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COUNCIL REGULATION (EC) No 1697/2002

of 23 September 2002

imposing definitive anti-dumping duties on imports of certain welded tubes and pipes, of iron or non-alloy steel originating in the Czech Republic, Poland, Thailand, Turkey and Ukraine

(OJ L 259, 27.9.2002, p. 8)

Corrected by:

►**C1** Corrigendum, OJ L 351, 28.12.2002, p. 117 (1697/2002)

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COUNCIL REGULATION (EC) No 1697/2002

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imposing definitive anti-dumping duties on imports of certain welded tubes and pipes, of iron or non-alloy steel originating in the Czech Republic, Poland, Thailand, Turkey and Ukraine

THE COUNCIL OF THE EUROPEAN UNION,

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] (hereinafter referred to as the Basic Regulation), and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 540/2002 [2] (hereinafter referred to as the Provisional Regulation), imposed a provisional anti-dumping duty on imports of certain welded tubes and pipes, of iron or non-alloy steel falling within CN codes ex 7306 30 51, ex 7306 30 59, ex 7306 30 71 and ex 7306 30 78 (TARIC-codes 7306 30 51 10, 7306 30 59 10, 7306 30 71 10, 7306 30 71 20, 7306 30 78 10 and 7306 30 78 20), originating in the Czech Republic, Poland, Thailand, Turkey and the Ukraine.

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several interested parties made written submissions making their views known on the provisional findings. The parties who so requested were granted an opportunity to be heard.

(3) The Commission services continued to seek and verify all information deemed necessary for the definitive findings.

(4) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain welded tubes and pipes, of iron or non-alloy steel, originating in the Czech Republic, Poland, Thailand, Turkey and the Ukraine and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period within which to make representations subsequent to the disclosure of the essential facts and considerations.

(5) The oral and written comments submitted by the interested parties were considered and, where appropriate, the findings have been modified accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

(6) In the absence of any comment received after the disclosure of the provisional findings on the product concerned and the like product, the provisional findings as described in recitals 12 to 15 of the Provisional Regulation are hereby confirmed.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000, (OJ L 257, 11.10.2000, p. 2).

[2] OJ L 83, 27.3.2002, p. 3.

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D. **DUMPING**

Poland and Ukraine

(7) In the absence of any new argument on dumping, the provisional findings as described in recitals 37 to 43 for Poland and 60 to 85 for Ukraine of the Provisional Regulation are hereby confirmed.

Czech Republic

(8) One Czech exporting producer, Železárny Veselí has reacted to the Commission's provisional findings, claiming that they were allegedly subject to higher technical testing standards for tube types sold on the domestic market in the Czech Republic than for the tube types exported to the Community market. It is noted that this claim was introduced only at a very advanced stage of the investigation, and could therefore not be checked during the on-the-spot-verification carried out at the exporter premises. In addition, the Czech exporting producer did not bring forward any evidence which would support his claim. Moreover, in his reply to the Commission's questionnaire the company stated that quite to the contrary to his present claim, Czech and foreign standards for the product concerned are comparable and that a price comparison does not require an adjustment in that respect. Also no other information obtained during the investigation with regard to sales of the product concerned on the Czech market would suggest that justified differences in technical standards exist. The claim had therefore to be rejected.

(9) The provisional level of dumping for this producer is hereby confirmed.

(10) For the other Czech exporting producer, Jäkl Karvina, a substantiated claim for differences in physical characteristics between the type of tube chosen for normal value and the type sold for export to the Community was made.

(11) This claim was considered justified and the final dumping margin was accordingly recalculated at 28,3 %.

Turkey

(12) With regard to Turkey, minor corrections concerning daily exchange rates and interest rates were requested by three companies and accepted where justified.

(13) After receiving the definitive disclosure calculations, companies claimed that the dumping margin should have been established on the basis of a comparison of weighted average normal values with a weighted average of all export transactions to the Community on the grounds that exports did not differ significantly among purchasers, regions or time periods. The dumping was not a 'targeted dumping' over time by these companies, but a situation created by the devaluation of the Turkish lira in February 2001, i.e. in the middle of the investigation period (IP). The allegations made by the companies have been verified and it was found that the differences in prices were, in fact, not significant. Consequently, the basis of calculation has been changed to the above method. This led to a reduction in the dumping margins of the companies concerned.

(14) The final dumping margins for the cooperating companies included in the sample are:

— Noksel Celik Boru Sanayi AS, Ankara	0 %,
— Borusan Birlesik Boru Fabrikalari AS, Istanbul ►C1 and Mannesmann Boru Endüstrisi AS, ◄ Istanbul	5,0 %,
— Cayirova Boru San Ve Tic AS, Istanbul and Yücel Boru Profil Endüstrisi AS, Istanbul	0 %,

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— Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri 6,0 %.

(15) This exercise led to a revised weighted average dumping margin of 5,2 % for the following cooperating companies not included in the sample:

— Borutas Boru Sanayii ve Ticaret AS, Adapazari,

— Cinar Boru Profil San. Tic. Ltd STI, Eregli,

— Guven Boru ve Profil Sanayi ve Ticaret Ltd Sti, Istanbul,

— Özdemir Boru Profil San.ve Ticaret AS, Eregli,

— Sevil Boru-Profil Sanayii ve Ticaret AS, Istanbul,

— Toscelik Profil ve Sac. Endüstrisi AS, Iskenderun,

— Özborsan Boru San.ve Ticaret AS, Istanbul.

(16) The level of cooperation for Turkey was high, and the residual definitive dumping margin was set at the same level as for the highest margin level of a cooperating company, i.e. 6,0 %.

Thailand

(17) An on-the-spot investigation was carried out after publication of the Provisional Regulation at the premises of Saha Thai Steel Pipe Co. Ltd, the sole Thai cooperating exporting producer. This Thai producer initially replied to the questionnaire but had not been in a position to accept an on-the-spot verification in due time.

Normal value

(18) As far as normal value is concerned, the general methodology set out in recitals 17 to 24 of the Provisional Regulation for all market economy countries concerned has been applied for this sole cooperating Thai producer.

(19) The following describes only the findings that are specific to that company.

(20) Normal value was established on the basis of domestic sales for those types of the product concerned which were directly comparable to the types of tubes exported to the Community. Only in those cases where there were no sales of comparable types of tubes on the domestic market was normal value constructed in accordance with Article 2(3) of the Basic Regulation. For that purpose the cooperating exporting producer's own cost of production and the company's own SG&A expenses and profits were used.

Export price

(21) The procedures and methodologies followed to assess the export price of products originating in Thailand were the same as those explained in recital 25 of the Provisional Regulation, i.e. export sales made directly to an independent customer in the Community were established pursuant to Article 2(8) of the Basic Regulation.

Comparison

(22) In accordance with the methodologies followed in recital 26 of the Provisional Regulation, adjustments were made for transport, ancillary costs (bank charges), insurance and credit costs, for differences in physical characteristics and for duty drawback.

Dumping margin

(23) In accordance with the methodologies followed in recital 27 of the Provisional Regulation, the comparison between the normal value and the export price on a weighted to weighted average

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basis was applied and this method showed the existence of dumping in respect of the sole cooperating exporting producer.

(24) The definitive dumping margin expressed as a percentage of the cif import price at the Community border for this company is:

Saha Thai Steel Pipe Co. Ltd	21,7 %

(25) With regard to the determination of the residual duty, as the level of cooperation for Thailand was very low, the methodology described in recitals 28 and 48 of the Provisional Regulation is hereby confirmed. The residual dumping margin expressed as a percentage of the cif import price at the Community border is 37,6 %.

E. **COMMUNITY INDUSTRY**

(26) In the absence of any new argument on the Community production and on the definition of the Community industry, the provisional findings as described in recitals 83 to 85 of the Provisional Regulation are hereby confirmed.

F. **INJURY**

1. **Community consumption**

(27) In the absence of any comment received after the disclosure of the provisional findings on the Community consumption, the provisional findings as described in recitals 86 to 88 of the Provisional Regulation are hereby confirmed.

2. **Cumulative assessment of the effects of the imports concerned**

(28) It was argued that in line with previous practice ([1]), imports from the Czech Republic should not be cumulated with imports originating in the other countries concerned as the evolution of imports and prices of the Czech Republic during the period considered diverged from the evolutions observed for the other countries concerned. Secondly, it was argued that Czech imports do not undercut Community industry's prices and are not in competition with imports from the other investigated countries as, unlike them, they are destined for Germany.

(29) It should be noted that in the cases referred to, the diverging trends of imports and prices were not in themselves decisive but only one element which was considered. The conclusions to cumulate or decumulate were based on a number of other factors. What is important are the conditions listed in Article 3(4) of the Basic Regulation (margin of dumping more than *de minimis*, volume of imports not negligible and same conditions of competition between imported products and the conditions of competition between the imported products and the like Community product).

(30) Firstly, it should be noted that the dumping margin of Czech imports was above *de minimis*.

(31) Secondly, although imports originating in the Czech Republic decreased constantly since 1998, the volume of imports during the IP was not negligible. Moreover, it should be noted that although according to Eurostat average prices of imports originating in the Czech Republic increased constantly since 1999, they were found substantially to undercut Community industry's prices in the IP, as were imports originating in the other investi-

([1]) Council Regulation (EC) No 3319/94 concerning urea ammonium nitrate solution originating in Bulgaria and Poland (OJ L 350, 31.12.1994, p. 20) and Council Regulation (EC) No 2022/95 concerning ammonium nitrate originating in Russia (OJ L 198, 23.8.1995, p. 1).

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gated countries. In this respect it should be noted that as within the product concerned different models with different prices exist, the calculations were carried out for comparable models of the product concerned at the same level of trade, in order fully to reflect the price behaviour of the countries concerned.

(32) Thirdly, contrary to the submission by Czech exporters, cumulation is appropriate in the light of the conditions of competition. In this respect, it should be noted that imports from the Czech Republic are interchangeable with other imports and with sales by the Community industry. They are marketed in the Community through comparable sales channels. It has been found that the Community industry as well as exporters situated in all the investigated countries are all in part selling to Germany. Moreover, Eurostat statistics show that trade flows among Member States are important, this indicating that the market is Community wide. No other indication that Czech sales of the product concerned were not in competition with sales originating in the other investigated countries and with sales of the Community industry has been found. Accordingly, there is no indication of a regionalisation of the market.

(33) Czech exporters also argued against cumulating on the basis of an alleged market segmentation. It was argued that the alleged segmentation of the Community market was evidenced by the infringement of European competition law by two companies composing the Community industry. These two companies in the past made an illegal agreement on market sharing, albeit for a product other than the product concerned.

(34) However, the mere fact that two companies infringed the competition law prior to the IP, for a product different from the product concerned cannot, in the absence of any other indication concerning such behaviour during the IP and for the product concerned, be considered as a proof of the market segmentation in the present case. During the present investigation, no evidence was found that would show that such an agreement was in force for the product concerned for any of the companies composing the Community industry. This argument is therefore rejected.

(35) Some exporters reiterated the request that imports originating in the Czech Republic should be decumulated as they are not causing injury or any threat of injury to the Community industry due to their volume being below the ceiling quota imposed by Council Regulation (EEC) No 1968/93 ([1]). Czech exporters also argued in favour of decumulation pointing to the increase of Community exports to the Czech Republic during the period considered. It should be noted that the quota imposed by Regulation (EEC) No 1968/93 was in force only until the end of 1995 and that in the present investigation the period considered for the injury analysis is 1997 to the IP. Furthermore, the level of Community exports to the Czech Republic as such provide no support to the claim that Czech exports should be decumulated. This submission is therefore rejected.

(36) It was argued that as the Czech Republic was subject to the surveillance of exports under the double-checking system established by Council Regulation (EC) No 87/98 ([2]), it should be excluded from the present anti dumping proceeding. However, the surveillance system is in place purely in order to monitor Czech imports. The mere fact of its existence does thus not give any indication either in favour or against cumulating. Accordingly it cannot support a claim for decumulation. This argument is therefore rejected.

([1]) OJ L 180, 23.7.1993, p. 1. Regulation as last amended by Regulation (EC) No 1005/95 (OJ L 101, 4.5.1995, p. 35).

([2]) OJ L 13, 19.1.98, p. 43. Regulation as last amended by Council Regulation (EC) No 844/2002, (OJ L 135, 23.5.2002, p. 1).

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(37) Some exporters reiterated the claim that they operate under different conditions of competition either because their sales to the Community were made through a related company unlike sales of the other exporting producers or because they operated without immediate access to raw materials and had consequently longer delivery times.

(38) The investigation showed that sales made by these exporters to the Community of the product concerned were mainly made through sales channels comparable both to the ones used by other exporters, and as well as the ones of the Community industry (i.e. traders). In any event, the conditions of competition within the meaning of Article 3(4) of the Basic Regulation are established on a country-wide basis and not examined for each individual exporter. These submissions are therefore rejected.

(39) It was also argued that imports from Ukraine should not be cumulated with imports originating in the other countries concerned given the low volume of imports involved.

(40) In this respect it is stressed that even if Ukraine's market share was lower than the ones held by the other investigated countries, it cannot be considered as negligible as defined in Article 5(7) of the Basic Regulation and Article 5(8) of the Agreement on implementation of Article VI of the of the General Agreement on Tariffs and Trade 1994. Furthermore, all the other conditions for cumulation as set out in Article 3(4) of the Basic Regulation were met.

(41) In view of the above, as there were no new facts showing that the conditions for cumulation for the countries concerned were not met, the provisional findings concerning the cumulative assessment of the effects of the imports concerned, as described in recitals 89 to 97 of the Provisional Regulation, are hereby confirmed.

3. **Imports originating in the countries concerned**

(i) *Volume, market share, price evolution*

(42) In the absence of any new argument, the provisional findings concerning the volume, the market share and the price evolution of the imports originating in the countries concerned, as described in recitals 98 to 104 of the Provisional Regulation are hereby confirmed.

(43) It should be noted that after the publication of the Provisional Regulation, two additional Turkish companies were found not to have dumped. If the imports from these exporting producers were excluded, the increase in volume of dumped imports would remain significant, as shown in the table below, namely an increase of 20 %. The market share of the remaining dumped imports increased by 5,9 percentage points during the period considered. The dumped imports still represented more than 24 % of the Community market during the IP.

Dumped imports	1997	1998	1999	2000	IP
Volume (tonnes)	161 759	192 989	168 406	222 489	193 963
Index: 1997 = 100	100	119	104	138	120
Market share	18,2 %	22,2 %	19,9 %	25,6 %	24,1 %

(ii) *Price undercutting*

(44) Concerning imports originating in Turkey, it is confirmed that the level of undercutting found was on average 14,0 %. It has been established that if the imports from exporting producers

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found not to have dumped are excluded, this would not significantly alter the level of undercutting.

(45) In respect of imports originating in the Czech Republic, it was argued that a comparison of Czech export prices either as shown in Eurostat statistics or in some individually selected cases, with the Community industry's ones, would not show any undercutting. It was therefore requested that the undercutting calculation should be revised accordingly.

(46) According to normal practice, in order to calculate the price undercutting, verified average Community industry's and average exporters' prices were compared for the whole IP on a product type by product type basis and at the same level of trade. This comparison did show undercutting, and accordingly, this argument had to be rejected.

(47) It was argued that, as Eurostat statistics indicate lower prices in Germany than in the other Member States, the undercutting calculation should be performed comparing prices of the exporting producers with the prices charged by the Community industry in each Member State.

(48) In this respect it should be noted that the Community is considered as one single market for the purpose of anti-dumping investigations and it is normal practice that, in order fully to reflect the undercutting level, the undercutting calculation is made comparing the prices of each exporting producer to the average prices of the Community industry as a whole. In addition, it should be noted that sales of the product concerned are mainly made through traders who then sell to their customers that can be located in any part of the Community market. The Eurostat statistics confirm this, showing as they do an important level of intra-Community trade.

(49) The Thai cooperating exporter claimed that in order to compare the product concerned at the same level of trade as that of the Community industry, an adjustment of 10 % should be made to the cif value of the imported goods in order to reflect the importers' SG&A and profits.

(50) It should be noted that the prices of the imported product concerned have been increased by EUR 10 per tonne in order to reflect the costs that importers incur after importation. Both Community industry and exporters are mainly selling to equal types of customers, namely importing traders who then sell the product to the users. Accordingly, should exporters' prices be increased as requested, they would effectively represent prices at a different level of trade from the ones of the Community industry. In addition, no backing evidence has been provided to support the request. The request is therefore rejected.

(51) In the absence of any new element concerning the methodology used for the undercutting calculation and taking into account the correction of clerical errors, the products concerned originating in the countries concerned were sold in the Community in the IP at prices which on average undercut the Community industry's prices, when expressed as a percentage of the latter, as follows: the Czech Republic 14,8 %, Poland 14,5 %, Thailand 21,4 %, Turkey 14,0 % and Ukraine 33,0 %.

4. **Situation of the Community industry**

(52) In the absence of any new information affecting the findings of the situation of the Community industry, the provisional findings as described in recitals 107 to 139 of the Provisional Regulation are hereby confirmed.

5. **Conclusion on injury**

(53) In the absence of any new information on the situation of the Community industry, the provisional findings on the injury suffered by the Community industry as described in recitals 140

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to 142 of the Provisional Regulation are hereby confirmed, with the exception of the average level of undercutting indicated in recital 140 which has been revised to 16,6 %.

G. **CAUSATION**

(54) No interested parties presented new arguments or evidence on causation. Nevertheless, the effects on the injury suffered by the Community industry by the impact of trade protective measures imposed by third countries and by imports originating in other third countries were further investigated.

(55) Concerning the trade protective measures imposed by third countries, it was found that even had the level of total exports of the Community industry remained stable at 1997 level, the decrease in production and in the capacity utilisation of the Community industry between 1997 and the IP would nevertheless have remained substantial. This is due to the minor part played by exports compared to total sales. Whilst exports to all countries (i.e. not only to the ones having imposed trade protective measures) declined between 1997 and the IP, this was only from about 9,5 % of total Community sales in 1997 to about 8 % in the IP. Accordingly, the impact of the trade protective measures imposed by third countries was negligible. In addition, stable exports would not have changed the decreasing trend in profitability.

(56) Concerning imports originating in Romania and Hungary and non-dumped imports originating in Turkey, it was found that in terms of volumes they cumulatively decreased by 25 % between 1997 and the IP. This negative trend is similar to the one observed for sales by the Community industry to unrelated customers, which decreased by 17 %. It is also opposite to the increase by 20 % in dumped imports originating in the five investigated countries. In conclusion, the decreasing trend of the volume of these imports and the low market shares involved confirm that these imports do not alter the findings on causation.

(57) In the light of the above, the findings of the Provisional Regulation as described in recitals 143 to 168 are hereby confirmed.

H. **COMMUNITY INTEREST**

(58) Following the imposition of the provisional measures, the only comments received on Community interests were provided by the Community industry which supported the Commission's provisional conclusions that the imposition of any anti-dumping measure is not likely to cause a considerable increase in users' costs or seriously affect their situation. It should be noted that the main user of the product concerned is the construction industry and that for these users the cost of laying, installing and maintaining the conduits, as linked to the cost of manpower, is much more important than the cost of tubes themselves. In addition, the cost of the installed piping itself is a very small part of the total housing construction cost.

(59) It should also be noted that as the product concerned is mainly sold in the market through traders, prices that end-users will be actually charged will depend on traders' pricing policy.

(60) In view of the above and in the absence of any new information on the analysis of the Community interest aspects of the case and in particular in the absence of cooperation or reactions from users, the provisional findings as described in recitals 169 to 196 of the Provisional Regulation are hereby confirmed.

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(61) It was argued that the present anti-dumping proceeding should be terminated in order to avoid a higher level of protection than what is deemed to be necessary as the product concerned is included in the scope of the safeguard investigation initiated on 28 March 2002 ([1]).

(62) The product concerned is indeed covered by the scope of the safeguard investigation. It should be noted, however, that it is not subject to provisional safeguard measures. Should the Commission propose the adoption of any definitive safeguard measures in respect of this product, it will also consider whether the combination of different types of measure could give rise to a higher level of protection than is necessary, and whether the anti-dumping duty should be amended accordingly. Interested parties will be given an opportunity to comment on this issue.

I. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

(63) Some exporters have argued that the methodology used at the provisional stage for establishing the non-injurious prices lead to artificially inflated prices. It was thus requested that the methodology be reviewed.

(64) The methodology used at the provisional stage to establish non-injurious prices per model and per level of trade involved the following:

— to establish the break even point, the weighted average actual sales prices charged by each Community industry company was adjusted upward or downward according to its actual loss or profits,

— to that break even point, a profit margin of 5 % was added.

At the definitive stage, the methodology was reviewed and the non-injurious prices per model and per level of trade were calculated as follows:

— to establish the break even point, the weighted average actual sales prices charged by each Community industry company was adjusted downward according to the Community industry's average actual profit,

— to that break even point, a profit margin of 5 % was added.

(65) It should also be noted that by using the profits of the Community industry on a weighted average basis as was done at the definitive stage, the situation of the Community industry in terms of prices, profitability and quantities involved is fully reflected.

(66) It was also argued that the reviewed methodology led for certain models to discrepancies between cost of production and non-injurious prices. In this respect it should be noted that as the non-injurious prices are based on actual prices of the Community industry they also reflect the market situation of each model. Consequently, this methodology allows a fair comparison of prices.

(67) Furthermore, the correction of clerical errors made in the context of the price undercutting calculations has been also applied to the injury margin calculation.

(68) Given the cooperation of only one Thai company at the definitive stage and the low level of cooperation for Thailand and in order not to give a bonus for non cooperation, according to Article 18(6) of the Basic Regulation, the residual injury margin for Thailand has been established on the basis of Eurostat information.

([1]) OJ C 77, 28.3.2002, p. 39.

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(69) The revised injury elimination margins found were as follows:

Country	Company	Injury margin
Turkey	Yücel Boru Profil Endüstrisi AS.	27,8 %
	Cayirova Boru San Ve Tic AS.	27,8 %
	►C1 Borusan Birlesik Boru Fabrikalari AS. ◄	20,3 %
	►C1 Mannesmann Boru Endüstrisi AS. ◄	20,3 %
	Noksel Celik Boru Sanayi AS.	17,2 %
	Erbosan Erciyas Boru Sanayii ve Ticaret AS.	10,9 %
	Non-sampled cooperating companies:	
	— Borutas Boru Sanayii ve Ticaret AS.	22,3 %
	— Cinar Boru Profil San. Tic. Ltd STI	22,3 %
	— Guven Boru ve Profil Sanayi ve Ticaret Ltd Sti.	22,3 %
	— Özdemir Boru Profil San.ve Ticaret AS.	22,3 %
	— Sevil Boru-Profil Sanayii ve Ticaret AS.	22,3 %
	— Toscelik Profil ve Sac. Endüstrisi AS.	22,3 %
	— Özborsan San.ve Ticaret AS.	22,3 %
	All other companies	27,8 %
Czech Republic	Jäkl Karvina	17,9 %
	Železárny Veselí as.	52,6 %
	All other companies	52,6 %
Poland	Huta Buczek	0,0 %
	All other companies	23,0 %
Ukraine	OJSC Nihnedeneprovsky Tube Rolling Plant	56,2 %
	All other companies	56,6 %
Thailand	Saha Thai Steel Pipe Co. Ltd	33,8 %
	All other companies	35,2 %

2. **Definitive anti-dumping measures**

(70) It was argued that any measure should not exceed the difference between the target profit margin and the profit obtained by the Community industry during the IP. The target profit margin of 5 % of turnover which the Community industry could be expected to obtain in the absence of injurious dumping was established in recital 199 of the Provisional Regulation.

(71) It should be noted that duties are imposed for each cooperating company and each investigated country following the lesser duty rule. It should also be noted that the methodology used in order to determine the non-injurious prices for the Community industry reflects the found target profit of 5 % but that it is the

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difference between the actual level of prices charged by the exporters and the non-injurious prices of the Community industry which determines the level of injury found. The request is therefore rejected.

(72) In the light of the foregoing, it is considered that, in accordance with Article 9(4) of the Basic Regulation, a definitive anti-dumping duty should be imposed in respect of imports originating in the Czech Republic, Poland, Thailand, Turkey and Ukraine at the level of the dumping margins found, or at the level of the injury margins found, where these are lower.

(73) On the basis of the above, the proposed definitive duty rates, expressed as a percentage of the cif Community border price, before duty, are as follows:

Country	Company	Level of duty
Turkey	Yücel Boru Profil Endüstrisi AS.	0,0 %
	Cayirova Boru San Ve Tic AS.	0,0 %
	►C1 Borusan Birlesik Boru Fabrikalari AS. ◄	5,0 %
	►C1 Mannesmann Boru Endüstrisi AS. ◄	5,0 %
	Noksel Celik Boru Sanayi AS.	0,0 %
	Erbosan Erciyas Boru Sanayii ve Ticaret AS.	6,0 %
	Non-sampled cooperating companies	
	— Borutas Boru Sanayii ve Ticaret AS.	5,2 %
	— Cinar Boru Profil San. Tic. Ltd STI	5,2 %
	— Guven Boru ve Profil Sanayi ve Ticaret Ltd Sti.	5,2 %
	— Özdemir Boru Profil San.ve Ticaret AS.	5,2 %
	— Sevil Boru-Profil Sanayii ve Ticaret AS.	5,2 %
	— Toscelik Profil ve Sac. Endüstrisi AS.	5,2 %
	— Özborsan San.ve Ticaret AS.	5,2 %
	All other companies	6,0 %
Czech Republic	Jäkl Karvina	17,9 %
	All other companies	52,6 %
Poland	Huta Buczek	0,0 %
	All other companies	23,0 %
Ukraine	OJSC Nihnedeneprovsky Tube Rolling Plant	30,9 %
	All other companies	44,1 %
Thailand	Saha Thai Steel Pipe Co. Ltd	21,7 %
	All other companies	35,2 %

(74) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found

▼B

during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(75) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ([1]) forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

3. **Undertaking**

(76) After provisional measures had been imposed, a number of exporting producers, namely Jäkl Karvina and Železárny Veselí in the Czech Republic, Saha Thai in Thailand and ►C1 Borusan Birlesik Boru Fabrikalari AS/Mannesmann Boru Endüstrisi AS ◄ in Turkey, offered price undertakings in accordance with Article 8(1) of the Basic Regulation.

(77) In this respect, the Commission has noted that:

— the product concerned is a commodity product with a considerable volatility in prices even in the very short term, and therefore not very suitable for a fixed price undertaking,

— the volatility is due to the variation in prices of raw materials, namely hot rolled coils and zinc, which constitute major but variable components of the cost of production. This is also linked to currency exchanges rates, which are stable within the Community except for the United Kingdom, Sweden and Denmark, but fast changing with regard to the USD, the currency in which the transactions are made, especially in Thailand and Turkey. A monthly revision of prices would be necessary,

— if the MIPs (minimum import prices) were indexed to the price of hot rolled coils and zinc, different indexing formulae would have to be established by sub-product group, since the energy and manpower per tonne vary between sizes. For this reason, should a review formula system be implemented, it would be necessary to establish between 3 and 4 sub-formulae for each category of product according to the size range.

(78) Moreover, some of the producers who offered price undertakings export a variety of steel products such as welded tubes, structural pipes, carbon steel tubes, square tubing, rectangular tubing, etc., which are only partially subject to the anti-dumping investigation. The risk of compensation in prices for the different products exported to the same customers is therefore high. On a general basis, the Community industry also claimed that undertakings, and thus minimum prices, would clearly not be appropriate measures with regard to the product concerned for

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the same reasons. In light of the above, these offers of price undertakings were rejected.

4. **Definitive collection of provisional duties**

(79) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the Provisional Regulation, should be definitively collected at the rate of the duty definitively imposed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of welded tubes and pipes of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding tubes and pipes of a kind used for oil or gas pipelines, of a kind used in drilling for oil or gas, or with attached fittings for use in civil aircraft, other than precision tubes, falling within CN codes ex 7306 30 51, ex 7306 30 59, ex 7306 30 71, and ex 7306 30 78 (TARIC-codes 7306 30 51*10, 7306 30 59*10, 7306 30 71*91, 7306 30 78*91), and originating in the Czech Republic, Poland, Thailand, Turkey and Ukraine.

2. The rate of the definitive anti-dumping duty applicable to the net-at-Community-frontier price, before duty, for the products described in paragraph 1 and produced by the following companies shall be as follows:

Country	Company	Rate of duty	TARIC additional code
Turkey	Yücel Boru Profil Endüstrisi AS.	0,0 %	A330
	Cayirova Boru San Ve Tic AS.	0,0 %	A331
	►C1 Borusan Birlesik Boru Fabrikalari AS. ◄	5,0 %	A332
	►C1 Mannesmann Boru Endüstrisi AS. ◄	5,0 %	A333
	Noksel Celik Boru Sanayi AS.	0,0 %	►C1 A334 ◄
	Erbosan Erciyas Boru Sanayii ve Ticaret AS.	6,0 %	A335
	Non-sampled cooperating companies:		
	— Borutas Boru Sanayii ve Ticaret AS.	5,2 %	A336
	— Cinar Boru Profil San. Tic. Ltd STI	5,2 %	A337
	— Guven Boru ve Profil Sanayi ve Ticaret Ltd Sti.	5,2 %	A338
	— Özdemir Boru Profil San.ve Ticaret AS.	5,2 %	A339
	— Sevil Boru-Profil Sanayii ve Ticaret AS.	5,2 %	A340
	— Toscelik Profil ve Sac. Endüstrisi AS.	5,2 %	A341
	— Özborsan San.ve Ticaret AS.	5,2 %	A342

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Country	Company	Rate of duty	TARIC additional code
	All other companies	6,0 %	A999
Czech Republic	Jäkl Karvina	17,9 %	A343
	All other companies	52,6 %	A999
Poland	Huta Buczek	0,0 %	A344
	All other companies	23,0 %	A999
Ukraine	OJSC Nizhnedeneprovsky Tube Rolling Plant	30,9 %	A345
	All other companies	44,1 %	A999
Thailand	Saha Thai Steel Pipe Co. Ltd	21,7 %	A405
	All other companies	35,2 %	A999

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

Article 2

The amounts secured by way of the provisional anti-dumping duty imposed pursuant to the Provisional Regulation shall be definitively collected at the rate of the duties set out in Article 1, or at the rate of the provisional duty where this is lower. The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 3

Where any Turkish party provides sufficient evidence to the Commission that it did not export the goods described in Article 1(1) during the IP, that it is not related to any exporter or producer subject to the measures imposed by this Regulation and that it has exported the goods concerned after the IP, or that it has entered into an irrevocable contractual obligation to export a significant quantity to the Community, the Council, acting by simple majority on a proposal submitted by the Commission, after consulting the Advisory Committee, may amend Article 1(2) in order to attribute to that party the duty applicable to cooperating producers/exporters not in the sample, i.e. 5,2 %.

Article 4

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.