COMMISSION REGULATION (EC) No 1732/97

of 4 September 1997

imposing a provisional anti-dumping duty on imports of stainless steel fasteners and parts originating in the People's Republic of China, India, Malaysia, the Republic of Korea, Taiwan and Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as amended by Regulation (EC) No 2331/96 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) In December 1996, the Commission announced by a notice published in the *Official Journal of the European Communities* [3] the initiation of an anti-dumping proceeding with regard to imports into the Community of stainless steel fasteners and parts originating in the People's Republic of China (hereafter 'the PRC'), India, Malaysia, the Republic of Korea (hereafter 'Korea') and Taiwan, and commenced an investigation.

In January 1997, the Commission announced by a notice published in the *Official Journal of the European Communities* [4] the extension of the proceeding to imports from Thailand.

(2) The proceeding was initiated and subsequently extended as a result of two complaints lodged by the European Industrial Fasteners Institute (EIFI), on behalf of Community producers representing a major proportion of the Community production of stainless steel fasteners. The complaints contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the producers/exporters and importers known to be concerned, the representatives of the exporting countries and the complainants, of the initiation of the proceeding; it gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(4) The Commission sent questionnaires to all parties known to be concerned and received replies from the complaining Community producers, from four companies in India, from two companies in Malaysia, from one company in Korea, from seven companies in Taiwan, from three companies in Thailand, from six companies in the PRC, from one company in Hong Kong exporting products originating in the PRC, from one company in Brazil (originally envisaged as analogue country) and from one Community importer related to one Malaysian company. The Commission received also complete replies from two unrelated importers in the Community.

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

Community producers

— Bulnava srl, Milano (Italy)

— Inox Viti snc di Cattinori Enrico e Bruno, Grumello Del Monte (Italy)

— Tevi srl (Trafilerie e Viterie Italiane srl), Ponte Dell'Olio (Italy)

— Tornillería del Besos SA (Torbesa), Barcelona (Spain)

— Ugivis SA, Belley (France)

Producers/exporters and companies related to them in the exporting countries

India

— Audler Fasteners, Vasai

— Lakshmi Precision Screws Ltd, Rohtak

— Kundan Industries Ltd, Vasai

— Tata Exports Ltd, Bombay

Malaysia

— Tigges Steel Fasteners (M) Sdn. Bhd., Ipoh

— Tong Heer Fasteners Co., Sdn. Bhd., Penang

Korea

— Daegil Trading Co. Ltd, Seoul

[1] OJ L 56, 6. 3. 1996, p. 1.
[2] OJ L 317, 6. 12. 1996, p. 1.
[3] OJ C 369, 7. 12. 1996, p. 3.
[4] OJ C 25, 25. 1. 1997, p. 9.

Taiwan

— Arrow Fastener Co. Ltd, Taipei

— CLC Industrial Co. Ltd, Tainan

— Min Hwei Enterprise Co., Kaohsiung

— Rodex Fasteners Corp., Chung Li

— Sen Chang Industrial Co. Ltd, Tao Yuen

— Taiwan Shan Yin Intern. Co. Ltd, Kaohsiung

— Tong Hwei Enterprise Co. Ltd, Kaohsiung

— Tong Jou Enterprise Co. Ltd, Kaohsiung

Thailand

— Dura Fastener Co. Ltd, Samutprakarn

— A.B.P. Stainless Fastener Co. Ltd, Ayutthaya

— Thailock Fastener Co. Ltd, Chon Buri

Hong Kong (companies exporting products originating in the PRC)

— Power Van Industrial Co. Ltd

— Tung Wah Metal Manufactory (related to one company in the PRC)

Brazil (originally envisaged as analogue country)

— Industrias Micheletto, Canoas

Related importer in the Community

— Tigges GmbH & Co. KG, Wuppertal (Germany)

Unrelated importer in the Community

— Acton SA, La Grand-Croix, France

(6) The investigation of dumping covered the period from 1 January 1996 to 30 November 1996 (hereafter referred to as 'the investigation period'). The examination of injury covered the period 1992 to 30 November 1996.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(7) The product under consideration is stainless steel fasteners (hereafter referred to as 'SSF'), i.e. bolts, nuts and screws of stainless steel which are used to mechanically join two or more elements. The products described above fall within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70 and 7318 16 30.

Screws are fastener products with an external threading on the shank. They can either be used without any other part and fixed into wood (wood screws) or metal sheets (self-tapping screws) or be combined with a nut and washers to form a bolt. Screws may have a variety of head-shapes (cup, socket, flat, hexagonal, etc.), shank lengths and diameters. The shank may be totally or partially threaded.

SSF are used by a variety of consumer industries and in a wide range of final applications where resistance to both atmospheric and chemical corrosion is necessary and where hygiene may also be essential, such as equipment for processing and storing food products, plants in the chemical industry, manufacture of medical equipment, public lighting equipment, shipbuilding, etc.

(8) There are many types of SSF, each one being defined by its specific physical and technical characteristics and by the grade of stainless steel from which it is made. However, all the products under consideration which fall under the broad definition of fasteners have the same basic physical characteristics and the same uses and are distributed via the same distribution channels. They are consequently considered as forming one single category of product for the purpose of the present investigation. It was however decided that, for technical investigation requirements, it would be appropriate to divide the product concerned into 'types' and to gather and handle the data collected on the basis of those types. To this end, five criteria were considered (1). Each combination of these criteria, which is referred to as 'product control number' (hereafter 'pcn'), corresponds to a specific type of SSF.

(9) In the course of the investigation, it was noted that some non-standard SSF were sold by the exporters concerned. These products, manufactured to order, are not classified under any standard nomenclature. Although their cost, price and profit margin are unusually high and therefore not representative of the average SSF, they are nevertheless considered as like products. However, the dumping determination was based on standard SSF only, which were considered sufficiently representative of total exports of SSF to the Community.

(10) In the course of the investigation, it was alleged that nuts (CN code 7318 16 30) should be excluded from the scope of the investigation given that no production of nuts existed in the Community. It should be noted, however, that the fact that a specific product type would no longer be produced by the Community industry is not in itself sufficient to determine whether it should be excluded from the scope of the anti-dumping proceeding. The Commission found, in any event, that although a sizeable proportion of the Community consumption of nuts was imported, in particular from the countries concerned, the Community industry has also some production of nuts which could be affected by the imports concerned.

(1) These criteria are the following: (1) CN code; (2) type of raw material used; (3) DIN number, i.e. code number under which the product is classified within the DIN nomenclature; (4) diameter in millimetres; (5) length in millimetres.

The producers which have maintained a capacity for production of nuts would in all likelihood increase or resume their production of nuts once a reasonable price level has been re-established on the Community market. In the circumstances the Commission services did not consider it justifiable to remove nuts from the scope of the investigation

2. Like product

(11) The Commission found that SSF produced and sold on the respective domestic markets in India, Malaysia, Korea, Taiwan and Thailand and those exported to the Community from the countries concerned as well as those produced and sold by the Community industry have the same physical, chemical and technical characteristics and uses. It was therefore concluded that all are like products within the meaning of Article 1 (4) of Regulation (EC) No 384/96 (hereafter referred to as 'the Basic Regulation').

C. DUMPING

1. Normal value

(a) *India*

(12) Of the four cooperating Indian companies, two produced and exported the product concerned but did not sell it on the domestic market during the investigation period. A third cooperating company produced and sold the product concerned on the domestic market and sold it for export to the Community through the fourth company, which was an export trading company. Therefore, as far as India is concerned, normal value was only calculated for the three producers.

(13) In order to establish normal value, the Commission services first analysed whether domestic sales were representative in accordance with Article 2 (2) of the Basic Regulation. In this respect, for the only cooperating producer selling on the domestic market, it was established that the total domestic sales of the product concerned represented more than 5 % of the sales volume destined for the Community.

(14) It was examined whether total domestic sales of each product type constituted 5 % or more of the sales volume of the same type exported to the Community.

For those product types meeting the 5 % test, the Commission services assessed whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2 (4) of the Basic Regulation. Where, per product type, the volume of sales below unit cost was less than 20 % of sales, normal value was established on the basis of the weighted average prices actually paid for all domestic sales. Where, per product type, the volume of transactions made at a loss was equal to or higher than 20 %, but not higher than 90 % of sales, normal value was established on the basis of the weighted average prices actually paid for the remaining profitable domestic sales.

Where, per product type, the volume of domestic sales was lower than 5 % of the volume destined for export to the Community, or where the volume of domestic sales made at a loss was more than 90 %, domestic sales were considered insufficient in the sense of Article 2 (3) of the Basic Regulation and were therefore disregarded. In these cases, in the absence of any other domestic sales made by other Indian producers, normal value was constructed in accordance with Article 2 (3) and (6) of the Basic Regulation. For each product type, normal value was calculated on the basis of all costs of manufacturing plus all selling, general and administrative costs (herefter 'SGA') incurred by this company and a reasonable amount for profits. The amount for profits was established on the basis of the weighted average profit made on profitable domestic sales of the product concerned.

(15) For the two exporting producers which did not sell the product concerned on the domestic market and for the export trading company, pursuant to Article 2 (1) of the Basic Regulation, normal value was based, wherever a corresponding product type was found, on the weighted average of the ex-works prices charged by the only cooperating producer selling on the domestic market representative quantities of the corresponding type in the ordinary course of trade.

Where, for the correspondig product type, there were no or insufficient similar domestic sales in the ordinary course of trade by the other producer, normal value was constucted in accordance with Article 2 (3) and Article 2 (6) (a) of the Basic Regulation, i.e. on the basis of all costs of manufacturing incurred by the exporting producer concerned when producing the product type concerned plus a reasonable amount for SGA and profits based on the data found for the only Indian producer selling on the domestic market.

(b) ***Korea***

(16) For the only cooperating exporting producer in Korea it was established that the total sales volume of the product concerned represented more than 5 % of the sales volume exported to the Community.

(17) It was then examined whether total domestic sales of each product type constituted 5 % or more of the sales volume of the same type sold for export to the Community.

For those product types meeting the 5 % test, the Commission services assessed whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2 (4) of the Basic Regulation. Where, per product type, the volume of sales below unit cost was less than 20 % of sales, normal value was established on the basis of the weighted average prices actually paid for all domestic sales. Where, per product type, the volume of transactions made at a loss was equal to or higher than 20 %, but not higher than 90 % of sales, normal value was established on the basis of the weighted average prices actually paid for the remaining profitable domestic sales.

Where, per product type, the volume of domestic sales was lower than 5 % of the volume exported to the Community, or where the volume of domestic sales made at a loss was more than 90 %, domestic sales in the ordinary course of trade were considered insufficient in the sense of Article 2 (3) of the Basic Regulation and were therefore disregarded. In these cases, in the absence of any other cooperating Korean producer, normal value was constructed in accordance with Article 2 (3) and (6) of the Basic Regulation, i.e., for each product type, on the basis of all costs of manufacturing plus SGA incurred by this company and a reasonable amount for profits. The amount for profits was established on the basis of the weighted profit made on profitable domestic sales of the product concerned.

(c) ***Malaysia***

(18) For both Malaysian exporting producers, it was established that the total domestic sales volume of the product concerned represented less than 5 % of the sales volume exported to the Community. Therefore, in the absence of other cooperating Malaysian producers, normal value was constructed in accordance with Article 2 (3) and (6) of the Basic Regulation, i.e. on the basis of all costs of manufacturing incurred by these companies, plus a reasonable amount for SGA costs and for profits. As such amounts could not be determined on the basis of the data pertaining to these producers since their domestic sales were not representative, they were determined in accordance with Article 2 (6) (c) of the Basic Regulation on the basis of any other reasonable method. The amount for SGA was established on the basis of the data pertaining to the producer which sold the product concerned on the domestic market during the investigation period, as it was proved that this amount was in line with the average SGA found for all companies investigated in the proceeding. With regard to profits, the amount was therefore established on the basis of the weighted average profit made by the group to which the company belonged, i.e. the company in Malaysia plus two companies in Taiwan, on domestic sales made directly to independent customers, excluding inter-group sales.

(d) ***Taiwan***

(19) For three exporting producers it was established that the total domestic sales of the product concerned represented 5 % more of the sales volume exported to the Community and was therefore representative in accordance with Article 2 (2) of the Basic Regulation.

(20) For those product types meeting the 5 % test, the Commission services assessed whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2 (4) of the Basic Regulation. Where, per product type, the volume of sales below unit cost was less than 20 % of sales, normal value was established on the basis of the weighted average prices actually paid for all domestic sales of that type. Where, per product type, the volume of transactions made at a loss was equal to or higher than 20 %, but not higher than 90 %, of sales, normal value was established on the basis of the weighted average prices actually paid for the remaining profitable domestic sales of that type.

Where, per product type, the volume, of domestic sales was lower than 5 % of the volume exported to the Community, or where the volume of domestic

sales made at a loss was more than 90 %, domestic sales in the ordinary course of trade was considered insufficient in the sense of Article 2 (3) of the Basic Regulation. In these cases, pursuant to the second paragraph of Article 2 (1) of the Basic Regulation, normal value was based on the weighted average of the ex-works prices charged by other producers in the country concerned for representative domestic sales of the corresponding product type made in the ordinary course of trade.

Where, for the corresponding product type, there were no representative domestic sales made by other producers in the country concerned, normal value was constructed in accordance with Article 2 (3) and (6) of the Basic Regulation, i.e. on the basis of all costs of manufacturing incurred by the exporting producer concerned when producing the product type in question plus a reasonable amount for SGA and profits. In general, the amount for SGA and profits was established on the basis of the remaining representative domestic sales of the product under investigation made by the producer concerned in the ordinary course of trade.

(21) In the course of the investigation it was established that two of these companies were related. Consequently, it should be noted that for the establishment of the constructed normal value, a weighted averaged of the profits of these two related exporting producers was used and one dumping margin was therefore calculated.

(22) These two related exporting producers sold the product concerned on the domestic market both through a related reselling company and directly to unrelated customers. Where the product types were sold to the related reselling company, it was considered, pursuant to the third paragraph of Article 2 (1) of the Basic Regulation, that those sales were not made in the ordinary course of trade. In these cases, normal value was established on the basis of the prices at which the product was first resold to an independent customer.

(23) As far as the three remaining exporting producers in Taiwan are concerned, it was established that the total domestic sales of the product concerned represented less than 5 % of the sales volume exported to the Community and were not therefore representative in the sense of Article 2 (2) of the Basic Regulation. In these cases normal value was determined, wherever possible, on the basis of the domestic prices of the other Taiwanese companies, or on the basis of constructed normal value according to the method set out above.

Where, for a particular product type, normal value had to be constructed, the amount allowed for SGA and profits was, pursuant to Article 2 (6) (a) of the Basic Regulation, established on the basis of the average amounts found for the other Taiwanese producers selling the product concerned on the domestic market.

(e) ***Thailand***

(24) Of the three cooperating Thai companies, only one had made sales on its domestic market during the investigation period. For this company, the investigation showed that the total domestic sales of the product concerned represented more than 5 % of the sales volume exported to the Community.

For the product types meeting the 5 % test, the Commission services assessed whether sufficient sales had been made in the ordinary course of trade in the sense of Article 2 (4) of the Basic Regulation. Normal value was therefore based either on the prices of domestic sales or on the constructed normal value in application of the methodology explained under recital 13.

Where the volume of sales per product type was lower than 5 % or where the volume of sales at a loss was more than 90 %, normal value was constructed according to the methodology explained under recital 14.

(25) For the other two Thai exporting producers, in the absence of sales of a similar product type sold on the Thai domestic market by the first company, constructed normal value was used in accordance with Article 2 (3) and (6) of the Basic Regulation. A reasonable amount for SGA and profits was added to the manufacturing cost per product type. The SGA and profit margin used were calculated on the basis of data pertainig to production and domestic sales made by the Thai company selling on the domestic market.

(f) ***People's Republic of China***

1. *Analogue country*

(26) Since the PRC is considered to be a non-market economy country, an analogue market economy country had to be selected for the establishment of normal value in accordance with Article 2 (7) of the Basic Regulation. Brazil or India were proposed in the notice of initiation. No comments were received within the time limit specified in the notice of initiation from any interested party or authority in the PRC.

However, during the investigation, it appeared that neither Brazil nor India were appropriate. With regard to Brazil, it was found that the range of product types covered by the only Brazilian producer who cooperated was not sufficiently representative. Concerning India, the investigation showed that despite the existence of a wider range of product, the Commission services were not in a position to assess sufficiently the conditions of competition in the Indian market. The Commission services finally considered that in accordance with Article 2 (7) of the Basic Regulation, the most reasonable choice of analogue country in this case was Taiwan. In the course of the investigation, it appeared that in Taiwan, a representative range of products was covered and that a large number of suppliers in that market ensured a sufficient level of competition.

2. *Normal value*

(27) For the reasons indicated above, normal value was established on the basis of the prices and costs of the Taiwanese producers selling on the domestic market. The investigation showed that the domestic sales in Taiwan represented 5 % or more of the total Chinese export sales to the Community.

(28) For those product types meeting the 5 % test, the Commission services assessed whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2 (4) of the Basic Regulation. Where, per product type, the volume of sales below unit cost was less than 20 % of sales, normal value was established on the basis of the weighted average prices actually paid for all domestic sales. Where, per product type, the volume of transactions made at a loss was equal to or higher than 20 %, but not higher than 90 % of sales, normal value was established on the basis of the weighted average prices actually paid for the remaining profitable domestic sales.

Where, per product type, the volume of domestic sales was lower than 5 % of the volume destined for export to the Community, or where the volume of domestic sales made at a loss was more than 90 %, domestic sales in the ordinary course of trade were considered insufficient in the sense of Article 2 (3) of the Basic Regulation and were therefore disregarded. In these cases, normal value was constructed in accordance with Article 2 (3) and (6) of the Basic Regulation. For each product type, normal value was calculated on the basis of all costs of manufacturing plus all SGA incurred by the Taiwanese companies and a reasonable amount for profits. The amount for profits was established on the basis of the weighted average profit made on profitable domestic sales of the product concerned.

2. **Export price**

(a) ***India***

(29) For the two exporting producers which made export to the Community directly to independent importers, in accordance with Article 2 (8) of the Basic Regulation, export prices were established on the basis of the prices actually paid or payable by these independent customers. As the third company sold the product concerned to an unrelated exporting trading company located in India, knowing at the moment of the sale that this product was destined for export to the Community, export prices were established on the basis of the price charged by the producer to the trading company.

(b) ***Korea***

(30) The only cooperating exporting producer in Korea made export sales to the Community directly to independent importers, invoicing its deliveries either directly to the importers or via an independent trading company in Korea. In the first case, export prices were established on the basis of the prices actually paid or payable by independent customers, in accordance with Article 2 (8) of the Basic Regulation. In the latter, export prices were established on the basis of the prices invoiced to the trading company by the producer concerned.

(c) ***Malaysia***

(31) For one exporter in Malaysia which made export sales to the Community directly to independent importers export prices were established on the

basis of the prices actually paid or payable by these independent importers, in accordance with Article 2 (8) of the Basic Regulation.

(32) The other Malaysian exporter made all exports of the product concerned to the Community via a related importer. It was therefore considered that the prices of the sales from the producing company in Malaysia to the importing company in Europe were unreliable. For the reason, in accordance with the provisions of Article 2 (9) of the Basic Regulation, the export prices were constructed on the basis of the price at which the imported product was first resold to an independent buyer, with adjustments being made for all costs incurred between importation and resale and provisionally for a profit margin which corresponded to the profit margin made by this company on its sales to independent customers in the Community.

(d) ***Taiwan***

(33) The exporting producers made export sales to the Community either directly to independent importers or through unrelated companies located in Taiwan.

Where export sales to the Community were made directly to independent importers, export prices were established on the basis of the prices actually paid or payable by these importers, in accordance with Article 2 (8) of the Basic Regulation.

Where export sales to the Community were made through these trading companies, export prices were established on the basis of the prices invoiced to the trading companies by the producers concerned.

(e) ***Thailand***

(34) For the two exporting producers which made export sales to the Community directly to independent customers, export prices were established on the basis of the prices paid or payable by these independent customers, in accordance with Article 2 (8) of the Basic Regulation. As the third producer sold the product concerned to an unrelated exporting trading company located in Thailand, knowing at the moment of the sale that this product was destined for export to the Community, export prices were established on the basis of the price charged by the producer to the trading company.

(f) ***People's Republic of China***

1. *Individual treatement*

(35) All exporting producers in the PRC who replied fully to the Commission's questionnaire and exported the product concerned to the Community during the investigation period, as well as a company from Hong Kong which exported SSF of PRC origin, requested individual treatment, i.e. the establishment of separate export prices and thus of individual dumping margins.

The Commission services verified whether these seven companies enjoyed a degree of legal and factual independence from the influence of the State comparable to that which would prevail in a market economy country. To this end it addressed detailed questions to these companies regarding their ownership, management, control over commercial and business policies.

(36) The six companies concerned in the PRC failed to show, to the satisfaction of the Commission services, that their operations were sufficiently independent of the Chinese authorities and, in particular, it was found that some of these companies were subject to restrictions concerning their freedom to decide their pricing policy and the quantities to be sold on the domestic and export markets. Moreover, the approval of the Chinese authorities was required at different stages in the life of some companies, such as the creation of the company, the modification of the articles of association, and the interruption of the activity. Finally, in some cases, foreign investors withdrew from the joint-venture agreements concluded with the companies concerned in the PRC before the start of the period of investigation. It was therefore decided that individual treatment was not appropriate for these six companies.

(37) As far as the company in Hong Kong which exported SSF originating in the PRC is concerned, it was established that this company was registered in Hong Kong, that no party from the PRC had any participation in its ownership, and that it had no connections with any company in the PRC. The investigation in Hong Kong showed that the company ran a SSF production plant in the PRC on a leasehold basis and that the factory undertook production under the direction and control of the Hong Kong office. Moreover, it appeared that this company operated independently from the Chinese authorities, in particular with regard to export prices to the Community and marketing policy.

In the light of these considerations, it was provisionally decided to grant individual treatment to this company for the purpose of the current anti-dumping investigation.

2. *Export price*

(38) The investigation showed that the exports of five cooperating companies in the PRC and one company in Hong Kong exporting SSF originating in the PRC were made directly to independent importers in the Community. The export prices were therefore based on the prices actually paid or payable for the product sold to the Community in accordance with Article 2 (8) of the Basic Regulation.

(39) With regard to another company in the PRC it was found that exports to the Community were made via a related company in Hong Kong which sold the product concerned to independent importers in the Community. In this case, pursuant to Article 2 (9) of the Basic Regulation, export prices were established, after adjustments for all costs and profits incurred between importation and resales, on the basis of the prices invoiced by the related company to independent importers in the Community.

3. **Comparison**

(40) For the purpose of a fair comparison, 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, these adjustments were made, in respect of packing, transport, insurance, handling and ancillary costs, indirect taxes and import charges, credit costs and commissions.

(41) One company in India claimed an allowance for the credit cost of sales on the domestic market and requested that the actual payment date be used. This claim was rejected on the grounds that, in accordance with Article 2 (10) (g) of the Basic Regulation, an adjustment can only be given for the number of days agreed at the time of the sale, as only the expense of that number of days can be considered to have influenced the buyer's decision.

(42) The adjustments requested by the same Indian company for import charges were rejected as the company in question was not able to show a clear link between the imported raw materials used for the production of the product concerned sold on the domestic market and the allowance claimed for import charges.

(43) Some exporting producers in Taiwan claimed an adjustment for differences in levels of trade on the grounds that they sold different quantities to different types of customers. However, they were unable to demonstrate consistent and distinct differences in functions and prices for the different levels of trade in the Taiwanese domestic market. In view of the above, no adjustment was granted for differences in level of trade.

(44) One company in Thailand claimed an allowance for differences in physical characteristics and for a difference in level of trade. These two requests had to be rejected on the following grounds.

With regard to the first claim, it was not considered relevant to the extent that the dumping calculation is based on a comparison of product types sold on both the domestic and the export markets and that the products were subject to the same internal technical codes given by the company. On the contrary, it was found that the products were probably the same.

As to the second request, the investigation showed that less than 10 % of domestic sales were made to a specific type of customers. However, they were unable to demonstrate consistent and distinct differences in functions and prices for the different levels of trade in the Thai domestic market. In view of the above, no adjustment was granted for differences in level of trade.

4. **Dumping margin**

1. ***General method***

(45) In general, pursuant to Article 2 (10) and (11) of the Basic Regulation, the dumping margins were established on the basis of a comparison between the weighted average normal value and the weighted average normal value and the weighted average export prices at ex factory level and at the same level of trade.

(46) For any exporting producer involved in the proceeding which neither replied to the Commission's questionnaire nor otherwise made itself known, the dumpin margin was determined on the basis of the facts available in accordance with the provisions of Article 18 (1) of the Basic Regulation.

(47) A comparison of Eurostatistics with the data on the volume of exports to the Community, provided by the cooperating exporting producers from the countries concerned, was made in order to establish the level of cooperation.

Where the level of non-cooperation was high, the Commission services decided that the most reasonable facts available were those established in the investigation, namely the weighted average of all dumped transactions found for the company with the highest dumping margin.

Where the level of cooperation was high, the Commission services considered it appropriate to base the dumping margin for non-cooperating companies on the highest dumping margin found for one cooperating exporting producer in the country concerned since there was no reason to believe that a non-cooperating exporting producer had dumped at a lower level than the highest found.

This approach was also considered necessary in order to avoid creating a bonus for non-cooperation and an opportunity for circumvention.

2. ***Dumping margins***

(a) *India*

(48) The dumping margins expressed as a percentage of the cif price at Community frontier level were as follows:

— Audler Fasteners, Vasai 108,8 %

— Lakshmi Precision Screws Ltd., Rohtak 113,0 %

— Kundan Industries Ltd. / Tata Export Ltd. 68,4 %

(49) For the non-cooperating exporting producers in India, given that the level of non-cooperation was high and in accordance with the general method explained under recitals 46 to 47, the dumping margin provisionally established is 133,5 %, expressed as a percentage of the free-at-Community frontier price.

(b) *Korea*

(50) The dumping margin expressed as a percentage of the cif price at Community frontier level was as follows:

— Daegil Trading Co. Ltd., Seoul 24,0 %

(51) For the non-cooperating exporting producers in Korea, given that the level of non-cooperation was high and in accordance with the general method explained under recitals 46 to 47, the dumping margin provisionally established is 26,7 %, expressed as a percentage of the free-at-Community frontier price.

(c) *Malaysia*

(52) For one exporting producer investigated in Malaysia, pursuant to Article 2 (11) of the Basic Regulation, the weighted average normal value was compared to prices of all individual export transactions to the Community, as it was found that there was a pattern of export prices which differed significantly among different time periods and that a calculation based on weighted average would not have reflected the full degree of dumping being practised.

The dumping margins expressed as a percentage of the cif price at Community frontier level were as follows:

— Tigges Stainless Steel Fastener (M) Sdn. Bhd., Ipoh 6,6 %

— Tong Heer Fasteners Co., Sdn. Bhd., Penang 10,0 %

(53) For the non-cooperating exporting producers in Malaysia, given that the level of cooperation was high and in accordance with the general method explained under recitals 44 to 46, the dumping margin provisionally established is 9,5 %, expressed as a percentage of the free-at-Community frontier price.

(d) *Taiwan*

(54) For three exporting producers investigated in Taiwan, pursuant to Article 2 (11) of the Basic Regulation, the weighted average normal value was compared to prices of all individual export transactions to the Community, as it was found that there was a pattern of export prices which differed significantly among different time periods or regions, and that a calculation based on weighted average would not have reflected the full degree of dumping being practised.

The dumping margins expressed as a percentage of the cif price at Community frontier level were as follows:

— Arrow Fastener Co. Ltd., Taipei 8,3 %

— CLC Industrial Co. Ltd., Tainan 9,6 %

— Min Hwei Enterprise Co. Ltd., Kaohsiung 12,5 %

— Rodex Fasteners Corp., Chung Li 11,9 %

— Sen Chang Industrial Co. Ltd., Tao Yuen 12,5 %

— Tong Hwei Enterprise Co. Ltd., Kaohsiung 12,5 %

(55) As indicated above, two companies in Taiwan were related. Consequently, there was a high risk that anti-dumping measures could be circumvented by channelling exports to the Community through the company with the lower dumping margin if two different margins were established. It was therefore concluded that only one dumping margin, based on the weighted average of the dumping margin found for both, should be established for the two companies.

(56) For the non-cooperating exporting producers in Taiwan, given that the level of non-cooperation was high and in accordance with the general method explained under recitals 46 to 47, the dumping margin provisionally established is 27,7 %, expressed as a percentage of the free-at-Community frontier price.

(e) *Thailand*

(57) The dumping margins expressed as a percentage of the cif price at Community-frontier level were as follows:

— Dura Fastener, Samutprakarn	13,3 %
— A.B.P. Stainless Fastener, Ayutthaya	18,3 %
— Thailock Fastener, Chon Buri	32,9 %

(58) For the non-cooperating exporting producers in Thailand, given that the level of cooperation was high and in accordance with the general method explained under recitals 44 to 46, the dumping margin provisionally established is 32,9 %, expressed as a percentage of the free-at-Community frontier price.

(f) *People's Republic of China*

(59) For six cooperating exportng producers in the PRC, as they were refused the individual treatment, their export prices had to be clubbed with Eurostat in order to cover the total exports of the PRC to the Community. Consequently, the comparison could only be made by customs code, i.e. grouping several pcn codes together. Therefor, the weighted average normal value fob Taiwan national frontier was compared with the weighted average export price fob China national frontier at the same level of trade by customs code.

The provisionally established dumping margin is 75,6 %, expressed as a percentage of the cif price at Community frontier level.

With regard to the company in Hong Kong which was granted individual treatment, the weighted average normal value fob Taiwan national frontier was compared with its own weighted average export prices fob China national frontier at the same level of trade. The provisionally established dumping margin is 16,2 %, expressed as a percentage of the cif price at Community frontier level.

D. COMMUNITY INDUSTRY

(60) The Commission examined whether the complainants represented a major proportion of total Community production of the product concerned and arrived at the conclusion that the complainant producers (hereinafter referred to as the 'Community industry') produced 63 % of the Community's total output of the like product produced during the investigation period. The Commission therefore considered that the complainants represent the Community industry within the meaning of Articles 4 (1) and 5 (4) of the Basic Regulation.

E. INJURY

1. Preliminary remarks

(61) For the purposes of establishng injury in the present proceeding the Commission has analysed data relating to the period 1992 to November 1996 (hereinafter referred to as the 'period considered'). It should be noted, however, that as regards the development of the injury indicators over the period considered, the Commission has for the purpose of a year to year comparison used the figures relating to the investigation period (eleven months of 1996) as a basis for extrapolating the figures for the full year 1996.

The geographical scope of the investigation was the Community as composed at the time of the initiation of the proceeding, i.e. the Community of 15 Member States.

2. Cumulation

(62) The Commission examined whether imports of SSF originating in PRC, India, Malaysia, Korea, Taiwan and Thailand should be assessed cumulatively in accordance with Article 3 (4) of the Basic Regulation.

The Commission concluded that SSF imported from the countries concerned were alike in all respects (it should be noted that imported SSF are produced to the same quality standards as Community products, usually a DIN standard or an ISO

standard), they are interchangeable and are marketed in the Community through comparable sales channels under similar commercial conditions and, in particular, are sold at similar levels of prices substantially below those of the Community industry. The imported SSF were considered therefore to compete with each other and with the SSF produced in the Community.

The import volumes of each of the six countries concerned taken in isolation accounted for a non-negligible market share.

In the light of the above, the Commission considered that all the criteria set out in Article 3 (4) of the Basic Regulation were met, i.e. the margin of dumping from each exporting country was more than *de minimis*, the volume of imports from each country was not negligible (see recital 64 below), and a cumulative assessment of the effects of the imports was appropriate in light of the conditions of competition between the imported products as well as between the imported products and the like Community products. The imports from the countries concerned were therefore examined cumulatively.

3. Community consumption

(63) Community consumption was based on the questionnaire replies (volume of sales of the Community industry), Eurostat information (volume of imports) and the complaint (non-complaining Community producers' level of sales).

On the above basis, the apparent Community consumption remained stable in 1992 and 1993 at 47 200 tonnes, and increased to 59 900 tonnes in 1994, to 86 500 tonnes in 1995 and to 82 400 tonnes in 1996, which represents an overall increase of 75 % over the period considered.

It should be noted that the development of apparent consumption is largely influenced by the behaviour of the stockholders on the Community market given that they act as intermediaries between all producers of SSF, both the Community industry and exporters. The apparent consumption figures therefore reflect the purchases made by the stockholders during the period considered and not necessarily those made by the users. The slight decrease in apparent consumption in 1996 appears to be a consequence of the massive increase in imports in the previous years.

4. Cumulated volume and market share of dumped imports

(64) The cumulated volume of the dumped imports into the Community of SSF originating in the countries concerned decreased from 15 800 tonnes in 1992 to 14 800 tonnes in 1993 and increased thereafter to 20 600 tonnes in 1994 to 42 300 tonnes in 1995, and remained at a similar level in 1996 at 41 200 tonnes in 1996, which represents an overall increase of 161 %.

The cumulated market share held by these countries decreased from 33,5 % in 1992 to 31,4 % in 1993 and increased thereafter to 34,3 % in 1994, to 48,9 % in 1995 and to 50,1 % in 1996, which represents an increase of 17 percentage points over the period considered. In the investigation period the market shares from each of the countries concerned were Thailand 2 %, India 3 %, Korea 3,2 %, Malaysia 5,3 %, PRC 12,5 % and Taiwan 24 %.

5. Price undercutting

(65) As regards price undercutting, the analysis was made according to each type of SSF. For each of these types, the Commission compared the exporters' and the Community industry's monthly weighted average selling prices free of all rebates and taxes, calculated on the basis of sales to the first unrelated customer duly adjusted to take into account the differences in distribution channels. The monthly average selling price of the Community industry was weighted in relation to the individual company's sales volume. This monthly Community average selling price was then compared to the corresponding figure for each exporter concerned on the basis of their monthly resale prices in the Community and weighted in respect of sales volume.

In order to arrive at a comparable level of trade with the sales of the Community industry, the import prices from the countries concerned have been adjusted to take into account post-importation costs (including handling, financing and transport costs), repackaging costs and customs duty payable. The adjustments were based on information received from importers.

The margins of undercutting are expressed as a percentage of the Community industry's prices (at ex works level) as distinct from the method of calculation of the margins of underselling which are expressed as a percentage of the weighted average free-at-Community frontier price. The undercutting margins were as follows:

Country/company	Undercutting margin
PRC	from 38,4 % to 38,9 %
Malaysia	from 20,1 % to 56,5 %
Taiwan	from 23,1 % to 60,5 %
India	from 23,2 % to 34,7 %
Korea	22,4 %
Thailand	from 23,6 % to 33,0 %

An overall weighted average price undercutting from all countries concerned of 28 % was found for the investigation period.

6. Situation of the Community industry

6.1. *Production capacity and utilization rates*

(66) The volume of production of the product concerned produced by the Community industry increased from 12 800 tonnes in 1992 to 12 900 tonnes in 1993 to 23 100 tonnes in 1994, decreased slightly to 22 400 tonnes in 1995 and further decreased to 19 000 in 1996, which represents an overall increase of 48 % over the period considered.

It should be noted that production increased significantly from 1993 to 1994 (80 percentage points). However, this increase in production is mainly due to the acquisition of a non-complaining company producing the product concerned by one of the complaining Community producers. The Community industry's capacity, sales, investments and employment levels discussed below also reflect this acquisition.

Capacity of the Community industry increased by 91 % in the same period. It should be noted, however, that despite the increase in production, capacity utilization levels decreased over the period going from 81 % in 1992 to 63 % in 1996.

6.2. *Stocks*

(67) The Community industry's stocks increased significantly over the period, going from 2 400 tonnes in 1992 to 2 900 tonnes in 1993, to 4 600 tonnes in 1994, to 5 200 tonnes in 1995 and to 5 300 tonnes in 1996, which represents an increase of 124 % over the period considered.

6.3. *Volume of sales and market share*

The Community industry's sales on the Community market increased from 12 400 tonnes in 1992 to 13 200 tonnes in 1993, to 17 900 tonnes in 1994, decreased slightly to 17 400 tonnes in 1995 and further decreased to 15 800 tonnes in 1996, representing an overall increase of 3 400 tonnes (27 %). This increase in sales in modest compared to the increase in consumption of 35 200 tonnes (75 %) over the period considered.

The market share held by the Community industry increased from 26 % in 1992 to 28 % in 1993 and to 30 % in 1994 and thereafter decreased to 20 % in 1995 and to 19 % in 1996, representing an overall loss of 7 percentage points over the period considered.

6.4. *Prices*

(68) The weighted average selling price of SSF sold by the Community industry on the Community market showed an overall negligible increase between 1992 and 1996. The weighted average selling price of the Community industry expressed in ECU per tonne decreased from 3,36 in 1992 to 3,19 in 1993, to 3,02 in 1994, increased to 3,89 in 1995 and decreased to 3,40 in 1996. It should be noted that the prices of the imports concerned always remained significantly below those of the Community industry and the price movement has to be seen in relation to the substantial increase in consumption, in particular from 1994 to 1995.

6.5. *Profitability*

(69) The financial situation of the Community industry went from −3 % in 1992 to 1,5 % in 1993, to 4,7 % in 1994, to 9,1 % in 1995 and decreased to 0,1 % in 1996. The improvement in profitability in the initial years can be attributed to the efforts of the industry to improve productivity (see recital 72).

It should be noted that the Community industry's profitability significantly improved in 1994 and 1995. This situation should be seen in the light of the Community industry's significant loss of market share during the same period (a decrease of 10 percentage points between 1994 and 1995). This shows that the Community industry tried to maintain profits at the expense of market share. However, the Community industry was barely reaching break even (a slight profit of 0,1 %) in 1996, while having suffered further losses in market share.

The weighted average profitability of 0,1 % for the investigation period represents the lowest profitability since 1992.

6.6. *Investments*

(70) Investments (expressed in ecu) increased overall by 72 %, from 764 700 in 1992 to 1 993 900 in 1993, to 3 658 600 in 1994, decreased to 1 520 100 in 1995 and to 1 312 000 in 1996. The overall increase in investments over the period considered results from the fact that a high level of investment is needed in the SSF industry in order to maintain competitiveness. It was found that this industry needed to constantly replace their machinery and make new investments in order to comply with environmental requirements.

It should be noted that the high investments made in 1994 can, for the most part, be attributed to one of the Community industry having acquired a producing company (see recital 66 above).

6.7. *Employment*

(71) Employment increased by 16 % over the period considered, going from 325 persons employed in 1992 to 378 in 1996. Again, it should be noted that this increase in employment is a reflection of the expansion of the market. All Community producers, including the non-complainants, employed a total of 574 people during the investigation period.

6.8. *Productivity*

(72) Productivity of the Community industry increased by 10 % between 1992 and 1996.

6.9. *Conclusion on injury*

(73) The Commission concluded that the Community industry had suffered significant price pressure from imports originating in the countries concerned over the period considered which were entering the Community market in growing quantities and were found to significantly undercut the Community industry's prices in the investigation period. As a consequence, the Community industry lost significant market share at a time when consumption in the market was increasing, despite having increased production and productivity. It should be noted that stock levels have increased continuously and significantly.

Furthermore, the Community industry's financial situation, after an improvement in 1994/1995, was poor and largely insufficient in the light of the expectation and the investment made by the industry (a weighted average profit of 0,1 % was found in the investigation period). Overall it should be noted that the situation of the Community industry particularly deteriorated in the later years of the period considered (1994 to 1996).

In view of the above, the Commission has provisionally concluded that the Community industry suffered material injury within the meaning of Article 3 (2) of the Basic Regulation.

7. **Causation of injury**

7.1. *Effects of the dumped imports*

(74) The Commission examined whether the material injury suffered by the Community industry had been caused by the dumped imports from PRC, India, Malaysia, Korea, Taiwan and Thailand.

There is a clear coincidence between the significant price undercutting found during the period considered and the deterioration of the situation of the Community industry. This is evidenced in particular by a decrease in the market share held by the Community industry and the deterioration of their profitability in the investigation period.

With regard to market shares, it should be noted that from 1992 to 1996, imports from the countries concerned increased by more than the rate of consumption (an overall increase of 161 %). This represents an overall increase in their market share of 17 percentage points, while the market shares of the Community industry decreased by 7 percentage points. In particular, the significant increase in imports between 1994 and 1995 (an increase of 15 percentage points) coincided with the loss in market share (less 10 percentage points) of the Community industry in this period.

The Commission therefore concluded that the loss of market share suffered by the Community industry can be entirely attributed to the gain in market share held by the countries concerned.

The Community industry's financial situation was poor at the beginning and at the end of the period considered, showing that the Community industry was unable to benefit either from their investments or from the increase in demand for SSF in the Community market. Although the Community industry's financial situation improved in 1994 and 1995 this occurred at a time when they were suffering loss of market share showing the Community industry's strategy came under pressure from

the dumped imports to maintain profits at the expense of market share. However, the continued pressure of dumped imports caused the Community industry to lose further market share and profits in 1996. In particular the cumulated effect of the massive increase in imports in the period considered, leading to an excess in supply on the Community market in 1996, forced the Community industry to lower its prices in 1996 whilst losing further market share. In this context, the negative impact of the increased volume of imports was enhanced by the significant price undercutting in this period.

7.2. ***Effect of other factors***

(75) The Commission examined whether the injury suffered by the Community industry could have been caused by factors other than the dumped imports. In particular the Commission looked at the development of consumption, the evolution and impact of imports from other third countries, and the effect of increases in the cost of raw materials.

(a) *Consumption*

(76) The Commission considered whether the development of consumption affected the situation of the Community industry. It is to be noted that although there was a small decline in consumption at the end of the period considered (4 100 tonnes), the overall level of consumption increased substantially by 35 200 tonnes (75 %). It is therefore highly unlikely that the injury could be attributed in any significant way to the trend in consumption.

(b) *Imports from other third countries*

(77) As regards imports from other third countries not concerned by this proceeding, the Commission found that although these imports represented a significant share in the Community market (20 % in the investigation period), they decreased overall during the period considered, going from 25 % in 1992 to 23 % in 1993, to 20 % in 1994, to 19 % in 1995 and 1996.

In this context the Commission examined in particular the trend in volumes and prices of imports from South Africa and the Philippines as it was claimed that imports from these countries had influenced the situation of the Community industry and that the complaint was discriminatory as these countries had not been included.

South Africa

(78) Although Eurostat figures showed the existence of imports from South Africa over the period, the data relating to these imports was provisionally found to be unreliable.

Philippines

(79) The market share of imports from the Philippines slightly decreased over the period considered going from 3 % in 1992 to 2 % in 1996. Furthermore the prices of these imports were significantly higher than the prices charged by the countries concerned. The Commission therefore consider that imports from the Philippines have not contributed to the injury suffered by the Community industry.

Other third countries

(80) The Commission found that the total market share held by other third countries decreased during the period considered (going from 19 % in 1992 to 14 % in 1996) and that the prices of these imports were found to be distinctly higher than those of the dumped imports. The Commission, therefore, considered that these imports were also adversely affected by the dumped imports concerned and, therefore, these imports did not contribute to the injury suffered by the Community industry.

(c) *Raw materials*

(81) The Commission also considered whether the injury suffered by the Community industry could have been caused by increases in the costs of raw materials during the period considered, as it was claimed that these increases were at least in part responsible for the injury suffered. In this regard the Commission found that the fluctuations in the raw materials were not sufficiently significant, in particular in 1996, in order to have any impact on the viability of the Community industry.

(d) *Other arguments*

(82) It has been alleged that anti-competitive practices took place between the Community industry during the period under consideration and that the Community industry therefore contributed to the injury suffered.

However, the Commission did not find the allegation made was substantiated by the findings of the investigation and therefore no account was taken of this argument at the provisional stage.

7.3. ***Conclusion on causation***

(83) In the light of the above, the Commission concluded that the imports from the six countries concerned taken together have caused material injury to the Community industry.

F. COMMUNITY INTEREST

1. General considerations

(84) The Commission provisionally examined, on the basis of the information submitted, whether despite the dumping and injury findings, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose measures in the present case.

For this purpose the Commission has considered the impact of possible measures for all parties involved in the proceeding and also the consequences for those same parties, of not taking provisional measures.

2. Collection of information

(85) In order to assess the impact of possible measures, the Commission sent Community interest questionnaires to all interested parties in the upstream and downstream industries known to the Commission at the time of the initiation of the proceeding. The Commission also requested information on Community interest from the Community industry.

The Commission considered that the responses from the contacted parties were reliable given that the information provided did not appear to be contradictory. In the circumstances the Commission did not consider it necessary to perform verification visits for its analysis of Community interest.

3. The supplier industry

3.1. *Situation of the raw material suppliers*

(86) The raw material used in the production of SSF is stainless steel wire rod. This raw material is produced by the major stainless steel makers in Europe who supply the entirety of the raw materials consumed by the Community industry. There are a number of different grades of stainless steel wire rod that can be used in this type of production, however, the two most commonly used grades, by both the Community industry and the producers in the countries concerned, are austenitic steel type A2 (AISI 304 grade) and A4 (AISI 316). These grades of steel are mainly used on account of their heat and corrosion resistance and their superior strength. The following information relates to data supplied by the contracted raw material suppliers.

The Community suppliers of the raw materials concerned employed more than 5 000 people in 1996 of which approximately 800 were specifically concerned with the production of the raw material concerned (representing 16 % of employees). Total turnover in 1996 was ECU 1 400 million of which ECU 120 million related to the raw materials concerned (representing some 8,4 % of total turnover). Total turnover decreased by some 26,5 % between 1995 and 1996, and turnover relating to the raw materials concerned decreased by 34 %. Sales in the Community also decreased in the same period going from ECU 149 million in 1995 to ECU 93 million in 1996 representing a decrease of 38 %.

As regards the profitability of the sales of the raw materials concerned in the Community, on the basis of the information available a weighted average profit of 0,5 % was found in 1996.

3.2. *Effect of impostion/non-imposition of measures*

(87) Although the companies producing the raw materials concerned do supply other non-EU markets and may, theoretically, be able to redirect their sales to these markets, any major decline in Community production of the product concerned is likely nevertheless to have a substantial effect on them given that the Community industry is an important customer of these companies.

Given that total Community production of the raw materials concerned represents more than a negligible proportion of the total turnover and employment of the companies concerned, it was considered that in the event of the imposition of measures, their situation would improve as they would benefit from higher sales volumes and an improvement on their current low profitability level. On the other hand, should measures not be imposed there is nothing to suggest that the downward trend in the companies' turnover, sales and profitability would not be worsened and the threat of a possible future loss of employment would be created.

4. The Community industry

4.1. *Nature and structure of the Community industry*

(88) The Community industry is composed of small and medium-sized companies located in France, Spain and Italy. Production is capital intensive and highly automated. It should be noted that SSF are finished products (i.e. SSF do not undergo any further transformation), and are mainly consumed by end-user industries that incorporate SSF into various applications (see recital 95).

The total Community production employs some 600 people (1996). Account should also be taken of the employment relating to approximately 800 people employed in the production of the raw materials to which this proceeding relates.

The range of SSF is highly standardized and both the Community industry and the exporters in the countries concerned produce SSF to agreed norms

(DIN or ISO standards). Given this high degree of standardization, SSF, and in particular the most common SSF types, are price sensitive.

4.2. *Viability of the Community industry*

(89) It will be recalled (see recital 70) that, during the period considered for the injury analysis, the Community industry made significant investments. Apart from the acquisition of a company by the Community industry, these investments mainly related to machinery replacement. This high level of machinery replacement is considered necessary by the Community industry to remain competitive on the Community and other markets.

The Community industry also produce a wide range of special SSF varying from simple modifications of existing standard SSF to completely custom-made fasteners, that require not only additional machine tool investments but also and perhaps more importantly close technical cooperation between themselves, the customers and the raw material suppliers (who often undertake considerable research to provide an appropriate raw material given the specifications of the special SSF). With regard to the production of special SSF, it should be noted that the Community industry are the main suppliers given that exporters from third countries do not as a general rule have the level of technical cooperation necessary for the production of these largely custom-made SSF.

It was found that special SSF could be produced on the same machinery (with the addition of special machine tools) and by the same labour force as the standard SSF, and that therefore the production of specials very much depended on the production of standards, for instance in order to spread the overhead costs.

In the light of the above and given the increasing use of stainless steel products on the Community and the consequent increase in demand for special SSF, the Commission considers that it is in the interests of the Community, in particular that of the user industry who it would appear have no alternative source of supply, to maintain a production base of special SSF in the Community. The Commission also considers that any injury suffered by the Community industry on the standards would have a negative impact on the production of special SSF.

4.3. *Effects of the imposition of measures on the Community industry*

(90) In order to assess the effects of any possible measures on the Community industry, the Commission has assumed an increasing demand situation. The Commission considers that, given the increase in production of stainless steel generally in the Community, consumption of SSF will also increase because in general only SSF may be used in conjunction with stainless steel appliances. In the course of its investigation, the Commission found that the only possible substitute product for a SSF was a carbon-steel fastener with an anti-corrosion coating, however, given the lower quality of such a product, substitution was not found to exist.

Following the imposition of measures, it is expected that the prices of SSF and to a certain extent the volume of sales on the Community market would rise. This increase would enable the Community industry to recover lost market share and to increase their sales in line with future increases in consumption. Although a reduction in volume of imports is possible, given that the Community industry does not have the capacity to supply the whole Community market (in the investigation period, the Community industry could supply approximately 36 % of demand), this reduction in imports may not be significant. The level of the Community industry's prices and any increase in sales volume would, in all likelihood, increase to enable it to restore its financial situation, thus allowing the companies concerned to continue trading and investing in new capacity. However, given alternative sources of supply any price increase is unlikely to be as high as the level of duties.

4.4. *Effects of the non-imposition of measures on the Community industry*

(91) Should measures not be imposed, it is likely that the negative trend of the Community industry will continue, leading in the long-term to the closure of companies. The Community industry is particularly marked by a loss of market share and a negative financial situation. In this context, a future loss of employment is probable. As explained above, should the negative trend continue, not only would the production of the product concerned be affected but also the production of special stainless steel fasteners, which are not made in significant volumes by the countries concerned.

In conclusion, given that the analysis of the Community industry indicated that it is structurally viable, it is expected that measures would be effective in affording the industry the opportunity to recover from the injury suffered. While the Community industry's prices would not necessarily rise to the extent of the duty, it would be expected to improve its sales volume and recover lost market share. The Community industry's volume increase would also reduce unit costs and increase profitability. Therefore, it is considered to be in the interests of the Community industry to impose measures.

5. Importers and traders

5.1. *Structure of the import and distribution channels*

(92) The distribution of SSF in the Community is characterized by a significant number of importers/traders who hold large stocks of the product concerned. Essentially the importers/traders act between the producers (Community and non-Community) and the users and their behaviour on the market very much influences the prices of SSF. It was found that the Community industry has little or no direct contact with the user industries and therefore rely on the well-established distribution network for almost the entirety of its sales. Given the large number of players in the distribution network and their important role, their situaiton merits close examination.

5.2. *Economic situation of importers/traders*

(93) Firstly it should be noted that although the importers/traders hold significant stocks of the product concerned, they also trade in a large number of other items that are not concerned by this proceeding.

The Commission found that the average importers/trader's total turnover in 1996 was ECU 262 million whereas the turnover relating to the product concerned was ECU 79 million representing some 30 %. On the basis of the information available the total employment was estimated to be 4 500, 1 600 of these related to the product concerned, that is to say some 35 %. Given that the importers/traders in both Community and imported goods, approximately half of the employment relating to the product concerned, can be attributed to activities linked to imports from the countries concerned. With regard to the financial situation on the importers/traders in 1996 it should be noted that profits ranged for the most part from 8 % to 35 %. The situation in 1995 was found to be largely similar.

5.3. *Effect of imposition/non-imposition of measures*

(94) As previously stated, the Commission considers that in the event of the imposition of measures, prices of SSF on the Community market will increase. Although the prices of the imports will in all likelihood increase to the full extent of the duty, prices of the Community products may not increase to the same extent. This increase in prices is likely to have a negative impact on importers and traders who may see their margins reduced, however, it should be noted that the importers also act to a large extent as traders and may choose an alternative source of supply, for instance the Community produced SSF, thus it is unlikely that these economic operators' activities will suffer overall. In particular it was found that the importers/traders' margins have remained good throughout this period it has been considered that any negative impact of price increases can be minimized by combining reduced margins with price increases to the user industries.

Furthermore, it is to be noted that given the Community industry is unable to supply the entirety of consumption on the Community market, the importance of the import and distribution network is not likely to be affected by the imposition of measures, i.e. the volume of imports will in all likelihood remain significant and the Community industry will continue to use the distribution network for almost the entirety of its sales in the Community.

In the light of the above, it was considered by the Commission that if measures are not imposed, the positive trend observed in the situation of the importers/traders is likely to continue. However, in the event of the imposition of measures, their situation would not be significantly worsened.

6. Users

6.1. *Nature and structure of user industries*

(95) The Commission found that SSF were not sold directly to consumers and have therefore limited their analysis of Community interest to the effect of measures on users.

SSF are used in a wide variety of applications therefore a large number of user industries are concerned by this proceeding. The Commission found that SSF were mainly consumed by the following user industries (non-exhaustive list): foodstuffs, catering, pharmaceutical, medical equipment, household appliances (white goods), automobile, maritime and shipbuilding, building and construction, enviornment, energy, chemical and petrochemical, and transport.

Given the number of user industries concerned and, in turn, the wide range of applications within each sector, the information available for the Commission's analysis has been very limited.

6.2. *Economic situation of users*

(96) The total turnover of the user industries ranged from ECU 3 million to ECU 460 million, reflecting the vast differenes in the size of the companies concerned. Furthermore, the proportion of the turnover that related to the product concerned ranged from 0,1 % to only 6 % showing that SSF do not represent a major concern for these companies. In line with turnover, the number of persons employed by the companies concerned ranged from 19 to 2 500, whereas the number of employees concerned with SSF ranged from 1 to 40.

In examining the possible effect of the imposition of measures on users, the Commission considered to what extent the cost of SSF had an impact on the final product produced by the user industries and found that the incidence of SSF was negligible.

6.3. *Effect of imposition/non-imposition of measures*

(97) As previously stated, the Commission considers that in the event of the imposition of measures, prices of SSF on the Community market will increase. It is likely, therefore, that the cost of such a price increase will, to some extent, be passed on to the users, although the extent of this will depend on both the behaviour of the Community industry in their pricing strategy and the importers/distributors.

In any event, given the negligible incidence of the cost of SSF on the final products produced by the user industries, any increase in these costs is unlikely to have a significant effect. Furthermore, since the Commission considers that the total volume of imports would, in all likelihood, not be significantly reduced as the Community industry cannot satisfy total Community consumption, it is unlikely that the user industries would suffer any reduction of supply of SSF as a result of the imposition of measures.

On the other hand, should measures not be imposed, the user industries would continue to benefit from the existing low prices of SSF on the Community market. However, it should be noted that, in the event of a reduction or the eventual disappearance of the Community industry's output of SSF, the supply of special SSF would also be reduced with consequent negative effects for users. As previously explained, special SSF are mainly produced in the Community and the Commission considers that an increasing consumption trend is likely.

7. **Conclusion on Community interest**

(98) Information received from the parties has allowed the Commission to evaluate the various interests involved, as stipulated in Article 21 (1) of the Basic Regulation, and the overall effect of the imposition or of the non-imposition of anti-dumping measures. In carrying out this examination, the Commission gave special consideration to the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition.

The effects of the imposition of measures can be expected to afford the Community industry with the opportunity to regain lost market share and restore profitability, with consequent beneficial effects on the competitive conditions on the Community market. The beneficial effects are also expected to assist the supply industry and to ensure the continued existence and possible expansion of the special SSF industry.

Whilst negative effects are likely to ensue for the importers/traders from the likely price increase, the extent of these may be reduced by decreasing what are often significant margins (see recital 93) or the cost increases to the user industry. The user industry, in turn, is unlikely to suffer serious consequences from such an increase given the low incidence of SSF on their final products. Furthermore, they would benefit from the maintenance and even increase of special SSF on the Community market.

In the light of the above, the Commission considers that no compelling reasons exist for not imposing measures and that the application of anti-dumping measures would be in the interests of the Community.

G. PROPOSED MEASURES

Injury elimination level

(99) When calculating the amount of duty necessary to remove the effects of injurious dumping and enable the Community industry to recover, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain overall a reasonable profit on sales of the like product. In this respect, it was found that a profit margin of 5 % of turnover could be regarded as an appropriate minimum which the Community industry could be expected to obtain in the absence of injurious dumping.

In order to calculate the amount of duty, a price level was established which would permit the Community industry to achieve this result. Since there were different categories of SSF, the Commission calculated a price level for each category consisting of the weighted average cost of production of the Community industry, together with a 5 % profit margin.

It was considered that the duty should, for corresponding categories, cover the difference between the calculated price and the actual selling prices of the exporters in the Community. Such duties would enable the Community industry to increase their prices to a reasonable profit level. In order to determine the level of duty, the price increases thus established have been expressed as a percentage of the weighted average free-at-Comunity value of the imported goods as distinct from the undercutting margins which are expressed as a percentage of the weighted average prices of the Community industry at ex works level.

The following injury elimination levels were found:

PRC	from 87,3 % to 88,8 %
Malaysia	from 41 % to 161 %
Taiwan	from 41,1 % to 206,9 %
India	from 47,9 % to 77,3 %
Korea	44,5 %
Thailand	from 50,0 % to 69,8 %

(100) Since the injury elimination margins thus established exceed the dumping margins established for the Chinese, Malaysian, Taiwanese, Korean and Thai exporters, the duties should be based on the dumping margins and since the injury elimination margins established for the Indian exporters were lower than the dumping margins the duties for the Indian exporters should be based on injury elimination margins, pursuant to Article 7 (2) of the Basic Regulation.

(101) Provisional anti-dumping duties for PRC, Malaysia, Taiwan, Korea and Thailand should therefore correspond to the margins of dumping set out in recitals 50 to 59 respectively, and the anti-dumping duties for India should correspond to the margins in recital 49 and recital 99.

H. RIGHTS OF INTERESTED PARTIES

(102) In the interests 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 the findings made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty which the Commission may impose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty hereby imposed on imports of stainless steel fasteners and parts thereof falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70 and 7318 16 30 and originating in the People's Republic of China, India, Malaysia, the Republic of Korea, Taiwan and Thailand.

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

Country	Manufacturer	Rate of duty (%)	Taric additional code
People's Republic of China	Power Van Industrial Co. Ltd	16,2	8333
	All other companies	75,7	8900
Malaysia	Tigges Stainless Fasteners (M) Sdn. Bhd.	6,6	8334
	Tong Heer Fasteners Co. Sdn. Bhd.	9,5	8335
	All other companies	9,5	8900

Country	Manufacturer	Rate of duty (%)	Taric additional code
Taiwan	Arrow Fastener Co. Ltd.	8,3	8336
	Sen Chang Industrial Co. Ltd	12,5	8337
	Tong Hwei Enterprise Co. Ltd	12,5	8338
	Rodex Fasteners Corp.	11,0	8408
	CLC Industrial Co. Ltd	9,6	8409
	Min Hwei Enterprise Co. Ltd	12,5	8414
	All other companies	27,7	8900
India	Lakshmi Precision Screws Ltd	47,9	8415
	Kundan Industries Ltd	53,6	8416
	Audler Fasteners	77,3	8417
	All other companies	133,5	8900
Republic of Korea	Daegil Trading Co. Ltd	24,0	8418
	All other companies	26,7	8900
Thailand	A.B.P. Stainless Fastener Co. Ltd	18,3	8419
	Dura Fasteners Co. Ltd	13,3	8420
	Thailock Fasteners Co. Ltd	32,9	8421
	All other companies	32,9	8900

3. Unless otherwise specified, the provisions in force concerning customs duty 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

Without prejudice to Article 20 of Regulation (EC) No 384/96, the parties concerned may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21 (4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

This Regulation shall enter into force on the day following that of 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, 4 September 1997.

For the Commission

Leon BRITTAN

Vice-President