COMMISSION REGULATION (EC) No 2318/95

of 27 September 1995

imposing a provisional anti-dumping duty on imports of certain tube or pipe fittings, of iron or steel, originating in the People's Republic of China, Croatia and Thailand and terminating the anti-dumping proceeding in respect of imports of these fittings, originating in the Slovak Republic and Taiwan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 1251/95 [2], and in particular Article 23 thereof,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [3], as last amended by Regulation (EC) No 522/94 [4], and in particular Articles 9 and 11 thereof,

After consulting the Advisory Committee,

Whereas :

A. PROCEDURE

(1) In February 1994, the Commission announced by a notice published in the *Official Journal of the European Communities* [5], the initiation of an anti-dumping proceeding concerning imports of certain tube or pipe fittings, of iron or steel, originating in the People's Republic of China, Croatia, the Slovak Republic, Taiwan and Thailand.

The proceeding was initiated as a result of a complaint lodged by the Defence Committee of the EEC Steel Butt-Welding Fittings Industry, acting on behalf of manufacturers whose collective output of the fittings in question was alleged to represent a major proportion of the Community production of these fittings.

The complaint contained evidence of dumping with regard to the products concerned originating in the countries indicated above and of material injury resulting therefrom. This evidence was considered sufficient to justify the initiation of a proceeding.

(2) The Commission officially advised the producers, exporters and importers known to the Commission to be concerned, the representatives of the exporting countries and the complainants. Interested parties directly concerned were given the opportunity to make known their views in writing and to request a hearing.

(3) All complainant Community producers, most of the producers and exporters of the countries concerned and some of the importers made their views known in writing. Parties who so requested were granted a hearing.

(4) No submissions were made by or on behalf of Community purchasers or processors of the products in question.

(5) The Commission sought and verified all information it deemed to be necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following :

(a) Complainant Community producers :

Germany :

— Wilhelm Geldbach GmbH & Co. KG, Gelsenkirchen,

France :

— Interfit S.A., Maubeuge,

United Kingdom :

— BKL Fittings Ltd., Redditch,

Italy :

— Virgilio Cena & Figli S.p.A., Brescia,

— Technobend, Arena,

— Tectubi S.r.l., Podenzano ;

(b) Producers/exporters in the countries concerned :

Croatia :

— Zeljezara Sisak 'Metaflex' (Femark), Zagreb,

[1] OJ No L 349, 31. 12. 1994, p. 1.
[2] OJ No L 122, 2. 6. 1995, p. 1.
[3] OJ No L 209, 2. 8. 1988, p. 1.
[4] OJ No L 66, 10. 3. 1994, p. 10.
[5] OJ No C 35, 3. 2. 1994, p. 4.

Slovak Republic :

— Zeleziarne Podbrezova A.S., Podbrezova,

Taiwan :

— C.M. Pipe Fittings Mfg. Ltd, Kaohsiung Hsien,

— Rigid Industries Co. Ltd, Kaohsiung Hsien,

Thailand :

— Awaji Sangyo (Thailand) Co. Ltd, Samutprakarn,

— Thai Benkan Co. Ltd, Prapadaeng-Samutprakarn,

— TTU Industrial Corp. Ltd, Bangkok ;

(c) Importers in the Community :

United Kingdom :

— Burton Delingpole Flanges and Fittings Ltd, Warley,

Italy :

— Continental Flanges & Fittings, Carpanca di Inverigo,

— IRC S.p.A., Cortemaggiore.

(6) The investigation of dumping covered the period from 1 July to 31 December 1993 (the 'investigation period').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Description of the product concerned

(7) Steel tube or pipe fittings are used to join tubes or pipes and come in several basic shapes, the most common of which are elbows, tees, reducers and caps. They are produced of carbon steel, alloy steel and stainless steel and are mainly used in primary industries, such as chemicals, oil refining, energy generation, construction and shipbuilding.

(8) The products covered by the complaint, and for which the proceeding was initiated, were tube and pipe fittings of iron or steel, including also stainless steel, falling within CN codes ex 7307 23 10, ex 7307 23 90, ex 7307 29 30, ex 7307 29 90, 7307 93 11, 7307 93 19, ex 7307 99 30 and ex 7307 99 90.

(9) However, it was established in the course of the investigation that although all products concerned and classified under the above CN codes have certain similarities, stainless steel fittings show significant differences in their essential physical and technical characteristics, in their end use and their prices and are for most purposes not interchangeable with other steel fittings. As a result, stainless steel fittings and other steel fittings should be considered separate products, and since the quantities of stainless steel fittings imported from the third countries concerned are relatively small, fittings of stainless steel which fall within CN codes ex 7307 23 10, ex 7307 23 90, ex 7307 29 30 and ex 7307 29 90 were excluded from the scope of the investigation.

The complaining Community producers were informed of the essential facts and considerations with regard to the exclusion of these products and agreed unanimously.

(10) On the above basis, the products subject to this proceeding are tube or 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, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90.

2. Like product

(11) The fittings under consideration are available in a great number of types which vary in respect of specific features, such as shape, size and wall thickness. However, the results of the investigation have shown that the various types of fittings are produced using the same manufacturing process and are marketed according to similar distribution channels. Their basic application and use are identical and there is a high degree of interchangeability. On these grounds and for the purpose of this proceeding, the whole range of types was considered as forming one product.

(12) The Commission also found that the fittings sold by the exporting countries on their domestic markets and those exported by them to the Community comprised a similar range of types and that their essential technical and physical characteristics and their end use were identical to, or closely resembled, those of the different fitting types produced and sold in the Community.

Accordingly, the products concerned were considered like products within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the Basic Regulation').

C. DUMPING

1. Normal value

(a) People's Republic of China

(13) The People's Republic of China being a non-market economy country, normal value was determined on the basis of information obtained in a third country having a market economy. To this

effect, the complainant suggested that normal value be established on the basis of domestic selling prices of the like product in Thailand, i.e. an analogue country in accordance with the relevant provisions of the Basic Regulation.

(14) With regard to the selection of a market economy country, Thailand was considered to be an appropriate and not unreasonable market where domestic prices are governed by normal market forces and several producers compete for sales of the product concerned. Production technology and process used for the manufacture of the products in question are, to a large extent, similar between the People's Republic of China and Thailand. In addition, the volume produced by the three Thai companies investigated was considered sufficiently representative, when compared with the volume exported to the Community by the People's Republic of China, to allow the proper calculation of normal value. Finally, no party concerned by this proceeding has objected to the choice of Thailand as analogue country.

(15) In accordance with Article 2 (5) (a) (i) of the Basic Regulation, normal value for the People's Republic of China was therefore established on the basis of the weighted average ex-factory prices for each type of fitting sold by the three Thai producers in question in the ordinary course of trade on the Thai market during the investigation period or, in the circumstances set out in recital (24), on the basis of the constructed value according to Article 2 (3) (b) (ii) of the above Regulation.

(b) **Croatia**

(16) The sole producer of the products concerned in Croatia has cooperated and submitted information by responding to the questionnaire. However, the data in respect of domestic sales made available were incomplete and did not allow a satisfactory determination of normal value.

(17) It is therefore found necessary to invoke Article 7 (7) (b) of the Basic Regulation and to establish normal value on the basis of the facts available. Since no reliable information on cost of production for each type of fitting was provided, the most reasonable basis with regard to normal value was considered to be the domestic price lists of the Croatian producer. Consequently, normal value was established for each type of the products concerned on the basis of the detailed domestic price lists which were issued and applied by the producer in question during the investigation period. The evidence made available showed that domestic sales were made to independent customers in representative quantities. It was verified that domestic sales were profitable on an overall basis, that they had been invoiced in conformity with the official price lists and that identical sales and payment conditions were applied to all customers.

(c) **Slovak Republic**

(18) The Commission based its determination of normal value with regard to the only producer of the products concerned in the Slovak Republic on information provided by this producer, which cooperated with the Commission.

(19) To establish normal value for the Slovak producer, the Commission analysed in the first place the sales of the like products made to independent customers intended for consumption in the domestic market. It was found that these sales were made in representative quantities but at prices which did not permit the recovery of all costs reasonably allocated during the reference period. As the prices of the vast majority of these sales taken individually were also less than the cost of production, it was concluded that they could not be considered to have been made in the ordinary course of trade.

(20) A constructed normal value has therefore been established for each type of the products concerned and exported to the Community in accordance with Article 2 (3) (b) (ii) of the Basic Regulation, i.e. on the basis of the fixed and variable raw material and manufacturing cost, together with a reasonable amount for selling, administrative and other general expenses and a profit margin considered reasonable under the prevailing market conditions of the country concerned.

(d) **Taiwan**

(21) For two of the four Taiwanese producers which responded to the questionnaire, the Commission concluded that further investigations were unnecessary. One of them produced exclusively stainless steel fittings which were excluded from the scope of this investigation (see recital (9)). As to the other Taiwanese producer it was found that no export transactions of the products concerned to the Community were made by this company during the investigation period. In addition, the company had neither concluded any export contracts during this period nor demonstrated that it had any firm intention to export to the Community.

(22) With regard to one of the two remaining Taiwanese producers which cooperated with the Commission, it was established that all sales by the company on the domestic market during the investigation period were made at a loss. They were therefore not considered to have been made in the ordinary course of trade. Normal value was therefore established in accordance with the provisions of Article 2 (3) (b) (ii) of the Basic Regulation, that is, on the basis of a constructed value, determined by adding cost of production and a margin of profit considered reasonable under the prevailing market conditions of the country concerned.

(23) The other Taiwanese producer which also responded to the questionnaire submitted substantial revisions to its answers to the questionnaire on two occasions due to a considerable number of errors and inconsistencies in the documents previously submitted. The latest revised version contained a substantial quantity of new information and was received by the Commission shortly before the verification visit was scheduled to take place. The Commission therefore concluded that the information supplied by this company with regard to normal value should be disregarded in accordance with the provisions of Article 7 (7) (b) of the Basic Regulation, the information not having been provided within a reasonable period, and decided therefore that preliminary findings should be established on the basis of the facts available. The most reasonable basis with regard to normal value was considered to be the information supplied by the other Taiwanese producer which fully cooperated with the Commission (see recital (22)).

(e) **Thailand**

(24) All three cooperating Thai producers sold on their domestic market at profitable prices more than 5 % of the quantities exported to the Community during the investigation period. These sales were therefore considered to be sufficiently representative as a basis for calculating normal value.

Where certain product types exported to the Community were either sold at a loss or not sold at all on the domestic market, normal value for these types has been established on the basis of the constructed value in accordance with Article 2 (3) (b) (ii) of the Basic Regulation. This constructred value included each company's own cost of manufacture for each type of product to which its own domestic selling, general and administrative expenses as well as a profit margin corresponding to the level of profit normally realized in Thailand on sales of the products concerned were added.

(25) One of the Thai producers sold the majority of its domestic deliveries via a related distributor to unrelated wholesalers. In this case, normal value was based on the sales of the related distributor to its independent wholesale customers.

(26) As to the two other Thai producers, it was found that all their domestic sales were made directly to unrelated customers.

(27) Normal value for the three Thai producers was therefore established on the basis of their weighted average prices for each type of fitting sold on the domestic market in the ordinary course of trade or on the basis of the constructed value as explained in recital (24).

2. Export price

(28) Export prices for all producers and exporters of the five countries concerned were determined on the basis of the prices actually paid or payable for the like product sold for export to the Community during the investigation period.

(29) One of the Thai exporters sold a certain quantity of the products concerned to a related party in the United Kingdom. However, it was found and verified during the investigation that the prices of these exports, which concerned small quantities and specific types of the like product, were comparable to those at which the products were sold to independent parties in the Community. In addition, a comparison of sales contracts with the related and unrelated companies did not show any substantial differences in terms of sales. Therefore, for the provisional determination, the prices of these sales transactions were taken into consideration for the dumping calculation.

(30) During the period under consideration, one of the Chinese exporters had a financial participation in importing companies in France and Germany. An examination of the export prices however revealed that they were comparable to those at which the same products were sold to independent purchasers in the Community. Therefore, despite the financial interest of the Chinese exporter in these companies, the export price taken for the provisional determination was that for the transactions in question.

(31) All other export sales by the other producers and exporters of the countries concerned were made to independent importers in the Community and consequently in the ordinary course of trade.

3. Comparison

(32) Normal value, by product type, was compared at an ex-factory level with the ex-factory export price for the corresponding type, based on a weighted average for the entire investigation period. Given the very high number of different types and the numerous transactions by type, a weighted average export price was considered appropriate. For the purpose of a fair comparison, adjustments were made in respect of differences affecting price comparability, such as import charges and indirect taxes, transport, insurance, handling and ancillary cost as well as packing, payment terms and salesmen's salaries, where appropriate and to the extent of evidence available.

4. Dumping margin

(33) The comparison showed the existence of dumping for all cooperating companies concerned, the dumping margins being equal to the amount by which normal value, as established, exceeds the price for export to the Community.

(34) Since no information was provided which would have justified granting individual treatment, the Commission established for all producers and exporters concerned of the People's Republic of China one single dumping margin, calculated as the weighted average dumping margin of the two cooperating Chinese exporters combined.

(35) The weighted average dumping margins for the People's Republic of China and the companies of the other countries concerned, expressed as percentages of the Community frontier prices, customs duty unpaid, are as follows :

(a) People's Republic of China : 58,6 % ;

(b) Croatia :

— Zeljezara Sisak : 58,6 % ;

(c) Slovak Republic :

— Zeleziarne Podbrezova : 25,2 % ;

(d) Taiwan :

— Rigid Industries : 49,9 %,

— C. M. Pipe : 54,4 % ;

(e) Thailand :

— Awaji : 39,5 %,

— Benkan : 51,3 %,

— TTU : 63,4 %.

(36) In the case of companies which neither replied to the Commission's questionnaire nor otherwise made themselves known, the Commission considered that the dumping should be determined on the basis of the facts available in accordance with Article 7 (7) (b) of the Basic Regulation.

In this respect, the most reasonable facts available were considered to be those established and verified by the Commission during the investigation. Since the Commission had no reason to believe that the non-cooperating companies would have practised dumping at levels lower than the highest found and in order not to reward non-cooperation, it was considered appropriate to apply the highest dumping margin found for an exporter in the country concerned.

D. COMMUNITY INDUSTRY

(37) Since not all producers established in the Community participated in the investigation and one Community producer was found to manufacture special tube or pipe fittings not subject to the proceeding, the Commission had to examine whether the complainants constitute a major proportion of the total Community production of the like product. It also had to take into consideration the fact that one of the complainant Community producers in the United Kingdom imported the allegedly dumped products from an exporter in Thailand which, in addition, is a related party.

(38) With regard to the imports of the complainant UK producer, the examination of the facts showed that almost all producers in this particular branch of the industry rely to a certain degree on the purchase of fitting types which are outside their manufacturing programme. In fact, fittings producers have to offer a complete range of product types in order to satisfy the requirements of the customers and thus to compete in the market.

It was indeed established that the complainant UK producer in question imported during the investigation period the product under investigation from a related exporter in Thailand for which dumping was found. The level of these imports, however, was

found not to exceed 2 % of the total sales made by the UK producer on the Community market. In addition, the imported quantities consisted mainly of product types not manufactured by this producer to complement its range of products and were imported solely to defend its market position. It is therefore considered that, although they are related parties, such a low level of imports could not have shielded the UK producer from the effects of dumping nor have been any substantial benefit to it, and that there are no reasonable grounds for excluding this producer from the definition 'Community industry'.

(39) In the course of the investigation, one of the complainant Italian producers withdrew from the complaint on the grounds that the products it manufactured were not exported by the exporting countries concerned.

(40) As to the determination of the share of the output of the producers represented in complaint, the Commission used the information submitted together with further data provided during the on-the-spot investigation by the complainant producers which by far are the largest producers established in the Community. The Commission also used reliable market research data.

On the basis of the above considerations, the share of the total Community production held by the complainant producers during the investigation period was calculated at 85 %, thus amounting to a major proportion of total Community production.

E. INJURY

1. Cumulation of the effects of the dumped imports

(41) In establishing the impact of the dumped imports on the Community industry, the Commission has considered the effect of all dumped imports from the countries concerned in the present investigation. In order to determine whether such cumulation is appropriate, it was examined whether the quantity involved from each exporting country was significant and whether the imports from these countries were competing with each other.

(42) One of the exporters concerned in Thailand claimed, for the purpose of the injury assessment, that imports from this country should not be cumulated with imports from the other exporting countries concerned by the proceeding, as the share of the Community market held by imports from Thailand would not contribute to material injury to the Community industry. It was further argued that this market share was decreasing.

The Commission has examined these claims. It was found that the volume of the products concerned imported during the investigation period from Thailand accounted for 2,6 % of the Community consumption. At this percentage, Thailand's market share cannot be considered negligible. With regard to the development of the market shares of Thailand, there was a constant increase from 0,4 % in 1989 to 1,6 % in 1991 and to 2,6 % in 1993 and in the investigation period. The arguments of the exporter concerned in Thailand have, therefore, to be rejected.

(43) With regard to the Slovak Republic and Taiwan, the Commission established that the market shares held by imports from these two countries declined between 1992 and the investigation period from 3,2 % to 1,5 % and from 3,4 % to 1,6 % respectively. By contrast, the market shares held by the other three countries concerned increased during the same period, i.e. for the People's Republic of China from 6,8 % to 8,5 %, for Croatia from 1,6 % to 3,2 % and for Thailand from 2,4 % to 2,6 %.

Given the low and sharply declining level of imports from the Slovak Republic and Taiwan, in contrast to the rising market shares of the other countries concerned, these imports were considered not to be a cause of material injury to the Community industry. They were therefore not cumulated with the imports from the remaining three countries concerned and accordingly excluded from the injury assessment.

(44) As regard imports from the People's Republic of China, Croatia and Thailand, it was found that the products under investigation imported from each of these countries were, on a type-by-type and dimension-by-dimension basis alike in all respects, interchangeable and marketed in the Community within a comparable period and under similar commercial policies. The imports competed with each other and with the like product manufactured by the Community industry. The import volumes from each of these countries during the period under consideration were significant and the price trends similar. Under these circumstances, and in accordance with the practice of the Community institutions, it is considered that there are sufficient grounds to analyse the imports originating in the People's Republic of China, Croatia and Thailand cumulatively (the term 'exporting countries concerned' used hereinafter refers exclusively to the People's Republic of China, Croatia and Thailand).

2. Community consumption, volume, market share and prices of dumped imports

(a) Community consumption

(45) Data on Community consumption of the products subject to the proceeding are derived from total sales in the Community made by the cooperating Community producers added to an estimation of sales of non-cooperating producers and to total imports originating in third countries including those from the exporting countries in question. On this basis, the volume of consumption in the Community remained generally stable between 1989 and 1993, increasing slightly from 53 132 tonnes in 1989 to 53 406 tonnes in 1993 and to 27 189 tonnes during the six months of the investigation period.

(b) Volume of dumped imports

(46) Cumulated imports into the Community from the exporting countries concerned increased constantly from 1 304 tonnes in 1989 to 7 309 tonnes in 1993 and reached 3 854 tonnes during the investigation period which corresponds to an increase of 491 % on an annual basis when compared to 1989.

(c) Market shares

(47) Between 1989 and the investigation period, the cumulated market shares in the Community held by the exporting countries concerned rose from 2,5 % to 14,3 % and developed individually as follows :

— for the People's Republic of China :	from 0,8 % to 8,5 %,
— for Croatia :	from 1,2 % to 3,2 %,
— for Thailand :	from 0,4 % to 2,6 %.

(d) Prices of the dumped imports

(48) Prices of the dumped imports from the exporting countries concerned were significantly below the prices charged by the Community producers during the investigation period. For the determination of price undercutting, the Commission compared prices of the exporters concerned with the sales prices on the Community market charged by the complainant producers which are established in Germany, France, Italy and United Kingdom. These Member States represent most of the Community market for the products concerned and absorb more than 85 % of the dumped imports in question.

(49) The price comparison was made on the basis of sales to the first independent customer at a comparable level of trade and, where sufficient evidence was available, on a per-product-type basis for the majority of the dimensions and wall thicknesses imported which were considered for the preliminary dumping determination.

(50) Adjustments were made to ensure comparability in terms of transport costs deducted from the Community producers selling prices as well as in terms of customs duty added to the import prices, where applicable. In addition, the import prices were adjusted by an importer's margin including customs clearance, handling charges, bank charges and a profit margin, to the extent considered appropriate.

(51) Based on comparable product types, the weighted average selling prices of each individual exporter were compared to the corresponding selling prices on the Community market of the complainant producers. Undercutting as a percentage of the Community producers actual selling prices ex-factory ranged during the investigation period from 24,5 % to 40,7 % for the People's Republic of China, from 21,3 % to 37,8 % for Thailand and was 21,9 % for Croatia.

3. Situation of the Community industry

(a) Community production

(52) The volume of production of the products concerned by the Community industry fell from 54 104 tonnes in 1989 to 45 402 tonnes in 1993 and to 22 432 tonnes during the investigation period (six months) corresponding to a decrease of 17,1 %on an annual basis compared with 1989. The decrease of production was particularly marked in Germany, France and Italy which together absorbed around 78 % of the dumped imports from the exporting countries concerned during the reference period.

(b) Capacity and capacity utilization

(53) As the basic production facilities for tube or pipe fittings are also designed and used for the manufacture of other product types not subject to the proceeding, it is not possible to determine precisely

the volume of capacity for the products under consideration and their utilization rates. However, it was found that the volume of the other product types manufactured on the same basic equipment has decreased in a proportion similar to that of the products concerned. The rates of capacity utilization established as a result of the investigation can therefore be considered to be representative.

(54) Since 1985, the pipe fittings industry of the Community has gone through a restructuring process reducing its total annual capacity estimated at 120 000 tonnes to less than 100 000 tonnes, in 1993 by streamlining of facilities and several closures of production plants. Despite these efforts, total capacity utilization of Community producers declined sharply between 1989 and the investigation period, except for one producer which, until 1990, relied to a larger degree on purchases, but decided then to complete the range of its fittings based on own production. Nevertheless, the utilization rate of all Community producers was below 55 % during the investigation period which in most cases was insufficient to permit a reasonable allocation and recovery of fixed costs.

(c) **Sales volume and market share**

(55) Total sales of Community producers of the products concerned on the Community market declined from 41 006 tonnes in 1989 to 34 937 tonnes in 1993 and was 17 889 tonnes during the investigation period from July to December 1993. Compared with 1989, the sales during the investigation period correspond, on an annual basis, to a decrease of 12,7 %. While the annual consumption in the Community remained generally stable between 1989 and the investigation period, the market share held by the Community producers fell from 77,2 % to 65,7 % over the same period. As a result, the Community industry has lost market share to almost the same extent as the exporting countries concerned have gained (from 2,5 % to 14,3 %).

(d) **Sales prices**

(56) As a consequence of the substantial price undercutting practised by the exporting countries concerned, the domestic and other Community market sales prices of the complainant producers decreased significantly between 1989 and the investigation period, in particular for those product types which were in direct competition with the dumped imports in question.

(e) **Profitability**

(57) Despite considerable reductions in costs achieved through the continued rationalization measures, the financial situation of the majority of the Community industry has deteriorated, particularly following the arrival of massive quantities of dumped imports in 1992 on the Community market. During the investigation period, all complainant Community producers were incurring financial losses or reduced profits.

(f) **Employment**

(58) With regard to the employment situation of the whole tube or pipe fittings industry in the Community, the Commission found that, as a result of the restructuring efforts and the closure of three factories, the total work force of the Community producers declined by around 15 % between 1989 and the investigation period. The considerable reduction in orders which led to an insufficient capacity utilization forced Community producers in some cases to introduce measures of short-time working and in one particular case, to decide a drastic reduction of one third of the entire personnel employed.

4. Conclusion on injury

(59) The preliminary examination of the facts on injury has shown that, the Community industry has experienced, in particular, a decline in production and sales volume, a significant loss of market share and has been unable to make price increases to cover rising production costs, combined with a deterioration in financial results.

(60) In light of the significance of these negative economic factors the Commission concludes that the Community industry has suffered material injury within the meaning of Article 4 (1) of the Basic Regulation.

F. CAUSE OF INJURY

(61) The Commission has examined whether the material injury suffered by the Community industry had been caused by the dumped imports and whether other factors might have caused or contributed to that injury.

1. Effect of the dumped imports

(62) In its examination, the Commission found that the trend of imports from the exporting countries concerned, their growing market share and the downward pressure on prices exerted by these

imports coincided with the decrease of Community production, capacity utilization, sales volume, market share, profits and employment which led particularly in 1992 to a deterioration in the Community industry's competitive and financial situation.

(63) While consumption of the products concerned remained relatively stable, the market share of the imports in question increased from 2,5 % in 1989 to 14,3 % in the investigation period when the market share held by the Community producers declined from 77,2 % to 65,7 %. Thus the Community industry's lost market share has been mirrored by the exporting countries' gains.

(64) As far as the prices of the dumped imports are concerned, significant margins of undercutting were found. Given the price sensitivity of the market for tube or pipe fittings, the considerable undercutting margins have forced the Community industry to reduce its prices in an attempt to achieve a reasonable capacity utilization and market share. This depression of prices has led to a general lack of profitability as demonstrated by the financial losses of the majority of the Community producers.

2. Effects of other factors

(65) 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. The Commission, in particular, examined the evolution and impact of imports of the products concerned from third countries not covered by this proceeding, the trend of apparent consumption in the Community market and the effect of imports made by one complainant Community producer.

(66) The import volume from other third countries, including Taiwan and the Slovak Republic, was relatively stable overall and amounted, in 1989 to 10 822 tonnes and during the investigation period to 10 892 tonnes on an annual basis, representing market shares of 20,3 % and 20,0 % respectively. Measured against a growth of 6 400 tonnes of the combined imports from the exporting countries concerned by the proceeding and an increase of their market share of 12 percentage points over the same period, it is considered that these exporting countries were clearly the beneficiaries in terms of sales volume and market share. According to Eurostat data, prices of the imports from most of the other third countries were found to be distinctly higher than those of the dumped imports and there was no indication that the imports from third countries not subject to the proceeding have been dumped.

(67) Regarding the development of demand, apparent consumption of the products concerned in the Community between 1989 and the investigation period increased slightly from 53 132 tonnes to 54 378 tonnes on an annual basis.

(68) As to the effect to imports of the products concerned made by one complainant Community producer, it was found that the level of these imports during the investigation period did not exceed 2 % of its sales in the Community, that the majority of the imports consisted of product types to complete the range of products not manufactured by this producer and that the prices at which the imported products were re-sold by the producer in question were basically not different from the sales prices of its own-produced products or of other Community producers. It is therefore considered that the importing producer was not participating in the dumping practices and that this producer was neither shielded from the effects of dumping nor benefiting from it.

3. Conclusion

(69) In the light of these considerations, the Commission has come to the conclusion that, for purposes of its provisional findings, the dumped imports of the products in question originating in the People's Republic of China, Croatia and Thailand have caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. General considerations

(70) In assessing the Community interest, the need to eliminate the trade distorting effects arising from unfair commercial practices and to restore effective competition on the Community market for the products concerned has to be given special consideration. Anti-dumping measures should have the effect of increasing the price levels of exports and thus influence their relative competitiveness.

However, while this results from the necessity to offset the injurious effects of dumping, not taking such measures could on the contrary have an adverse effect on the competitive situation on the Community market if the Community producers were to disappear. The elimination of the unfair advantages gained through dumping practices should prevent the further deterioration of the Community industry. Under these circumstances, no significant adverse effect on the competitive situation of the Community market should be expected from the imposition of measures. Against this background, the Commission has examined the effect of anti-dumping measures on imports of steel fittings from the exporting countries concerned in relation to the specific interests of the Community industry and of the users.

2. Interest of the Community industry

(71) It has been established in the framework of the present proceeding that, in view of the substantial and increasing financial losses incurred by the Community industry, not to take anti-dumping measures with respect to the dumped imports concerned would aggravate its already precarious situation and threaten the viability of the Community fittings industry. This development has to be seen in particular in the light of the considerable efforts made by the Community producers with regard to modernization and automation of their production facilities to such an extent that they are able to compete with any producer operating under fair market conditions. If these producers are forced out of the market, all these investments will be wasted.

(72) It was also established that, in order to be in a position to manufacture the whole range of products at competitive costs, the Community steel fittings industry depends on a reasonable rate of utilization of its equipment which is basically achieved by the production of standardized commercial quality fittings which are in direct competition with the dumped products imported from the exporting countries concerned, and which account for a major part of the revenue generated by this sector of industry. A decline in this production activity would also effect the production of other higher quality product categories by increasing their cost and the prices for the Community consumers.

3. Interest of users

(73) As stated in recital (70), the users of the pipe fittings imported from the exporting countries in question will have to pay regular market prices if duties are imposed. The purchasers concerned are companies active in the construction of buildings, ships and plants for chemicals, oil refining, energy generation. No submission concerning the impact of anti-dumping measures on such purchasers or users was submitted to the Commission during the investigation. This impact may be very different from case to case, depending on the quantity of fittings necessary for the construction concerned. However, the imposition of anti-dumping measures on steel fittings will have a limited effect on these user industries since the addition to the total cost of construction for which the fittings are used is very small. In any event, the investigation has shown that higher prices for steel fittings can be accepted on the market, since the prices of imports from third countries not subject to the proceeding were found to be significantly higher than those of the dumped imports.

(74) Finally, it has to be borne in mind that the increase in prices resulting from anti-dumping measures aims at enabling the removal of a price advantage resulting from an unfair practice which is injurious to the Community industry, whose situation, unless measures are taken, appears unavoidably destined to deteriorate. Should such a deterioration lead to the disappearance of the Community industry, the competition in steel fittings would seriously diminish on the Community market : a situation which is not consonant with the interests of purchasers or users.

(75) Having carefully examined all the above aspects, the Commission considers, therefore, that it is in the Community interest to impose provisional anti-dumping measures on imports of the products concerned originating in the People's Republic of China, Croatia and Thailand in order to prevent further injury being caused by the dumped imports concerned during the remainder of the investigation.

In the light of the above, measures in the form of a provisional *ad valorem* duty should be imposed.

H. DUTY

(76) For the purpose of establishing the level of the provisional duty, the Commission took account of the level of dumping found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

(77) Since the injury consisted mainly of price depression, loss of market share and, in particular, financial losses, the removal of such injury requires that the export prices of the exporters concerned be increased to an extent that would allow the Community industry to raise its prices to profitable levels without loss of sales volume.

For calculating the necessary price increase, the Commission considered that prices of the dumped imports had to be compared with selling prices reflecting the cost of production of the Community industry plus a reasonable amount of profit.

(78) On this basis, the weighted average export prices for those product types used in the determination of dumping were compared, for the investigation period, on a free-at-Community-frontier level, adjusted, where necessary, to ex-factory Community producer level, with the actual weighted average selling prices charged by the Community producers concerned, increased, where appropriate, to cover production cost plus a profit margin of 5 %. This profit margin was considered, for the purpose of the preliminary determination to be at a reasonable level comparable with that which would be expected to be obtained in the absence of dumped imports.

This comparison showed the following injury margins :

(a) People's Republic of China : 102,2 % ;

(b) Croatia :

— Zeljezara Sisak : 38,4 % ;

(c) Thailand :

— Awaji : 72,4 %,
— Benkan : 105,6 %,
— TTU : 58,9 %.

(79) Since, in the case of the Croatian producer, Zeljezara Sisak, and the Thai producer TTU, the injury margins are lower than the respective dumping margins found, the provisional anti-dumping duties should be based on this lower level, pursuant to Article 13 (3) of the Basic Regulation.

In all other cases the provisional duty should be limited to the dumping margin established.

(80) For the reasons outlined in recital (34), a single duty has been established for the two cooperating producers/exporters in the People's Republic of China.

(81) In establishing the level of provisional duty for exporters in each of the exporting countries concerned which neither replied to the Commission's questionnaire nor otherwise made themselves known, the Commission considered that the duties should be established on the basis of the facts available in accordance with Article 7 (7) (b) of the Basic Regulation. It was considered that the most reasonable facts were those established during the investigation and that there was no reason to believe that any duties lower than the highest duties considered necessary would be sufficient to remove the injury caused by these imports. Therefore, in order to avoid duty circumvention and not to reward non-cooperation, it is considered appropriate to impose the highest duty determined for exporters in the same country.

(82) On the basis of the above, provisional anti-dumping duties should be as follows :

Rate of duty

(a) People's Republic of China :

— all imports : 58,6 % ;

(b) Croatia :

— Zeljezara Sisak : 38,4 %,

— other companies : 38,4 % ;

(c) Thailand :

— Awaji : 39,5 %,

— Benkan : 51,3 %,

— TTU : 58,9 %,

— other companies : 58,9 %.

I. TERMINATION OF THE PROCEEDING WITH REGARD TO THE SLOVAK REPUBLIC AND TAIWAN

(83) As explained in recital (43), imports of the products in question originating in the Slovak Republic and Taiwan were considered not materially contributing to the injury suffered by the Community industry. The Commission considers therefore that protective measures are unnecessary and that the anti-dumping proceeding with regard to these two countries should be terminated.

(84) No objection to this course of action was raised in the Advisory Committee.

(85) Interested parties directly concerned were informed of the essential facts and considerations on the

basis of which the Commission intended to terminate the proceeding with regard to the Slovak Republic and Taiwan and have been given the opportunity to comment.

J. FINAL PROVISION

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of tube or 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 code 7307 93 11*91), ex 7307 93 19 (Taric code 7307 93 19*91), ex 7307 99 30 (Taric code 7307 99 30*91) and ex 7307 99 90 (Taric code 7307 99 90*91) and originating in the People's Republic of China, Croatia and Thailand.

2. The rate of duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Manufacturer	Rate of duty	Taric additional code
People's Republic of China	—	58,6 %	—
Croatia	—	38,4 %	—
Thailand	— Awaji Sangyio (Thailand) Co., Ltd, Samutprakarn	39,5 %	8849
	— Thai Benkan Co. Ltd, Prapadaeng-Samutprakarn	51,3 %	8850
	— TTU Industrial Corp. Ltd, Bangkok	58,9 %	8851
	— Other companies	58,9 %	8851

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

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

Article 2

The anti-dumping proceeding concerning imports of tube or pipe fittings falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90, originating in the Slovak Republic and Taiwan is hereby terminated.

Article 3

Without prejudice to Article 7 (4) (b) of Regulation (EEC) No 2423/88, the parties concerned may make known their views and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 4

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

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

Done at Brussels, 27 September 1995.

For the Commission

Leon BRITTAN

Vice-President