube and pipe fittings ('TPFs').
- (10) TPFs are manufactured essentially by cutting and forming tubes and pipes. TPFs are used to join tubes and pipes and come in different shapes: elbows, reducers, tees and caps, as well as different sizes and material grades. They are used mainly in the petro-chemical

industry, construction, energy generation, shipbuilding and industrial installations. When sold for use in the petrochemical industry, the global standard used is the ANSI standard. For other purposes the most common standard used in the Community is the DIN standard.

- (11) All TPFs have the same basic physical and technical characteristics, with only the final stage of production determining the shape which is produced. Also, it was found that the shape of the TPF does not determine the use to which it is put. Therefore, they are to be regarded for the purposes of this investigation as a single product.

#### *Like product*

- (12) The investigation has shown that the TPFs produced in the countries concerned, sold domestically and/or exported to the Community, have the same basic physical, technical and chemical characteristics as the products sold in the Community by the complaining Community producers and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

## B. DUMPING

- (13) Four countries subject to the present proceeding are market economy countries, i.e. the Czech Republic, Malaysia, the Republic of Korea and Slovakia. With regard to Russia normal value will be established in the same way as in market economy countries provided that the conditions set out in Article 2(7)(b)(c) of the basic Regulation are met. Alternatively, the provisions of Article 2(7)(a) will be applied.

### MARKET ECONOMY COUNTRIES

#### 1. General methodology

- (14) The general methodology set out hereinafter has been applied to imports from all exporting market economy countries concerned. The presentation of the findings on dumping for imports from each of the countries concerned therefore only describes what is specific for each exporting country.

#### *Normal value*

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

- (16) The Commission subsequently identified those types of TPFs, sold domestically by the companies having representative domestic sales, that were identical or directly comparable with the types sold for export to the Community.
- (17) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of TPF were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of TPF exported to the Community.
- (18) 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 TPFs, sold at a net sales price equal to or above the calculated cost of production, represented 80 % or more of the total sales volume and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether these sales were profitable or not. In cases where the weighted average price was below the cost of production or where the volume of profitable sales of TPFs 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.
- (19) In cases where the volume of profitable sales of any type of TPF 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.
- (20) Wherever domestic prices of a particular type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used the prices of the product concerned charged on the domestic market by another producer. In all cases where this was not possible, and in the absence of any other reasonable method, constructed normal value was used.
- (21) In all cases where constructed normal value was used and in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG & A') and a reasonable margin of profit. To this end, the Commission examined whether the SG & A incurred and the profit realised by each of the producing exporters concerned on the domestic market constituted reliable data. Actual domestic SG & A expenses were considered reliable where the domestic sales volume of the company concerned could be regarded as representative. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade.
- Export price*
- (22) In all cases where TPFs 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.
- (23) Where the export sale was made via 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. As far as the profit margin is concerned, the latter was provisionally established on the basis of the information available from cooperating unrelated importers.
- Comparison*
- (24) 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 which were claimed and demonstrated to affect 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 justified, accurate and supported by verified evidence.
- Dumping margin for the companies investigated*
- (25) According to Article 2(11) of the basic Regulation, for each cooperating exporting producer the weighted average normal value by type was compared with the weighted average export price.
- Residual dumping margin*
- (26) For non-cooperating companies, a 'residual' dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(27) For those countries where there was no reason to believe that any exporting producer abstained from cooperating, it was decided to set the residual dumping margin at the level of the cooperating company with the highest dumping margin in order to ensure the effectiveness of any measures.

(28) For those countries where the level of cooperation was low, the residual dumping margin was determined on the basis of the highest dumped export sales to the Community of representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

In order to determine in this case for each country concerned whether or not there was any abstention from cooperation, total import volumes reported by cooperating exporting producers were compared with the information provided by Eurostat for the country in question.

## 2. Czech Republic

(29) Two exporting producers replied to the questionnaire. These replies included data on products made by two companies in the same factory during different parts of the IP since the operational management of this factory was transferred from Mavet to Bovex on 1 January 2001. Therefore, two different calculations were made to arrive at individual dumping margins for both companies.

### Normal value

(30) Normal value was established as described in recitals 15 to 21, i.e. on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation and constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

### Export price

(31) The export sales were made directly to independent customers in the Community and were therefore established pursuant to Article 2(8) of the basic Regulation.

### Comparison

(32) Adjustments were made for discounts, transport and credit costs.

### Dumping margin

(33) The comparison between the normal value and the export price showed the existence of dumping in respect of the cooperating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Mavet a.s.:	17,6 %
Bovex s.r.o.:	22,4 %.

(34) It was found that the level of cooperation for the Czech Republic was high and the residual provisional dumping margin was set at the same level as for the cooperating company with the highest dumping margin, i.e. 22,4 %.

## 3. Malaysia

(35) Both known exporting producers replied to the questionnaire. However, one of these exporting producers refused to provide the necessary information. In particular, the company claimed that it was unable to provide transaction-by-transaction listings of its domestic and export sales and it also refused to provide copies of invoices to the Commission. The company was warned about the consequences of such non-cooperation, but did not change its position. It was therefore decided to apply Article 18 of the basic Regulation and to base findings on the facts available for this company. Since no company-specific data could be used, it was decided to give the residual duty to this company.

### Normal value

(36) Normal value was established as described in recitals 15 to 21, i.e. on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation and constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

### Export price

(37) The export sales were made directly to independent customers in the Community and were therefore established pursuant to Article 2(8) of the basic Regulation.

### Comparison

(38) Adjustments were made for discounts, transport, handling and credit costs.

- (39) The company concerned claimed an adjustment for level of trade on the basis of the fact that on the domestic market sales to end-users had consistently higher prices than sales to retailers and that it carried out consistently different functions with regard to sales to these two different sales channels. Since it was found that this claim was justified the adjustment was granted.

*Dumping margin*

- (40) The comparison between the normal value and the export price 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:

Anggerik Laksana Sdn Bhd: 59,2 %.

- (41) It was found that the level of cooperation for Malaysia was very low and the residual provisional dumping margin was therefore set at the level of the highest dumped product type which was found to be representative, i.e. 75,0 %.

**4. Republic of Korea**

- (42) No Korean exporting producer replied to the questionnaire. It was therefore necessary to apply Article 18 of the basic Regulation and to base findings on the facts available. With respect to the normal value, the most reliable information available was the information contained in the complaint since it was a constructed value based on the cost of tubes, increased by a not unreasonable estimate of the manufacturing costs. As regards the export price, given that TPFs are registered as an ex code in Eurostat, which makes the information less precise, and given the quality of the information provided in the complaint, which was based on a price offer, it was considered that the complaint constituted the more reliable information available. Both the normal value and the export price were thus determined on the basis of the complaint since it was considered that it constituted the most reasonable basis.

- (43) The comparison between the normal value and the export price showed the existence of dumping. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

Republic of Korea: 83,9 %.

**5. Slovakia**

- (44) Both known exporting producers replied to the questionnaire. One importer in the Community related to one of the exporting producers replied to the annex to the questionnaire intended for related companies. The same exporting producer also exported some products manufactured in the Czech Republic to the Community

during the IP. These products were excluded from the dumping calculation for Slovakia.

*Normal value*

- (45) Normal value was established as described in recitals 15 to 21, i.e. on the basis of the prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market in accordance with Article 2(1) of the basic Regulation and constructed in accordance with Article 2(3) of the basic Regulation for the type of the product concerned sold to the Community.

*Export price*

- (46) Export sales made directly to independent customers in the Community were established pursuant to Article 2(8) of the basic Regulation, whereas export prices for sales via the related importer of one of the exporting producers were constructed according to Article 2(9) of the

*Comparison*

- (47) Adjustments were made for discounts, transport, credit costs and commissions.

- (48) One company claimed an adjustment for physical characteristics, notably for the extra blasting and passivating which is required on the domestic market. However, the company was not able to provide any evidence for the amount of the requested adjustment nor of the market value of the difference. Therefore, the claim had to be rejected.

- (49) The same company also requested an adjustment for packing on the basis of the fact that on the domestic market the pallets used are often not full, as opposed to those going to export markets. However, since the company was not able to provide any evidence for the amount of the requested adjustment and since no effect on the price was demonstrated, this adjustment also had to be rejected.

*Dumping margin*

- (50) The comparison between the normal value and the export price showed the existence of dumping in respect of the cooperating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Bohus s.r.o.: 7,7 %

Zeleziarne Podbrezova a.s.: 15,0 %.

- (51) It was found that the level of cooperation for Slovakia was high and the residual provisional dumping margin was set at the same level as for the cooperating company with the highest dumping margin, i.e. 15,0 %.

## RUSSIA

weighted average of the normal values established for the cooperating Slovak exporting producers.

*Market economy status*

- (52) No Russian exporting producer requested market economy status ('MES') pursuant to Article 2(7)(b) of the basic Regulation. Therefore, the provisions of Article 2(7)(a) had to be applied.

*Export price*

- (58) Since no Russian exporting producer replied to the questionnaire and in the absence of any other reasonable basis, the export price for Russia was established on the basis of the complaint. The information in the complaint was based on Eurostat.

*Analogue country*

- (53) According to Article 2(7) of the basic Regulation, for non-market economy countries and for companies in such countries to which MES pursuant to Article 2(7)(b) of the basic Regulation could not be granted, normal value has to be established on the basis of the price or constructed value in a market economy third country ('analogue country').

*Comparison*

- (59) For the purpose of a fair comparison, adjustments were made for differences in transport and insurance costs, which were found to affect prices and price comparability.

- (54) In the notice of initiation, the Commission indicated its intention to use the Czech Republic or Slovakia as an appropriate analogue country for the purpose of establishing normal value for Russia. No interested party commented on this proposed choice of analogue country.

*Dumping margin*

- (60) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value was compared with the weighted average export price on an ex-works basis. This comparison showed the existence of dumping. The countrywide single weighted average provisional dumping margin expressed as a percentage of the cif value is 43,3 %.

- (55) The investigation showed that in Slovakia prices were governed by market forces, two producers competed on the domestic market and both cooperated, there were significant imports from third countries and there were indications that the production technology and process were, to a large extent, similar in Slovakia and Russia. Moreover, the domestic sales volume was significant as compared to Russian export sales of the product concerned to the Community.

- (56) In view of the above, it was concluded that Slovakia was the most appropriate analogue country and that under these circumstances the selection of Slovakia seemed to be an appropriate and not unreasonable choice of analogue country for establishing normal value in respect of Russia for the product concerned, in accordance with Article 2(7) of the basic Regulation.

*Normal value*

- (57) No Russian exporting producer replied to the questionnaire. Therefore, in order to calculate the provisional dumping margin, the Commission had to make use of the facts available in accordance with Article 18 of the basic Regulation. In the circumstances of this case, i.e. no information on the product mix of Russian exports, and pursuant to Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the

**C. INJURY****1. Definition of the Community industry**

- (61) The four Community producers which replied to the questionnaire represented around 60 % of the Community production. It should be noted that three other producers, representing around 10 % of the Community production, did not fully reply to the questionnaire within the granted deadline even though they supported the investigation.

- (62) During the IP, two of the above four complainant Community producers imported the product concerned, and one of these imported from the countries concerned. Imports of the product concerned by these two complainants represented 2,5 % and 10 % respectively of their total sales volume in the Community. However, despite these re-sales of imported TPFs, the primary activity of each of these companies remained in the Community. Furthermore, for both of these companies the imports completed their product range. Consequently, the trading activities of these producers did not affect their status as Community producers. These four Community producers are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

## 2. Community consumption

- (63) It should be noted that, according to the complaint, part of the EU producers' domestic sales are made to stockists (which did not cooperate), that in turn export significant quantities of the products outside the Community. The apparent Community consumption was therefore established on the basis of the production volume of the Community industry and of the other Community producers (on the basis of the information contained in the complaint), and on the import and export volume based on Eurostat data.
- (64) On this basis, Community consumption first increased from around 57 000 tonnes in 1996 to around 65 000 tonnes in 1998, but subsequently dropped to around 51 000 tonnes in the IP.

## 3. Imports from the countries concerned

### *Cumulative assessment of the effects of the imports concerned*

- (65) The Commission considered whether imports from the countries concerned should be assessed cumulatively on the basis of the criteria set out in Articles 3(4) of the basic Regulation.
- (66) The dumping margins found regarding imports from all countries concerned are more than *de minimis*, the volumes of imports are not negligible and the cumulative assessment was considered appropriate in view of the conditions of competition both between the imports and between the imports and the like Community product. This is evidenced by the fact that all imports volumes were substantial and their market shares have increased between 1996 and the IP, that the TPFs sold were alike and distributed via the same trade channels and that they all undercut the Community industry's prices and lead to a price depression of the Community industry's TPFs. Price trends for individual countries on average were not considered meaningful in this context, as they are likely to be influenced by changes in the product mix.

- (67) Therefore, it is provisionally concluded that dumped imports originating in the countries concerned should be assessed cumulatively.

### *Volume and market share of the imports concerned*

- (68) Imports of TPFs from the countries concerned into the Community increased in volume from 1 157 tonnes in 1996 to 6 242 tonnes in the IP. The corresponding market share increased from 2,0 % in 1996 to 12,3 % in the IP.

### *Prices of dumped imports*

- (69) Although price trends for individual countries on average were influenced by changes in the product mix, an average weighted average price of imports originating in the countries concerned was calculated. It increased from EUR 1 378/tonne in 1996 to EUR 1 408/tonne in the IP. It should however be noted that, during the period under examination, the average price firstly increased and reached the level of EUR 1 628/tonne in 1997, an increase of 18 %. Thereafter, it decreased by around 15 %, between 1997 and the IP, when the Community consumption also followed a downward trend.

### *Undercutting*

- (70) The Commission has examined whether the exporting producers of the countries concerned undercut the prices of the Community industry during the IP. For the purposes of this analysis, the cif prices of the exporting producers have been adjusted to a Community frontier, duty paid level. These prices have then been compared, at the level of appropriate groups of product types, to Community producers' ex-works prices.
- (71) The undercutting margins found on this basis, by country, either based on cooperating exporting producers, where available, or Eurostat figures, expressed as a percentage of the Community producers' prices, are as follows:

Country	Price undercutting
Czech Republic	Between 16 % and 18 %
Malaysia	Between 40 % and 60 %
Russia	24 %
Republic of Korea	21 %
Slovakia	Between 2 % and 40 %

It should also be noted that there was also price depression since the Community industry was loss-making during the IP.

## 4. Situation of the Community industry

### *Preliminary remark*

- (72) A number of economic indicators of the Community industry presented below show a positive development for the years 1996 to 1998, subsequently followed by a deterioration thereafter. A closer analysis shows that all indicators except investment and prices improved between 1996 and 1998, i.e. following the imposition of measures against China and Thailand in 1996. This changed as from 1998 to the IP, when crucial indicators clearly deteriorated, although some others remained relatively stable.

*Production*

- (73) The Community industry's production first increased by around 10 % between 1996 and 1998, from around 42 500 tonnes to around 46 500 tonnes, then dropped back to the 1996 level, but in the IP it went up again to the level reached in 1998.

*Capacity and capacity utilisation rates*

The total production capacity of the Community industry was relatively stable over the period under examination and therefore the capacity utilisation level followed a trend identical to the one of the production volume. It was at 48 % in 1996, increased to 53 % in 1998, subsequently fell back to 49 % in 1999 and then increased again to 53 % in the IP.

*Sales volume of the product concerned for consumption in the Community*

- (74) Only sales destined for Community consumption have been considered. On this basis, during the period under examination, the sales volume of the Community decreased from around 30 100 tonnes in 1996 to around 24 300 tonnes during the IP, an decrease of around 19 %. It is, however, important to notice that between 1996 and 1998 the sales volume increased by 9 %, reaching a level of around 33 000 tonnes in 1998, and then fell back to around 24 300 tonnes in the IP.

*Stocks*

- (75) The level of stocks decreased by around 4 % between 1996 and the IP, from around 5 600 tonnes in 1996 to around 5 400 tonnes in the IP. While it increased during the first four years of the period under examination, reaching a peak at around 6100 tonnes in 1999, it started to decrease considerably thereafter.

*Market share*

- (76) The Community industry lost 4,9 percentage points in market shares between 1996 and the IP, from 52,8 % in 1996 to 47,9 % in the IP. From 1999 there is a clear trend that the position of the Community industry on the market deteriorated, as market shares decreased from 54,7 % in 1999 to 47,9 % in the IP.

*Sales prices of the Community industry*

- (77) The Community industry' average unit net sales price decreased from EUR 1 812 in 1996 to EUR 1 413 during the IP, a decrease of 22 %. The sales prices dropped by approximately 5 % every single year.

*Profitability and return on investments*

- (78) The Community industry managed to increase its profitability (profits/losses as a percentage of turnover) from 3,1 % in 1996 to 5,2 % in 1997. After that year, however, profitability continuously eroded and was in clearly negative territory during the IP, at - 3,5 %.
- (79) The return on investments broadly followed the profitability curve during the period under examination, from 7,5 % in 1996 to - 3,7 % in the IP. It should be noted that both direct investments and a portion of investments indirectly related to the production of the product concerned have been considered.

*Cash flow*

- (80) The cash-flow generated by the sales of the product concerned increased by around 65 % between 1996 and 1998, from EUR 3 009 000 to EUR 4 939 000, and then dramatically decreased to EUR 281 000 during the IP.

*Ability to raise capital*

- (81) None of the companies mentioned any current difficulty to raise capital. However, should the cash flow continue to deteriorate, this situation may change.

*Employment and wages*

- (82) Employment in the Community industry did not follow a clear trend. It increased between 1996 and 1998, from 547 to 580 employees, decreased thereafter, but increased again to its 1998 level during the IP. The increase during the IP is to be put in relation to an increasing production during the same period. Overall wages followed a similar pattern as the number of persons employed.
- (83) The average wages per employee remained relatively stable during the years 1996 and 1997, and thereafter it gradually increased. Between 1996 and the IP, the overall increase was of around 7 %.

*Productivity*

- (84) The productivity increased by 3 % between 1996 and 1998, from 77,6 tonnes per employee to 80,2. It then dropped, but reached back its 1998 level during the IP.

*Investment*

- (85) New investments remained at a relatively stable level during the period under examination and reached around EUR 2,5 million in the IP. These investments mainly consisted of renewal or improvement of existing equipment and are not related to any capacity increases.

*Growth*

- (86) As explained above, between the years 1996 and 1998, the Community industry could benefit from the growing market, and increased its sales volume and market share. Thereafter however, the Community consumption and the Community industry sales decreased. Its market share also deteriorated.

*Magnitude of the dumping margin*

- (87) As concerns the impact on the Community industry of the magnitude of the actual margins of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

**5. Conclusion on the analysis of the situation of the Community market**

- (88) The introduction of the measures against China and Thailand clearly had a positive impact on the economic situation of the Community industry. Most of the injury indicators showed a positive development between 1996 and 1998. Production, capacity utilisation and sales volume went up, resulting in a gain in market shares and increasing employment. The profitability indicators such as profits/losses as a percentage of turnover, return on investments and cash flow also developed favourably. However, after 1998, the economic situation of the Community industry generally deteriorated: while production remained relatively stable and capacity utilisation and employment slightly increased, crucial indicators such as the volume of sales and market shares, as well as profitability, return of investments, cash flow and prices decreased. It is therefore concluded that the Community industry suffered material injury.

**D. CAUSATION****1. Introduction**

- (89) According to Article 3(6) and (7) of the basic Regulation, the Commission has examined whether the dumped imports of the product concerned originating in the countries concerned have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

**2. Effect of the dumped imports**

- (90) Between 1996 and 1998, imports from the countries concerned remained at a fairly stable level. This changed radically during the remainder of the period under examination. Between 1998 and the IP, dumped imports from the countries concerned significantly increased in terms of volume and their market share rose from 2,7 % to 12,3 %. As regards the corresponding export prices, they first increased between 1996 and 1998, but decreased again between 1998 and the IP. The sharp increase of imports from the countries concerned and the significant decrease of import prices took place simultaneously with the deterioration of the situation of the Community industry in terms of decreasing sales and market share as well as price reductions and a deteriorating profitability, as from 1998. Moreover, the prices of the Community industry were, during the IP, significantly undercut by most of the dumped imports.

**3. Effect of other factors***Imports from other third countries*

- (91) Imports from other third countries increased over the period under examination, from around 6 200 tonnes in 1996 to around 8 123 tonnes in the IP. The corresponding market share also increased, from 10,9 % in 1996 to 16,0 % in the IP. Given that there is a large number of other third countries, it was provisionally concluded that, although some injury might have been inflicted by other third countries, these imports did not break the causal link between the dumped imports from the countries concerned and the material injury suffered by the Community industry.

*Further factors*

- (92) The Commission also examined whether further factors than the abovementioned ones might have contributed to the injury suffered by the Community industry, having regard to, in particular, a possible contraction in demand, developments in technology and productivity of the Community industry and its export performance.
- (93) As to the development of demand, the apparent consumption of TPFs first increased between 1996 and 1998, but then sharply decreased. While the decline in demand since 1998 is likely to have contributed to increased competition and exerted a certain downward pressure on prices. However, in the absence of the price pressure from the dumped imports, the decline in prices and profitability of the Community industry would have been much less marked.
- (94) In relation to the developments in technology and productivity of the Community industry, it has carried out considerable investments in order not to lose competitiveness and it has increased its productivity.

- (95) Concerning the export performance, the Community industry has increased its direct sales in export markets over the period under examination by 78 %, where it was likewise in competition with the exporting producers concerned. Direct export sales accounted for around 25 % of the total sales of the Community industry during the IP. On this basis, the Community industry has shown itself to be competitive. The export activity cannot therefore have contributed to the injury suffered by the Community industry.
- (96) It was therefore provisionally concluded that these developments did not break the causal link between the dumped imports and the material injury suffered by the Community industry.

#### 4. Conclusion on causation

- (97) It is provisionally concluded that the dumped imports originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia have caused material injury suffered by the Community industry, given the coincidence in time between the price decreases, the undercutting found and the increased volumes and market shares of the dumped imports with the decline in sales volume, prices, profitability and market shares of the Community industry. In addition, no other known factors were found to break the causal link between dumped imports from the countries concerned and this injury.

### E. COMMUNITY INTEREST

#### 1. Preliminary remark

- (98) In accordance with Article 21 of the basic Regulation, it was examined whether the imposition of anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an examination of all the various interests involved i.e. those of the Community industry, the importers/traders, and the users of the product concerned.
- (99) In order to assess the likely impact of the imposition or non-imposition of measures, the Commission requested information from all interested parties which were either known to be concerned or which made themselves known.
- (100) On this basis it was examined, whether, despite the conclusions on dumping, on the situation of the Community industry, and on causation, compelling reasons exist which would lead to the conclusion that it

is not in the Community interest to impose measures in this particular case.

#### 2. Interest of the Community industry

- (101) The Community industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation at a time when effective competition had been restored after the imposition of the anti-dumping measures on imports originating in China and Thailand. Indeed, it managed to increase its cash flow substantially and it improved its profitability from 3,1 % in 1996 to 5,2 % in 1997, when the combined market share of dumped imports from the countries concerned was still relatively low (below 3 %).
- (102) Were measures to be imposed, and with the ensuing return to fair market conditions, it is concluded that the Community industry would be able to restore its financial position and to maintain its activities related to the product concerned in the Community.

#### 3. Interest of unrelated importers/traders

- (103) The Commission sent questionnaires to 65 unrelated importers/traders. Nine importers replied to the questionnaire and the Commission services verified the replies of three companies on spot. Of the nine importers that replied, only three opposed expressly possible measures. One of these opposed on the grounds of costs involved in finding new suppliers. Two companies opposed on the grounds of possible job losses. These importers, however, buy TPFs from various countries of origin and still have the choice to buy from exporting producers with low measures or from countries not concerned by this proceeding without measures. Compared to the total number of importers, these effects were not considered to constitute a reason not to impose provisional anti-dumping measures.
- (104) 16 importers replied that they were not concerned by the proceeding since they did not purchase from the countries concerned during the period under examination.
- (105) Given that a number of importing companies also traded in Community produced TPFs, and given the low number of companies importing from the countries concerned expressly objecting measures, combined with the fact that, were measures imposed, other suppliers outside the Community with no duty would still be available, it can accordingly be concluded that the imposition of measures would, overall, not have a significant negative effect on importers or traders.

#### 4. Interest of users

(106) The users of the product concerned are mainly operating in the petrochemical industries as well as industries active in the building sector. The Commission sent out questionnaires to 23 user companies and five European associations of potential users. Two associations replied. One replied that it does not see the need to intervene and the other one stated that its members did not use the product concerned originating in the countries concerned. Seven user companies replied. Three of them stated that they did not use products originating in the countries concerned and four replied that they purchased their material from suppliers inside the Community without being aware of the origin of the products. No user association or company opposed to the proceeding.

(107) This lack of opposition confirms that the TPFs represent a very small part of total production costs for companies using the product concerned and that an imposition of measures would not have a significant negative effect on users.

#### 5. Competition and trade distorting effects

(108) The countries concerned accounted for 53 % of all imports of TPFs during the IP. TPFs originating in China and Thailand, which are currently subject to anti-dumping duties, accounted for a further 13 % of imports. Whilst some exporting producers from the countries concerned may withdraw from the Community market, it is reasonable to assume that most of them will continue to supply TPFs at a non-injurious price. In addition, the absence of injurious dumping from the countries concerned will make the Community market more attractive to other sources of supply.

(109) The continuing need for imports will ensure that a number of competitors to the Community producers remain on or enter the market. Together with the Community producers, they will ensure that users continue to have the choice of different and competing suppliers of the product concerned.

(110) For these reasons, it is provisionally concluded that there are no reasons why the imposition of the proposed anti-dumping duties will have a significant impact on competition. On the contrary, it would eliminate the trade-distorting effects of injurious dumping.

#### 6. Conclusion on Community interest

(111) Given the above reasons, it is provisionally concluded that it is unlikely that the possible impact on importers and user industries would offset the positive effect on the Community industry of the measures against injurious dumping. Accordingly there are no compelling reasons against the imposition of anti-dumping measures concerning imports originating in the countries having found to have practised injurious dumping.

#### F. PROVISIONAL ANTI-DUMPING MEASURES

##### 1. Injury elimination level

(112) In view of the conclusions reached with regard to dumping, injury, causation, and Community interest, provisional anti-dumping measures should be taken in order to prevent further injury being caused to the Community industry by the dumped imports. To establish the level of duty, account has been taken of the dumping margins found and of the amount of duty necessary to eliminate the injury suffered by the Community industry.

(113) To establish the level of duty needed to remove the injury caused by dumping, injury margins have been calculated. The necessary price increase was determined on the basis of a comparison of the weighted average import price with the non-injurious price of the product concerned sold by the Community industry on the Community market.

(114) The non-injurious price has been obtained by taking the actual sales prices of the Community industry, adjusting these to a break-even point, and then finally adding a profit margin that may reasonably have been achieved in the absence of injurious dumping. The profit margin used for this calculation was 5 % of turnover, as this level was reached in 1997, at a time when measures were in place against China, Croatia and Thailand and when the market share of imports from the countries concerned was still relatively low.

(115) The difference resulting from the comparison between the weighted average import price and the non-injurious price of the Community industry was then expressed as a percentage of the total cif import value.

## 2. Provisional measures

- (116) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, a provisional anti-dumping duty should be imposed in respect of the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia. This duty should be imposed at the level of the dumping margins found, except for the Republic of Korea and Zeleziarne Podbrezova a.s., where the injury margin was found to be lower than the dumping margin.
- (117) On the basis of the above, the provisional duties are as follows:

Country	Company	Provisional duty %
Czech Republic	Mavet a.s.	17,6
	Others	22,4
Malaysia	Anggerik Laksana Sdn Bhd	59,2
	Others	75,0
Russia	All companies	43,3
Korea	All companies	41,0
Slovakia	Zeleziarne Podbrezova a.s.	2,3
	Others	7,7

## 3. Undertakings

- (118) One exporting producer in Slovakia has offered a price undertaking in accordance with Article 8(1) of the basic Regulation. The Commission considers that the undertaking can be accepted since the company agreed to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. Furthermore, the regular and detailed reports which the company undertook to provide to the Commission will allow for effective monitoring. In addition, the company is exclusively producing and selling the product concerned and therefore the risk of it circumventing the undertaking is limited.
- (119) In order to ensure the effective respect and monitoring of the undertaking, when the request for release into free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the anti-dumping duty shall be conditional on the presentation of a commercial invoice containing at least the elements listed in the Annex to this Regulation. This level of information is also necessary to enable customs authorities to ascertain that shipments correspond to the commercial documents at the required level of detail, and that they are covered by the undertaking. Where no such invoice is presented, or where it does not correspond to the product concerned as presented to customs, the appropriate amount of anti-dumping duty will be payable instead.
- (120) In the event of suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation.

## G. FINAL PROVISION

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A provisional anti-dumping duty is hereby imposed on imports of tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, falling within CN codes ex 7307 93 11 (TARIC codes 7307 93 11\*91 and 7307 93 11\*99), ex 7307 93 19 (TARIC codes 7307 93 19\*91 and 7307 93 19\*99), ex 7307 99 30 (TARIC codes 7307 99 30\*92 and 7307 99 30\*98) and ex 7307 99 90 (TARIC codes 7307 99 90\*92 and 7307 99 90\*98) and originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia.

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 the products manufactured by:

Country	Company	Provisional anti-dumping duty (%)	TARIC additional code
Czech Republic	Mavet a.s., Trebic	17,6	A 323
	All other companies	22,4	A 999
Malaysia	Anggerik Laksana Sdn Bhd, Selangor Darul Ehsan	59,2	A 324
	All other companies	75,0	A 999
Russia	All companies	43,3	
Republic of Korea	All companies	41,0	
Slovakia	Zeleziarne Podbrezova a.s., Podbrezova	2,3	A 325
	All other companies	7,7	A 999

3. Notwithstanding paragraph 1, the provisional anti-dumping duty shall not apply to imports released into free circulation in accordance with Article 2.

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

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

*Article 2*

1. The undertaking offered by the company below in connection with the present anti-dumping proceeding is hereby accepted. Imports declared for release into free circulation under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by that company to a company in the Community acting as an importer shall be exempt from the anti-dumping duty imposed by Article 1 provided that such imports are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
Slovakia	Bohus s.r.o., Nálepková 310, 976 45 Hronec	A 329

2. Imports mentioned in paragraph 1 shall be exempt from the anti-dumping duty on condition that:

- a commercial invoice containing at least the elements listed in the Annex is presented to Member States' customs authorities upon presentation of the declaration for release into free circulation; and
- the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

*Article 3*

1. Without prejudice to Article 20(1) of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, present their views in writing and request a hearing from the Commission within one month of the date of the entry into force of this Regulation.
2. Pursuant to Article 21(4) of Regulation (EC) No 384/96 the parties concerned may request a hearing concerning the analyses of the Community interest and may comment on the application of this Regulation within one month of the date of the entry in force of this Regulation.

*Article 4*

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

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, 26 February 2002.

*For the Commission*  
Pascal LAMY  
*Member of the Commission*

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## ANNEX

The following elements shall be indicated in the commercial invoice accompanying the company's sales of tube and pipe fittings to the Community which are subject to the undertaking.

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'
  2. The name of the company mentioned in Article 2(1) issuing the commercial invoice.
  3. The commercial invoice number.
  4. The date of issue of the commercial invoice.
  5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
  6. The exact description of the goods, including:
    - product code number (PCN),
    - description of the goods corresponding to the PCN (i.e 'PCN 1 ...', 'PCN 2 ...'),
    - company product code number (CPC) (if applicable),
    - CN code,
    - quantity (to be given in tonnes and pieces).
  7. The description of the terms of sale, including:
    - price per tonne and per piece,
    - the applicable payment terms,
    - the applicable delivery terms,
    - total discounts and rebates.
  8. Name of the company acting as an importer to which the invoice is issued directly by the company.
  9. 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 by [company name] 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 name], and accepted by the European Commission through Regulation (EC) No 358/2002. I declare that the information provided in this invoice is complete and correct.'
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