COMMISSION REGULATION (EC) No 981/97

of 29 May 1997

imposing provisional anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia, the Czech Republic, Romania and the Slovak Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as amended by Council Regulation (EC) No 2331/96 of 2 December 1996 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 31 August 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities* [3], the initiation of an anti-dumping proceeding concerning imports into the Community of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia, the Czech Republic, Romania and the Slovak Republic and commenced an investigation.

(2) The proceeding was initiated as a result of a complaint lodged on 19 July 1996 by the Defence Committee of the Seamless Steel Tube Industry of the European Union on behalf of producers representing a major proportion of total Community production of the product concerned. The complaint contained evidence of dumping of the said product, and of material injury resulting therefrom, which was considered sufficient to justify the opening of a proceeding.

(3) The Commission officially advised the producers, exporters and importers known to be concerned, as well as the representatives of the exporting countries and the complainant, of the opening of the proceeding, and gave interested parties the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) A number of producers in the countries concerned, as well as some Community producers and importers, made their views known in writing. A hearing was offered to all parties who requested one within the time limit.

(5) The Commission sent questionnaires to all parties known to be concerned and received replies from the complainant Community producers, from other Community producers supporting the complaint, from certain importers, and from the producers in the countries concerned.

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

(a) *complainant Community producers:*

- Voest Alpine, Kindberg, Austria,
- Vallourec Industries, Boulogne-Billancourt, France,
- Benteler AG, Paderborn, Germany,
- Mannesmannröhren-Werke AG, Mülheim an der Ruhr, Germany,
- Dalmine S.p.A., Dalmine, Italy,
- Productos Tubulares S.A., Valle de Trapaga, Spain,
- Tubos Reunidos S.A., Amurrio, Spain,
- Ovako Steel AB Tube Division, Hofors, Sweden;

(b) *Community producers supporting the complaint:*

- ESW Röhrenwerke GmbH, Eschweiler, Germany,
- Rohrwerk Neue Maxhütte GmbH, Sulzbach-Rosenberg, Germany;

(c) *importers not related to exporters:*

- Jannone ARM S.p.A., Naples, Italy,
- Geminvest S.R.L., Limbiate, Italy,
- Starval, Marly La Ville, France,
- Voest Alpine Stahlhandel AG, Linz, Austria;

(d) *importers/trading companies related to exporters:*

- Pipex International AG, Nidau, Switzerland (related to the Slovak producer),

[1] OJ No L 56, 6. 3. 1996, p. 1, referred to as the 'Basic Regulation'.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No C 253, 31. 8. 1996, p. 26, referred to as the 'Notice of Initiation'.

— Pipex Italia S.p.A., Milan, Italy (related to the Slovak producer),

— Topham Eisen- und Stahlhandelsges.m.b.H., Vienna, Austria (related to two Czech producers).

Although Pipex International AG is located in Switzerland and not, therefore, an EC importer, it allowed the Commission investigators to verify its records at its subsidiary's offices in Milan;

(e) *producers/exporters in the countries of origin:*

Czech Republic:

— Vítkovice a.s. and Vítkovice Export a.s., Ostrava,

— Nová Huť a.s., Ostrava,

— Válcovny Trub Dioss and Dioss Trading, Chomutov,

— Ferromet Long Products Ltd, Prague;

Romania:

— SC Artrom SA, Slatina,

— SC Silcotub SA, Žalau,

— SC Petrotub SA, Roman,

— SC Republica SA Trade Company, Bucharest,

— Intertube Ltd, Bucharest,

— SC Metalexportimport SA, Bucharest,

— Sota Company, Bucharest;

Slovak Republic:

— Železiarne Podbrezová, Podbrezová.

(7) The investigation of dumping covered the period from 1 September 1995 until 31 August 1996 (hereinafter referred to as the 'investigation period'). The examination of injury covered the period from January 1992 up to the end of the investigation period.

(8) It is recalled that provisional anti-dumping duties were imposed on imports of certain seamless pipes and tubes originating in Czechoslovakia, Hungary, Poland and the Republic of Croatia in November 1992 ([1]), the duties being further extended in March 1993 ([2]). The proceeding was terminated in October 1993 ([3]) in respect of imports originating in the Czech Republic and the Slovak Republic following the Commission's acceptance of undertakings by those countries in the form of tariff quotas ([4]) established for the period 1 June 1993 to 31 December 1995.

With regard to imports of the product originating in Hungary, Poland and the Republic of Croatia, definitive anti-dumping duties were imposed in May 1993 ([5]) and the Commission, by Decision 93/260/EEC ([6]), accepted undertakings offered in connection with this anti-dumping proceeding by exporters in these countries. These measures are still in force but are currently under review ([7]).

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Description of the product concerned

(9) The following categories of products are concerned by this proceeding:

(a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm;

(b) seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes;

(c) other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm.

(10) These products fall under CN codes 7304 10 10, 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93. In line with the position previously adopted by the Council, all seamless pipes and tubes falling under the aforementioned CN codes are to be considered as one product (hereinafter seamless tubes) for the purposes of this proceeding as they have the same basic physical characteristics and uses.

2. Like product

(11) The types of seamless tubes which are the subject of this proceeding are manufactured by essentially the same production technology and are considered to be similar or identical in their essential physical and technical characteristics and in their end uses, irrespective of whether they are manufactured in the Community or in the countries concerned by the proceeding. While there are some technical differences between the three types of tubes, these are not sufficient to establish clear dividing lines between the products since tubes classified under one category can be, and sometimes are, substituted for tubes classified under a different one. Furthermore, the Commission found there to be no significant differences between domestic standards in the countries concerned and standards in the Community. All three types have therefore to be considered a like product within the meaning of Article 1 (4) of the Basic Regulation.

([1]) OJ No L 328, 14. 11. 1992, p. 15.
([2]) OJ No L 58, 11. 3. 1993, p. 1.
([3]) OJ No L 252, 9. 10. 1993, p. 39.
([4]) OJ No L 180, 23. 7. 1993, p. 1.
([5]) OJ No L 120, 15. 5. 1993, p. 34.
([6]) OJ No L 120, 15. 5. 1993, p. 42.
([7]) OJ No C 253, 31. 8. 1996, p. 25.

(12) Some Russian exporters claimed that the products they sold to the Community market were of such poor quality and were manufactured to such low technical specifications that they could not and should not be likened to the products of the Community industry. However, since none of the companies produced any concrete evidence to back up this assertion, and bearing in mind that Russian imports are classified under the same CN codes as imports from the other countries concerned, the Commission sees no reason why Russian products should be excluded from the scope of this proceeding.

C. DUMPING

1. General

(13) Seamless tubes come in a wide range of specifications and it is not uncommon for a company to manufacture several thousand products, each having a different specification. For the purposes of the dumping calculations, therefore, the products were first classified by category (see recital (9) above) and then subdivided into product groups according to their external diameter and wall thickness. Consequently, normal values, export prices and their comparison were established on a product group basis.

2. Czech Republic

(a) *Cooperation*

(14) All three producers known to manufacture and export the product concerned, together with their related trading companies, replied to the questionnaire and were visited on-spot. During the course of the verification carried out at the premises of one of the producers, however, it was found that the data it had submitted concerning its export and domestic sales were not verifiable because the listings contained a large number of sales which had never actually taken place. It was concluded that the company's accounting system did not comply with generally accepted accounting principles and that its reply to the Commission's questionnaire was both misleading and unreliable. In addition, the costs of production had been calculated using information that considerably predated the period of investigation. In view of the above, the Commission had no other option than to apply Article 18 (1) of the Basic Regulation and to base its findings with regard to this producer on the facts available.

(b) *Normal value*

(15) The other two producers visited were related (see recital (22)). For these cooperating companies, normal value was established on the basis of actual domestic prices when sales of the like product were made in sufficient quantities in the ordinary course of trade.

(16) It was found that both producers' overall domestic sales of the product concerned during the investigation period were representative since the total volume of such sales far exceeded the threshold of 5 % of export sales laid down in Article 2 (2) of the Basic Regulation. Domestic sales of each product group were considered representative if they met the same criterion. In addition, in order to establish whether these sales were made in sufficient quantities in the ordinary course of trade, the domestic selling price was compared to the full cost of production (i.e. the cost of manufacturing plus the selling, general and administrative expenses, or SG&A). For one of the two producers, the SG&A expenses (expressed as a percentage of domestic turnover) were replaced by those of the related producer as the company was unable to provide all the accounting documents necessary to support the figures submitted.

Where the weighted average sales price was equal to or higher than the weighted average unit cost, and where more than 80 % of transactions in a given product group were profitable, normal value was established as the weighted average price of all the transactions. In most of the product groups, however, the proportion of profitable sales did not exceed 80 %, and so normal value was either established by taking the weighted average price of the profitable transactions only or, in the case of groups for which there were no domestic sales or where fewer than 10 % of sales were profitable, by constructing. Constructed normal values were calculated in accordance with Article 2 (3) of the Basic Regulation by adding to the cost of production the company's average profit on all profitable domestic sales of the product concerned in other product groups.

(17) Normal value for non-cooperating companies was established at the level of each CN code and was based on the normal values actually found for the two cooperating producers. In order not to reward non-cooperation, however, only the highest of the normal values established for the various product groups within a particular CN code was used to determine the normal value for the products exported by the non-cooperating companies under that code.

(c) *Export price*

(18) The two cooperating companies sold to independent customers in the EC either directly or through their related sales subsidiaries in the Czech Republic which acted as their export marketing arms. One of the two also sold through a related trading company in Austria in which it held a minority shareholding of more than 5 %. In the case of sales made direct or through the Czech sales subsidiaries, the export price was determined on the basis of the prices charged to the first independent customers in the Community in accordance with Article 2 (8) of the Basic Regulation. In the case of sales made through the related Austrian importer, the export price had to be constructed in accordance with Article 2 (9) of the Basic Regulation. Since this importer's reply to the Commission's questionnaire did not contain the necessary detailed product description for its sales to the Community, the export price was constructed by adding the importer's gross margin to the purchase price paid to its supplier and deducting its own SG&A expenses and a margin of 4 % for profit. This margin was considered reasonable as being that generally achieved by unrelated importers during the course of the investigation.

(19) With regard to non-cooperating companies, the Commission acted in accordance with Article 18 (1) of the Basic Regulation and based its findings on the facts available. In these circumstances, the import prices reported by Eurostat were found to be the most appropriate basis for determining the export price after first excluding from the Eurostat figures all the exports reported by the two cooperating companies. The weighted average export price thus established was considerably lower than that established for the cooperating producers/exporters, indicating that dumping margins for non-cooperating producers/exporters were higher than those found for cooperating ones.

(d) *Comparison*

(20) In view of the large number of export transactions and the great variety of products, the Commission, in accordance with Article 17 of the Basic Regulation, limited the comparison to the main product groups since these accounted for more than 93 % of export sales in both cooperating companies. For the purpose of a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments were made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made, where appropriate, in accordance with Article 2 (10) of the Basic Regulation, in respect of transport, insurance and credit costs.

(e) *Dumping margin*

(21) In accordance with Article 2 (11) of the Basic Regulation, the dumping margin for the two cooperating producers was established on the basis of a comparison of weighted average normal values with individual export prices. This was necessary in order to reflect the full degree of dumping being practised and because there was a pattern of export prices which differed significantly among different Member States and between time periods. More specifically, the export prices varied between any two Member States by as much as 25 % and there was also found to be a significant increase in dumping after the expiry of quantitative restrictions on 31 December 1995.

(22) However, since the two cooperating producers were found to have a majority shareholder in common (the National Property Fund, a government body), the Commission established a single dumping margin for them. This was determined by expressing the total amount of dumping found for the two companies as a percentage of the total cif Community frontier value of imports. On this basis, the provisional dumping margins for the two cooperating producers/exporters are:

— Vítkovice as 5,2 %,

— Nová Huť as 5,2 %.

(23) For those Czech exporting producers or exporters which failed to reply to the Commission's questionnaire, did not make themselves known, or otherwise did not cooperate with the investigation (and which accounted for over 40 % of total Czech exports to the Community), the dumping margin was determined on the basis of the facts available in accordance with Article 18 (1) of the Basic Regulation. This was done in order not to reward non-cooperation and to avoid any opportunity for circumvention. A residual dumping margin was therefore calculated by comparing the normal value as determined at recital 17 with the export price as determined at recital 19. Expressed as a percentage of the adjusted Eurostat import price, the provisional residual dumping margin is: 46,8 %.

3. Romania

(a) *Normal value*

(24) During the investigation period, Romania experienced high annual inflation of around 50 %. To prevent this distorting the calculations, normal values were established for the shortest periods of time for which cost of production information was provided. For one company, normal values were therefore calculated on a monthly basis, for two companies on a quarterly basis, and for the final company on an annual basis since it did not provide more detailed information.

(25) The same methodology as that described in recitals (15) and (16) was applied.

Most normal values were based on domestic prices, but in those cases where the profitable sales represented less than 10 % of total sales volume, or where domestic sales of a particular product group were unrepresentative, they were constructed. This method was employed because the normal values found for other companies related to different time periods (see recital (24) above) and would have distorted the result. Constructed normal values were calculated by adding to the cost of production (i.e. including SG&A expenses) either the weighted average profit made on all sales (one exporter), or the weighted average profit made on profitable sales alone (two exporters). In accordance with Article 2 (6) of the Basic Regulation, the exporters' own profit and SG&A expenses were used, as they all had sufficiently representative sales made in the ordinary course of trade on the domestic market.

(b) *Export price*

(26) The Romanian producers sold the like product either directly or via agents located in Romania to independent customers on the Community market. Since these agents operated on a fixed commission basis which was contractually agreed between the producers and these agents, export prices were established on the basis of prices invoiced to and paid by the customers in the Community, in accordance with Article 2 (8) of the Basic Regulation.

(c) *Comparison*

(27) For the purpose of a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made, where appropriate, in accordance with Article 2 (10) of the Basic Regulation, in respect of transport, insurance, handling, loading and ancillary costs, packing costs, credit and commissions.

(d) *Dumping margin*

(28) The weighted average normal value for each product group was compared with the adjusted individual export prices in accordance with Article 2 (11) of the Basic Regulation. This was necessary in order to reflect the full degree of dumping being practiced and because there was a pattern of export prices which differed significantly between different customers and regions.

(29) It was found during the course of the verification that the four cooperating producers had a majority shareholder in common (the State Ownership Fund). The Commission therefore established a single dumping margin for them. This was determined by expressing the total amount of dumping found for the four companies as a percentage of the total cif Community frontier value of imports. On this basis, the provisional dumping margins for the four cooperating producer/exporters are:

— SC Artrom SA: 10,8 %,

— SC Silcotub SA: 10,8 %,

— SC Petrotub SA: 10,8 %,

— SC Republica SA Trade Company: 10,8 %.

(30) It was found during the on-the-spot investigation that certain companies, which had not made themselves known to the Commission and therefore did not cooperate in the proceeding, had exported the product concerned from Romania. The dumping margin for these companies was therefore determined on the basis of the facts available in accordance with the provisions of Article 18 (1) of the Basic Regulation. This was done in order not to reward non-cooperation and to avoid any opportunity for circumvention. The Commission services considered that the most reasonable facts available were those established in the investigation and that, since there was no reason to believe that any non-cooperating producer/exporter would have dumped at a lower level than the highest found, the highest dumping margin determined for a producer which had cooperated with the investigation was the most appropriate for this purpose. The provisional residual dumping margin, expressed as a percentage of the cif Community frontier import price is: 38,2 %.

4. Slovak Republic

(a) *Normal value*

(31) Normal value was established on the basis of the methodology described in recitals (15) and (16). The Slovak producer had overall representative sales of the like product on the domestic market, as well as on a product group basis.

With regard to most product groups, the proportion of profitable sales represented less than 80 % but more than 10 % of the sales volume and normal value was therefore established by taking the weighted average price of the profitable transactions only. However, one product group was more than 80 % profitable and so normal value for this group could be established as the weighted average price of all the transactions.

(b) *Export price*

(32) All sales of the product concerned to the Community were made via a related trading company in Switzerland, or via the trading company's wholly-owned subsidiary in Italy. Because of the association between the exporter and its distributors, the export price for each product group had to be constructed on the basis of the resale price to the first independent buyer in the Community in accordance with Article 2 (9) of the Basic Regulation. In the case of the Swiss importer, since its functions can be considered similar to those of a trader acting on a commission basis, an adjustment of 9,5 %, based on the company's own SG&A rate and a reasonable amount for profit, was deducted from the prices it charged to independent customers in the Community. In the case of its Italian subsidiary, the export price was constructed by deducting all costs incurred between importation and resale in order to arrive at a reliable export price at the Community frontier level. The invoiced selling price was therefore adjusted to take account of its own SG&A expenses and a margin of 4 % for profit (see recital (18)).

(c) *Comparison*

(33) In view of the large number of export transactions and the great variety of products, the Commission, in accordance with Article 17 of the Basic Regulation, limited the comparison to the main product groups since these accounted for 83,9 % of the producer's export sales. For the purpose of a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability. The following allowances were accepted: physical differences, discounts, transport, insurance and credit costs.

(d) *Dumping margin*

(34) In accordance with Article 2 (11) of the Basic Regulation, the dumping margin was established on the basis of a comparison of weighted average adjusted normal values for each product group with the adjusted individual export prices. This was necessary in order to reflect the full degree of dumping being practised and because there was a pattern of export prices which differed significantly between the two importers and between time periods. In particular, there was found to be a significant increase in dumping after the expiry of quantitative restrictions on 31 December 1995. Expressed as a percentage of the total cif Community frontier value of imports, the provisional dumping margin for the sole cooperating producer is:

Železiarne Podbrezová: 8,9 %.

(35) Since the sole known producer accounted for almost all Slovak exports of the product concerned to the Community, the Commission considers that the residual dumping margin should be set at the same level.

5. Russia

(a) *Cooperation*

(36) Of the six producers/exporters sent a questionnaire, five failed to reply before the deadline set out in the notice of initiation. The information submitted by the sixth company was substantially incomplete. All the companies were warned of the consequences of non-cooperation and given further time in which to reply. Despite this, the information they finally supplied was not in the form requested and did not allow the Commission services to arrive at an accurate determination either of normal value or of the export price because of the way in which individual products and transactions had been grouped together. The Commission services therefore concluded that none of the companies had provided, within the time limits set, the information deemed necessary to the investigation and accordingly applied Article 18 (1) of the Basic Regulation, basing findings on the facts available.

(b) *Normal value*

(37) In the Notice of Initiation of the proceeding, the Commission proposed the Czech Republic as an appropriate market economy third country for the purpose of establishing normal value. No objection to this choice was received from any party within the deadline set by Article 2 (7) of the Basic Regulation. However, an oral objection, which was not accompanied by any specific proposal of an alternative analogue country, was received from one company's legal representative several weeks later but it could not be taken into account due to the advanced stage of the investigation. Nothing

emerged during the course of the subsequent investigation to suggest that the choice of analogue country was inappropriate. The choice of the Czech Republic as the analogue country is therefore confirmed for the following reasons: producers in the Czech Republic and Russia use the same production process for the manufacture of the product concerned; Czech producers, like the vast majority of Russian producers, belong to steel groups with fully integrated steel plants and have, therefore, similar advantages in respect of the supply of raw materials; the Czech and Russian producers cover the full size range of the product concerned; the Czech and Russian producers have a much closer scale of production than producers in other countries; and the volumes of exports to the Community of the Czech Republic and Russia are of similar magnitude.

(38) In order not to reward non-cooperation, the same normal values determined for non-cooperating Czech companies were used to establish normal value for the Russian companies (see recital (17)).

(c) *Export price*

(39) In the absence of any better information, the export price was established on the basis of the facts available, in accordance with Article 18 (1) of the Basic Regulation. For this purpose, it was found that the Eurostat import price for Russian pipes under each CN code constituted the soundest basis for establishing the export price.

(d) *Comparison*

(40) In order for the normal value and the export price to be compared as nearly as possible at the same level (i.e. ex-exporting country frontier), an adjustment was made, in accordance with Article 2 (10) of the Basic Regulation, to take account of freight costs.

(e) *Dumping margin*

(41) The comparison between the weighted average normal value and the weighted average export price showed the existence of dumping. Expressed as a percentage of the cif Community frontier price (Eurostat), the provisional dumping margin for all Russian companies is: 32,9 %.

D. COMMUNITY INDUSTRY

(42) The investigation has confirmed that the complainant Community producers account for a major proportion of total Community production of the like product.

(43) As set out in recital (5), all complainant Community producers and two other companies cooperated in the investigation. All these companies constituted a major proportion of the total production of the product subject to investigation in the Community. They will consequently be referred to hereinafter as the Community industry within the meaning of Article 4 (1) of the Basic Regulation.

E. INJURY

1. Preliminary remark

(44) All data concerning injury refer to the period 1992 to August 1996 and are expressed in tonnes per month, due to the fact that the end of the investigation period does not cover a full calendar year. The geographical scope is the Community of fifteen Member States.

(45) The analysis of any injury suffered by the Community industry has to be made in the light of the existing anti-dumping measures imposed in 1992 and 1993 [1] in respect of imports of the product concerned from Hungary, Poland and the Republic of Croatia. These measures, which consist of quantitative undertakings and residual duties, are currently under review [2].

(46) Imports of all seamless tubes [3], originating in the Czech Republic and the Slovak Republic were, between 1993 and 1995, subject to a tariff-quota system which expired on 31 December 1995 [4].

2. Community consumption

(47) Community consumption was calculated by adding total third country imports to the total deliveries of the Community producers destined for the Community market.

(48) Community consumption expressed in tonnes per month amounted to 89 900 in 1992, 69 700 in 1993, 84 070 in 1994, 92 730 in 1995 and to 92 130 during the investigation period, an overall increase of around 2 % in a period of fluctuating demand.

[1] Commission Regulation (EEC) No 3296/92 of 12 November 1992 (OJ No L 328, 14. 11. 1992, p. 15) and Council Regulation (EEC) No 1189/93 of 14 May 1993 (OJ No L 120, 15. 5. 1993, p. 34).
[2] Notice of Initiation published on 31 August 1996 (OJ No C 253, 31. 8. 1996, p. 25).
[3] Complete Combined Nomenclature code 7304, including, therefore, the product concerned.
[4] Council Regulation (EEC) No 1968/93 of 19 July 1993 (OJ No L 180, 23. 7. 1993, p. 1).

3. Dumped imports

(a) *Cumulation*

(49) It was found that the seamless tubes in question were imported from each exporting country concerned in substantial quantities, held a significant share, and competed with each other and with those manufactured by the Community industry. Consequently, in accordance with Article 3 (4) of the Basic Regulation, the effects of all imports from the four countries subject to the present anti-dumping proceeding, which were found to be dumped (as outlined in recitals (22), (23), (29), (30), (34), (35) and (41)), should be assessed cumulatively for the purpose of injury analysis.

(b) *Cumulated volume and market share of dumped imports*

(50) Cumulated imports from the Czech Republic, Romania, Russia and the Slovak Republic, expressed in tonnes per month, decreased from about 12 800 in 1992 to 6 330 tonnes in 1993, and then increased to 14 000 tonnes in 1994, 15 930 in 1995 and 18 580 tonnes during the investigation period, an increase of 45 % over the period as a whole.

Corresponding market shares amounted to 14,2 % in 1992, 9,1 % in 1993, 16,6 % in 1994, 17,2 % in 1995 and 20,2 % during the investigation period.

(c) *Prices of dumped imports and undercutting*

(51) For the examination of price undercutting during the investigation period, comparison was made between adjusted weighted average prices of imported products for sales to the first independent customer in the Community (cif Community border level) and adjusted Community producers' weighted average net sales prices to independent buyers (ex-works level).

As a result of this comparison, the following weighted average price undercutting, expressed as a percentage of Community producers' prices, were found:

— Czech Republic: from 21,2 % to 43,2 %,

— Romania: 25,8 %,

— Russia: 41,5 %,

— Slovak Republic: 17,5 %.

4. Situation of the Community industry

(a) *Capacity, production and utilization rate*

(52) Between 1992 and the investigation period, 11 production plants and facilities ceased production, representing a reduction of about one fourth of the total production capacity of seamless tubes existing in the Community at the beginning of the period.

(53) Production of the Community industry, expressed in tonnes per month, fell from about 94 720 in 1992 to 80 440 in 1993, 80 990 in 1994, 83 000 in 1995 and to 78 180 during the investigation period, a fall of almost 18 % over the period examined.

(54) Corresponding rates of capacity utilization rose from 63,5 % in 1992 and 61,1 % in 1993 to 69,2 % in 1994 and to 75,9 % in 1995, and fell back to 71,2 % during the investigation period.

(b) *Sales volume and market share*

(55) Average monthly sales of Community producers destined for the Community market were 67 650 tonnes in 1992, 57 470 tonnes in 1993, 63 110 tonnes in 1994 and 66 890 tonnes in 1995, and dropped to 62 090 tonnes during the investigation period.

The market share held by the Community industry increased from 75,2 % in 1992 to 82,4 % in 1993 and fell to 75,1 % in 1994, 72,1 % in 1995, and dropped by a further 4,7 percentage points to reach 67,4 % during the investigation period.

(c) *Sales prices*

(56) On average, unit prices of the product concerned sold by the Community producers on the Community market, expressed in ECU per tonne, were 576 in 1992, 504 in 1993, 509 in 1994, 578 in 1995 and then increased to 593 during the investigation period.

(d) *Profitability*

(57) The Community industry incurred financial losses between 1992 and 1994. These losses averaged 8 %. There followed an improvement in return on sales in 1995 (−2,1 %) and break-even was achieved in the first eight months of 1996 due partly to price increases and partly to measures in force in this sector (as mentioned in recital (8)). This limited improvement in profitability was, however, not sufficient to generate the level of earnings that would be required by the Community industry to cover its increasing production costs and the high investment in restructuring, make a reasonable profit, recover from previous years' losses and ensure its long term viability.

(e) *Employment*

(58) Employment in the Community industry declined continuously by around 35 % between 1992 and August 1996, amounting in absolute terms to a loss of about 2 800 jobs.

5. Conclusion

(59) During the period under consideration, the Community industry has attempted to stabilize a situation already weakened by past dumping (see recital (45)), and to re-establish positive financial results. However, despite these considerable efforts, the measures in force in the seamless tubes sector, and an improvement in prices in 1996, it could not reach a satisfactory level of profitability in that year. It continuously lost market share after 1993 and, between 1995 and 1996, experienced an additional significant downturn in output and capacity utilization. In view of these developments and for the purpose of provisional findings, it is concluded that the Community industry, which remains in a precarious situation, has suffered material injury.

F. CAUSATION

1. Effect of the cumulated dumped imports

(60) It should be noted that, under the tariff-quota system in place until 31 December 1995 with regard to imports of the product concerned originating in the Czech Republic and Slovak Republic (see recital (46)), there was a 13,5 % increase in the ceilings between 1994 and 1995. Russian and Romanian imports were not subject to any quantitative restrictions over the period examined.

(61) After the expiry of the tariff-quota system, imports of all seamless tubes from the Czech Republic and the Slovak Republic considerably exceeded, during the first eight months of 1996, the level reached in the corresponding period of 1995, by 29,3 % for the Czech Republic and by 34,5 % for the Slovak Republic.

(62) While consumption in the Community remained relatively stable, cumulated imports from the Czech Republic, Romania, Russia and the Slovak Republic, increased their total market share by around six percentage points, from 14,2 % in 1992 to 20,2 % during the investigation period, while the Community industry lost market share by about 7,8 percentage points from 75,2 % to 67,4 % over the same period. Bearing in mind that significant price undercutting was found for each exporting country, and considering that the increase in market share held by the imports concerned coincided with the deterioration in the Community industry's situation, which accelerated between 1995 and 1996 (as assessed in recital (59)), it is concluded that, taken together, imports from the four countries concerned had a negative impact on the situation of the Community industry.

2. Effect of other factors

(a) *Imports from Hungary, Poland and the Republic of Croatia*

(63) As stated in recital (45), imports from Hungary, Poland and the Republic of Croatia were subject during the period concerned to anti-dumping measures in the form of quantitative undertakings, which are currently under review. Findings in respect of the review will be made known on completion of the corresponding investigation.

(b) *Other imports*

(64) Imports from other countries, not covered by the current proceeding, or by the review proceeding in progress, increased their market share slightly over the period, from 4,2 % in 1992 and 3,3 % in 1993 to 4,3 % in 1994, 6,5 % in 1995 and 7,7 % during the investigation period.

Although they were increasing in volume, these imports were found to be made at prices distinctly higher than those of the dumped imports subject to the present investigation.

It is therefore concluded that the imports in question had no substantial impact, if any, on the situation of the Community industry.

(c) *General economic situation*

(65) Community consumption declined in 1993 due to the world economic recession, which affected in particular the users of the product concerned (car industry, construction, etc.). In that year, the imports concerned reached a low level, and the Community industry exprienced its poorest results in terms of sales on the Community market, prices and profitability.

(66) However, except in the exceptional situation in 1993, consumption remained generally stable during the other years of the period considered (1992, and 1994 to the investigation period). The general economic situation cannot, therefore, be considered as a factor continuously responsible for

the precarious situation still faced by the Community industry in those years. Indeed, given the considerable efforts of rationalization and restructuring made by Community producers, and the trade defense measures in force during this period, the Community industry should have recovered to a greater extent and obtained more satisfactory results in 1995 and 1996.

(d) *Conclusion*

(67) The world recession of 1993 had some negative impact on the performance of the Community industry in that year, and imports from other countries may also have somewhat contributed to worsening of the industry's situation. For all the reasons outlined above, however, and for the purpose of the provisional findings, it must be concluded that the impact of the low prices and the steep increase in the volumes of dumped imports from the four countries concerned, taken in isolation and on a cumulated basis, caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. Remark on world seamless tubes production

(68) At both the world and the European continent levels, and even at European Union levels, chronic production overcapacity exists.

The Community industry has, as mentioned in recital (52), been carrying out a significant degree of restructuring in order to address its overcapacity problem.

2. Economic operators concerned in this analysis

(a) *The Community industry*

(69) The Community seamless tube industry is composed of medium-sized and large enterprises dedicated to the production of the product subject to investigation, and other closely-allied tubular products.

Production technology consists of transforming steel ingots or steel scrap (which now represents about two-thirds of raw material input) into seamless tubes.

(b) *Importers/Traders*

(70) The vast majority of seamless tubes is sold through traders. It is estimated that direct sales to users are less than 5 % of total sales.

The Community market is characterised by the existence of several large traders with Community-wide sales organizations. These large traders resell a significant part of the seamless tubes in question to smaller traders, which sell in more restricted geographical areas. The traders in seamless tubes are highly specialised in the trade of steel products in general, and the market is very transparent.

(c) *Downstream user industries*

(71) There are several downstream user industries, i. e. the machinery industry, transport of fluids (oil, gas, water, etc.), the chemical and petro-cheical industries, power stations (including nuclear), the automobile and construction industries.

The Commission has received no information during the course of the investigation on the proportion of sales represented by each user industry.

3. Expected effect of the imposition of anti-dumping measures on the Community industry

(72) Following the imposition of duties, the prices of the imported like product can be expected to rise. This price rise would be reflected in a fall in the volumes imported, thus leading to a reduction in market supply, allowing the Community industry to increase output. The Community industry's prices could be expected to increase to some extent, but certainly not by anything like the level of the duty, given overcapacity and the transparency of the market. The increases in volume, however, would serve to reduce unit costs, and enable the Community industry to address its unsatisfactory financial situation.

4. Effect of non-imposition of measures on the Community industry

(73) Should provisional measures not be imposed, the injury suffered by the Community industry would continue, and threaten its capacity to produce the whole range of products at competitive costs.

The sector in question depends on a reasonable utilisation rate of capacity, which can only be achieved by a satisfactory level of production of standardised commercial, or oil, tubes which are in direct competition with the dumped products. A decrease in the production of these standard tubes would jeopardise the production of higher-quality product categories, and could lead to a general weakening of the seamless tube sector, forcing some companies out of production of certain or all of the product categories.

5. Effect of measures on importers/traders

(74) Generally speaking, the lack of co-operation on the part of importers in the context of the Community interest investigation makes it difficult to assess with reliability their likely reaction to the imposition of measures. However, it is known that only a small percentage of their turnover consists of the seamless tubes in question. Given the wide diversity of the products they sell, the measures can be expected to have no more than a minimal effect on their overall situation.

6. Effect of measures on industrial users

(75) No users have made their views on the impact of anti-dumping measures known. The Commission has, nevertheless, estimated the likely impact on the basis of the information available.

It is estimated that 85 % of the dumped imports from the countries concerned are sold to large traders, who appear to have been taking advantage of the dumped prices to improve profit margins. In so far as traders adjust margins to take account of some or all of the effects of the measures, it can be expected that they will not be fully reflected in their sales prices.

(76) Moreover, on the basis of the information available, and for the purpose of provisional findings, the Commission is of the opinion that, since the cost of the tubes as a proportion of the cost of the products manufactured by the user industries is relatively small, the impact on them of any price increase for the tubes concerned would remain limited.

It is also likely that any price effect of duties would be mitigated because of the existence of other sources of supply and the fact that the market is highly competitive.

7. Conclusion

(77) On the basis of the above elements, there is no compelling reason not to remedy the trade distorting effects of injurious dumping. It is therefore concluded, for the purpose of provisional findings, that protective measures are in the interest of the Community.

H. PROVISIONAL DUTY

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

(79) Since the injury consisted mainly of loss of market share and in particular, financial losses, the removal of such injury would be achieved through the establishment of a non-injurious price level which would allow the Community industry to cover its costs and achieve a reasonable profit.

(80) In this respect, the Commission has calculated, at an ex-factory level, the price level considered adequate to remove the injury on the basis of the weighted average cost of production of the Community industry, plus a profit of 5 % on turnover considered as an appropriate minimum, taking into account the need for long term investment and, more particularly, of the return which the Community industry could reasonably expect in the absence of injurious dumping. This injury elimination level was then compared to the weighted average selling price of the exporters on a free-at-Community-frontier basis, duly adjusted to take account of the differences in distribution channels as stated in recital (51).

The injury elimination margins thus established are as follows:

— Czech Republic: from 37,4 % to 97,9 %,

— Romania: 48,3 %,

— Russia: 87,8 %,

— Slovak Republic: 31 %.

(81) Since the injury elimination margins are all higher than the dumping margins found, the anti-dumping duties should be based at the provisional stage on the dumping margins pursuant to Article 7 (2) of the Basic Regulation.

Provisional anti-dumping duties should therefore correspond to the margins of dumping calculated for the cooperating and non cooperating producers or exporters concerned as set out in recitals (22), (23), (29), (30), (34), (35) and (41).

I. FINAL PROVISION

(82) In the interest of a sound administration, a period should be fixed, within which interested parties known to be concerned may make their views known 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 Community may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. Provisional anti-dumping duties are hereby imposed on the following imports originating in Russia, the Czech Republic, Romania and the Slovak Republic:

(a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm (falling within CN codes 7304 10 10 and 7304 10 30);

(b) seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes (falling within CN code 7304 31 99);

(c) other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm (falling within CN codes 7304 39 91 and 7304 39 93).

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

Country	Product manufacturer	Rate of duty (%)	Taric additional code
Czech Republic	Vitkovice a.s.	5,2 %	8058
	Nová Huť a.s.	5,2 %	8058
	Others	46,8 %	8900
Romania	SC Artrom SA	10,8 %	8059
	SC Silcotub SA	10,8 %	8059
	SC Petrotub SA	10,8 %	8059
	SC Republica SA Trade Company	10,8 %	8059
	Others	38,2 %	8900
Slovak Republic	Železiarne Podbrezova	8,9 %	8060
	Others	8,9 %	8900
Russia	All companies	32,9 %	—

3. The provisions in force concerning duties and other customs practices 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

Pursuant to Article 20 (1) of Regulation (EC) No 384/96, the parties concerned may make known their views and apply to be heard by the Commission within one month of the date of entry into force of this Regulation.

In accordance with the provisions of Article 21 (4) of Regulation (EC) No 384/96, the parties concerned may provide comments on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Subject to Articles 7, 9, 10 and 14 of Regulation (EC) No 384/96, this Regulation shall apply for a period of six months unless the Council adopts definitive measures before the expiry of this period.

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

Done at Brussels, 29 May 1997.

For the Commission
Leon BRITTAN
Vice-President