This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►**B**

COUNCIL REGULATION (EC) No 964/2003

of 2 June 2003

imposing definitive anti-dumping duties on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not

(OJ L 139, 6.6.2003, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 2212/2003 of 17 December 2003	L 332	3	19.12.2003

▼B

COUNCIL REGULATION (EC) No 964/2003

of 2 June 2003

imposing definitive anti-dumping duties on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not

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]) ('basic Regulation'), and in particular Article 11(2) and (3) thereof,

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

Whereas:

A. **PREVIOUS INVESTIGATION**

(1) By Regulation (EC) No 584/96 ([2]), the Council imposed a definitive anti-dumping duty on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China ('China'), Croatia and Thailand. The measures applying to these imports consisted of an *ad valorem* duty, except for three Thai exporting producers from which undertakings were accepted by Commission Decision 96/252/EC ([3]). In July 2000, the anti-dumping measure applicable to the imports of one of these three companies was repealed, following an interim review requested by this company, pursuant to Article 11(3) of the basic Regulation and which showed the absence of dumping ([4]).

(2) Pursuant to Article 13(3) of the basic Regulation, the anti-dumping measures on imports from China have been extended by Regulation (EC) No 763/2000 ([5]), to cover certain imports of the product concerned which are consigned from Taiwan, based on the findings in an anti-circumvention investigation.

B. **PRESENT INVESTIGATION**

(3) Following the publication, in September 2000, of a notice ([6]) of the impending expiry of the anti-dumping measures in force, the Commission received a request for an expiry review lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry, on behalf producers representing a major proportion of the total Community production of certain tube or pipe-fittings of iron or steel. The request alleged that injurious dumping of imports originating in China and Thailand ('the countries concerned') would be likely to recur if measures expired. The applicant Community producers did not request the initiation of an expiry review concerning imports originating in Croatia on the grounds that available statistics show very low exports worldwide and, accordingly, no reliable evidence concerning the likely recurrence of injurious dumping. Consequently, the measures applicable to imports originating in Croatia expired on 4 April 2001.

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
([2]) OJ L 84, 3.4.1996, p. 1.
([3]) OJ L 84, 3.4.1996, p. 46.
([4]) Commission Decision 2000/453/EC (OJ L 182, 21.7.2000, p. 25).
([5]) OJ L 94, 14.4.2000, p. 1. Regulation as amended by Regulation (EC) No 2314/2000 (OJ L 267, 20.10.2000, p. 15).
([6]) OJ C 271, 22.9.2000, p. 4.

▼B

(4) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation ([1]), pursuant to Article 11(2) of the basic Regulation.

(5) At the same time, likewise after consultation of the Advisory Committee, the Commission initiated an ex officio interim review pursuant to Article 11(3) of the basic Regulation, in order to examine the appropriateness of the form of the measures concerning the imports originating in Thailand.

(6) The investigation regarding the continuation and/or recurrence of dumping and injury covered the period from 1 April 2000 to 31 March 2001 ('IP'). The examination of the trends relevant for the assessment of a likelihood of a continuation and/or recurrence of injury covered the period from 1 January 1996 up to the end of the IP ('period under review').

(7) The Commission officially advised the applicant Community producers, the exporters and exporting producers in China and Thailand, importers/traders, user industries, and associations of users known to be concerned, as well as the representatives of the Chinese and Thai Governments of the initiation of the review. The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set in the notice of initiation. The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(8) The following Community producers replied to the questionnaire, and verification visits were carried out at their premises:

(a) Erne Fittings GmbH & Co — Schlins, Austria

(b) Interfit — Maubeuge, France

(c) Siekmann Fittings GmbH & Co. KG — Lohne, Germany

(d) Virgilio CENA & Figli S.p.a.– Brescia, Italy.

(9) The two following exporting producers in Thailand replied to the questionnaire and verification visits were also carried out at their premises:

(a) TTU Industrial Corp., Ltd, Bangkok

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

(10) The Commission sent questionnaires to 57 unrelated importers/traders, 23 user industries and 5 associations of user industries. Two questionnaire replies by importers have been received and these were subsequently verified on spot:

(a) INRABO S.R.L — Bologna, Italy

(b) IRC Spa — Cortemaggiore, Italy.

C. **ONGOING INVESTIGATION CONCERNING OTHER COUNTRIES**

(11) By a notice ([2]) published in the Official Journal dated 1 June 2001, the Commission initiated an investigation concerning imports of the same product and originating in the Czech Republic, the Republic of Korea, Malaysia, Russia and Slovakia. This proceeding was initiated upon receipt of a complaint lodged by the Defence Committee of EU Steel Butt-welding Fittings Industry, and containing sufficient prima facie evidence of injurious dumping practices caused by imports originating in these five countries. Definitive anti-dumping measures were imposed against imports originating in those countries in August 2002 ([3]).

([1]) OJ C 103, 3.4.2001, p. 5.
([2]) OJ C 159, 1.6.2001, p. 4.
([3]) OJ L 228, 24.8.2002, p. 1.

▼B

D. **PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT**

(12) The product concerned is the same as in the original investigation, i.e. certain tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes ('product concerned' or 'tube or pipe fittings'), currently classifiable within CN codes ex 7307 93 11 (TARIC code 7307 93 11 99), ex 7307 93 19 (TARIC code 7307 93 19 99), ex 7307 99 30 (TARIC code 7307 99 30 98) and ex 7307 99 90 (TARIC code 7307 99 90 98).

(13) Tubes or pipe fittings are used to join tubes or pipes and come in several different shapes (elbows, tees, reducers and caps), material grade and sizes. They can accordingly be categorised in different types according to these characteristics. They are mainly used in primary industries, such as chemicals, oil refining, energy generation, construction and shipbuilding.

(14) As in the previous investigation, this investigation has shown that the tube or pipe fittings of iron or steel, produced in the countries concerned, sold domestically and/or exported to the Community have the same basic physical and chemical characteristics as the products sold in the Community by the applicant Community producers and are considered to be like products, within the meaning of Article 1(4) of the basic Regulation.

E. **LIKELIHOOD OF A CONTINUATION OR A RECURRENCE OF DUMPING**

PRELIMINARY REMARK

(15) Under Article 11(2) of the basic Regulation, the purpose of this type of review is to determine whether or not the expiry of the measures would be likely to lead to a continuation or recurrence of dumping. Since the imports of the product under consideration from China and Thailand (with the exclusion of one exporting producer which is no longer subject to anti-dumping measures) were below the *de minimis* threshold in the IP, the analysis will not only focus on the likelihood of a continuation of dumping, but also on whether the removal of the measures would be likely to lead to a recurrence of dumping in significant volumes. It should be noted that in the original investigation the market shares of China and Thailand were 8,5 % and 2,6 % respectively.

(16) The two Thai exporting producers for which undertakings are currently in force cooperated in the investigation by replying to the questionnaire which was sent out by the Commission. No information was submitted by any Chinese exporting producer and therefore the findings related to their situation had to be established on the basis of the facts available, in accordance with Article 18 of the basic Regulation. In accordance with Article 11(9) of the basic Regulation, the Commission employed the same methodology as in the original investigation (see recitals 17 to 31 below).

LIKELIHOOD OF A CONTINUATION OF DUMPING

Thailand

Normal value

(17) As far as the determination of normal value is concerned, it was first established for the two cooperating Thai exporting producers whether their total domestic sales of the like product were representative in comparison with their total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, this was found to be the case.

▼B

(18) The Commission subsequently identified those product types, sold domestically by the companies concerned, that were identical or directly comparable to the types sold for export to the Community.

(19) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value either because they had not been sold on the domestic market or not in the ordinary course of trade, another method had to be applied. In the absence of any other reasonable method, constructed normal value was used.

(20) In all cases where constructed normal value was used and in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, a reasonable percentage for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade.

Export price

(21) Since all export sales of the product under consideration were made directly to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable.

Comparison

(22) For the purposes of a fair comparison by product type on an ex-factory basis and at the same level of trade, due allowance was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made in respect of import charges, transport, insurance, handling costs, packing, credit and commissions in accordance with Article 2(10) of the basic Regulation.

(23) One Thai exporting producer claimed an adjustment for credit cost on the grounds that it was standard practice to grant 30 to 90 days of credit to known domestic customers. This claim was rejected because the applicant failed to show, e.g. by means of contracts or a description of the payment terms on the invoices, that this was a factor taken into account in the determination of the prices charged.

(24) Both Thai companies claimed an allowance for import charges. Pursuant to Article 2(10)(b) of the basic Regulation these requests were granted where it was demonstrated that the materials on which import duties were payable had been physically incorporated into the products concerned sold on the domestic market and that the import duties had not been collected or were refunded in respect of the product exported to the Community. Only one of the two companies was able to demonstrate this.

Dumping margin

(25) In order to calculate the dumping margin, the Commission compared the weighted average normal value to the average export price to the Community at ex-factory level and at the same level of trade. This comparison showed the existence of dumping for both companies concerned, ranging from about 23 to about 88 %.

China

Analogue country

(26) The existing measures provide for a single countrywide duty on all imports into the Community of tube and pipe fittings originating in China. Accordingly, normal value was determined on

▼B

the basis of information obtained in a market economy third country ('the analogue country').

(27) Thailand had served as an analogue country in the original investigation. In the notice of initiation of this expiry review it was therefore envisaged to choose Thailand again as analogue country for the purpose of establishing normal value. Since it was found that the findings of the previous investigation were still valid, i.e. prices were governed by market forces, several producers competed on the Thai market and the production technology and process were, to a large extent, similar between China and Thailand, as no interested party commented on this choice of analogue country and since the Thai exporting producers cooperated, Thailand was, therefore, in accordance with Article 2(7) of the basic Regulation, considered to be an appropriate and not unreasonable choice of analogue country for establishing normal value in respect of China for the product concerned.

Normal value

(28) In the absence of cooperation from China, recourse had to be made to facts available. In the circumstances of this case no information on the product mix of Chinese exports was available, and therefore the determination of the normal value had to be established on the basis of the weighted average of the various normal values established for the cooperating Thai exporting producers during the investigation period.

Export price

(29) As regards the exports to the Community, given that exporting producers in China did not cooperate, findings had to be based on the facts available, in accordance with Article 18(1) of the basic Regulation. The export price was thus determined on the basis of Chinese export trade statistics since it was found that these appeared to be more reliable for the product concerned than Eurostat data. In this context it should be noted that the Eurostat statistics for the product concerned are ex codes, i.e. they do not exclusively include the product concerned, and that the Chinese data were more in line with the complaint.

Comparison

(30) For the purpose of a fair comparison, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made for differences in respect of transport and insurance costs, which were considered to affect prices and price comparability.

Dumping margin

(31) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value, on an ex-factory Thai basis, was compared to the weighted average export price on an ex-factory China basis, at the same level of trade. The above comparison showed the existence of significant dumping.

Conclusion

(32) The investigation has revealed that although the quantities imported were limited, imports from both countries have continued at considerably dumped levels. The investigation did not reveal any reason why the level of dumping would disappear or decrease if the measures were to be repealed. It was therefore concluded that there is a likelihood of continuation of dumping. However, it was considered appropriate to also examine whether there would be a recurrence of dumping in increased export volumes should the existing measures be repealed.

▼B

Likelihood of a rise in dumped exports to the Community

(33) For the purposes of the examination of a likelihood of recurrence of dumping in significant quantities, the following factors were assessed: the evolution of the export and/or production capacity, the background of circumvention in the case of China and the situation in the export behaviour on third country markets.

Thailand

(34) The undertakings that have been accepted for the two cooperating exporting producers, in the framework of the original proceeding, had the effect of limiting their sales to the Community market during the investigation period. No breach of undertakings has been observed during this period.

Export capacity

(35) The investigation showed that both cooperating companies have a very significant propensity to export, as during the period under review, more than 80 % of their production of the product concerned was exported. It appears that these companies have considerable flexibility in their production capacity, which represents around 25 % of the total EC consumption. In addition, the fact that these companies are extremely export oriented shows that they are likely to redirect their export sales to any market that would become more attractive in terms of prices and volume.

Thailand's exports to third countries

(36) In view of the low volume currently imported into the Community, the export behaviour of the Thai exporting producers on one of their main export markets, the United States of America, has been considered. It was found that in 1992, following an anti-dumping proceeding concerning imports of a product largely overlapping with the one concerned by this investigation, limited to a diameter below 360 mm, and originating, *inter alia*, in Thailand, the US administration found margins of dumping for this country ranging from 10,7 % to 50,8 %. More importantly, in December 1999, pursuant to an expiry review, it was concluded that the removal of these measures would be likely to lead to the continuation or recurrence of dumping ([1]).

China

Production and capacity utilisation

(37) Given the absence of cooperation from Chinese exporting producers, the Commission services had to make use of the facts available. Since little information is known about the Chinese industry, the following conclusions rely on the information contained in the complaint and Chinese export trade statistics. Support for these findings was also found in information that was made public in the framework of similar proceedings in the USA.

(38) According to these sources, the total Chinese production capacity for the product concerned is around 250 000 metric tonnes per year. The current yearly Chinese production volume, as estimated in the complaint, is around 90 000 tonnes. This estimation is based on the Chinese worldwide export volume given by the trade statistics (around 17 000 tonnes/year), and on a domestic consumption estimated at roughly equal the Community consumption (around 70 000 tonnes/year).

([1]) US Federal Register/Vol. 64, No 232, 3.12.1999.

▼B

(39) On this basis, the Chinese capacity utilisation rate would be below 40 % and their spare capacity higher than the total Community consumption.

(40) Consequently, the large production capacity available in China, combined with the size of the Chinese domestic market, gives Chinese exporting producers considerable flexibility to switch both between markets and product types. These producers are therefore able to quickly increase production and direct it to any export market, including, were the measures to be repealed, the Community market.

Background of circumvention

(41) It should be noted that the Chinese exporting producers not only have the capacity to massively resume their exports to the Community, but are also inclined to do so. This is demonstrated by the fact that, after the imposition of the original measures in 1995, the yearly imports from Taiwan have on average multiplied by a factor of 4, until an anti-circumvention investigation ([1]) showed that most of these imports were actually of Chinese origin and therefore measures applicable to China were extended to Taiwan (with the exception of three Taiwanese producers) in June 2000.

Chinese exports to third countries

(42) The export behaviour of Chinese producers on other significant markets for the product concerned was also investigated. In this respect, the USA initiated, in the last decade, three different investigations concerning imports of a product largely overlapping with the one concerned by this investigation, limited to a diameter below 360 mm, originating, *inter alia*, in China. The first investigation, which took place in 1992, established very high margins of dumping (up to 182,9 %), and therefore anti-dumping measures were imposed against imports of the product concerned originating, *inter alia*, in China. Two years later, in 1994, a second investigation determined that these anti-dumping measures were circumvented by shipping the products through Thailand. Finally, the anti-dumping measures in force have been reviewed in 1999 with the conclusion that the removal of the measures would lead to continuation or recurrence of injurious dumping.

(43) All this shows that if the measures were to be repealed, the Chinese producers will very likely adopt the same export behaviour on the EC market, a market which is comparable to the one of the USA.

(44) Finally, the absence of Chinese cooperation to the investigation is an indication that no Chinese producer was willing or able to show that no dumping would take place if measures were to be repealed.

Conclusion

(45) The investigation has shown that both China and Thailand have continued their dumping practices during the investigation period.

(46) Given the fact that China has a very large spare production capacity available and that it has already circumvented the measures, there is a strong likelihood that Chinese exporting producers would substantially increase their dumped exports of the product concerned to the Community in case existing measures were to be repealed.

(47) With respect to Thailand it should be noted that since the Thai companies are very export oriented and given the attractiveness

([1]) OJ L 94, 14.4.2000, p. 1.

▼B

of the Community market, it is very likely that, should the existing measures be repealed, these companies would resume to export the product concerned to the Community market in substantial volumes and at dumped prices.

(48) Finally, reference is made to the dumped sales of Chinese and Thai exporters on the US market and the US anti-dumping measures which have been renewed in 1999.

(49) In summary, it is highly probable that imports to the Community from the countries concerned will resume in significant quantities and at dumped prices, should the measures be repealed.

DEFINITION OF THE COMMUNITY INDUSTRY

(50) The four Community producers which cooperated fully in the investigation represented around 60 % of the Community production of the product concerned during the IP and therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. It should be noted that three other producers, that also participated in the review request, representing around 10 % of the Community production, did not subsequently reply to the questionnaire within the granted deadline. Two of these producers support the proceeding, while the third one did not express any opinion regarding the proceeding.

F. **THE SITUATION OF THE COMMUNITY MARKET**

COMMUNITY CONSUMPTION

(51) It should be noted that part of the EU producers' domestic sales are made to stockists (which did not cooperate), that in turn export the products outside the Community. The apparent Community consumption was therefore established on the basis of the production volume of the Community industry and of the other Community producers (on the basis of the information contained in the request), and on the Community import and export volume based on Eurostat data.

(52) On this basis, it was established that the Community consumption first increased from around 57 000 tonnes in 1996 to around 64 500 tonnes in 1998, but subsequently dropped to around 50 800 tonnes in the IP.

EVOLUTION OF IMPORTS FROM THE COUNTRIES CONCERNED

Import volumes and market shares

(53) With respect to the countries concerned and Taiwan, the import volume and market shares developed as such:

	1996	1997	1998	1999	2000	IP
Thailand	111	204	614	740	1 049	1 385
market shares	0,2 %	0,3 %	1,0 %	1,0 %	2,1 %	2,7 %
China	316	85	95	78	44	35
market shares	0,6 %	0,1 %	0,1 %	0,3 %	0,1 %	0,1 %
Taiwan	2 663	5 947	4 434	3 246	1 299	1 259
market shares	4,7 %	9,7 %	6,9 %	6,2 %	2,6 %	2,5 %

(54) The overall Thai imports significantly increased from around 100 tonnes in 1996 to around 1 400 tonnes during the IP. The most significant increase took place between 1999 and 2000, which coincides with the entry into force of the Commission Decision to repeal the measures for one Thai exporting producer, resulting from an interim review pursuant to article 11(3) of the

▼B

basic Regulation. When considering only those companies still subject to anti-dumping duties, the increase in volume remained however limited, with a market share increasing from 0,3 % in 1996 to 0,5 % during the IP. It should be noted that in the previous investigation period (from 1 July to 31 December 1993), the Thai market shares were 2,6 %.

(55) As shown above, the volume of imports from China also remained limited during the period under review. It should however be recalled that an anti-circumvention investigation concluded that a significant part of the imports from Taiwan was in fact of Chinese origin. The sharp decrease of these imports in 2000 coincides with the extension of the anti-dumping measures on Chinese imports to certain imports from Taiwan. In the previous investigation period the Chinese market shares reached 8,5 %.

PRICE EVOLUTION OF THE IMPORTS

(56) Export prices of the two cooperating Thai producers have increased by 6 % between 1996 and the IP. However, over the whole period under review, they followed no clear trend, with ups and downs of less than 10 % of the average price during this period.

(57) According to Eurostat statistics, the Chinese export prices overall decreased by 7 % between 1996 and the IP. Like the Thai prices, they followed no clear trend during the period under review.

IMPORT VOLUME AND MARKET SHARES FROM COUNTRIES NOT CONCERNED

(58) As to imports from the countries not concerned by this proceeding, and as shown in the table below, they significantly increased from around 4 300 tonnes in 1996 to 11 700 tonnes during the IP. Their overall increase in market shares during the period under review is 15,5 percentage points.

	1996	1997	1998	1999	2000	IP
Countries not concerned	4 271	5 922	7 510	4 169	10 821	11 686
market shares	7,5 %	9,6 %	1,6 %	8,0 %	21,3 %	23,0 %

G. **ECONOMIC SITUATION OF THE COMMUNITY INDUSTRY**

PRELIMINARY REMARK

(59) The economic indicators presented below show a positive development for the years 1996 to 1998, subsequently followed by a deterioration of the overall economic situation of the Community industry. This development should be seen in the light of the imposition of the definitive anti-dumping measures in 1995, the circumvention practices and the related extension of the measures to certain imports originating in Taiwan in 2000, and finally the increasing volume of dumped imports from other countries subject to a separate proceeding.

Production

Production	1996	1997	1998	1999	2000	IP
metric tonnes	42 455	44 771	46 499	43 009	43 903	46 905

▼B

(60) The Community industry's production first increased by 10 % between 1996 and 1998, then fell back to the 1996 level, to go up again to the level reached in 1998.

Capacity and capacity utilisation rates

Capacity	1996	1997	1998	1999	2000	IP
metric tonnes	88 400	88 400	88 400	87 300	87 900	87 900
Utilisation	48 %	51 %	53 %	49 %	50 %	53 %

(61) The total production capacity of the Community industry was relatively stable over the period under review and therefore the capacity utilisation level followed a trend identical to the one of the production volume.

Sales volume of the product concerned for consumption in the EU

Sales volume in EC	1996	1997	1998	1999	2000	IP
metric tonnes	30 147	30 038	32 897	28 470	24 893	24 313

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

Stocks

Closing stocks	1996	1997	1998	1999	2000	IP
metric tonnes	5 629	5 920	6 022	6 109	5 571	5 401

(63) The level of stocks decreased by around 4 % between 1996 and the IP. While it was more or less stable during the first four years of the period under review, it started to decrease considerably after 1999.

Market share

Market shares	1996	1997	1998	1999	2000	IP
Community industry	52,8 %	48,9 %	50,9 %	54,7 %	49,0 %	47,9 %

(64) The Community industry decreased by 4,9 percentage points in market shares between 1996 and the IP. However, between 1996 and 1999, the market shares increased by 1,9 percentage point, resulting from the imposition of the measures currently under review. Thereafter, the position of the Community industry on the market deteriorated.

Sales prices of the Community industry

Unit price, sales in EC	1996	1997	1998	1999	2000	IP
EUR/metric tonne	1 812	1 686	1 595	1 515	1 437	1 413

▼B

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

Profitability and return on investments

Profitability	1996	1997	1998	1999	2000	IP
% of net turnover in the EC	3,1%	5,2%	3,3%	– 2,4%	– 4,2%	– 3,5%
Return on investment	7,5%	17,7%	17,6%	– 1,0%	– 6,2%	– 3,7%

(66) The Community industry managed to increase its profitability from 3,1 % in 1996 to 5,2 % in 1997. After that year, however, profitability continuously decreased and was clearly negative during the IP, at - 3,5 %. It should be noted that the Community industry was in a loss making situation of around - 7 % on turnover during the investigation period of the original investigation (July to December 1993).

(67) The return on investments broadly followed the profitability curve during the period under review. It should be noted that both direct investments and a portion of investments indirectly related to the production of the product concerned have been considered.

Cash flow

Cash flow	1996	1997	1998	1999	2000	IP
EUR 1 000	3 009	5 393	4 939	1 773	638	281

(68) The cash-flow generated by the sales of the product concerned increased by around 65 % between 1996 and 1998 and then dramatically decreased to EUR 281 000 during the IP.

Ability to raise capital

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

Employment and wages

Employment and wages	1996	1997	1998	1999	2000	IP
Total employees	547	548	580	555	535	580
Average wages per employee (EUR 1 000)	33,4	33,6	35,1	34,5	35,1	35,9

(70) Employment in the Community industry did not follow a clear trend. It increased between 1996 and 1998, from 547 to 580 employees, decreased thereafter, but came back to its 1998 level during the IP. The increase during the IP is to be put in relation to an increasing production during the same period.

(71) The average wages per employee remained stable relatively stable during the years 1996 and 1997, and thereafter it gradually increased. Between 1996 and the IP, the overall increase was of around 7 %.

▼B

Productivity

Productivity	1996	1997	1998	1999	2000	IP
Productivity (production in tonnes per employee)	77,6	81,7	80,2	77,5	82,1	80,9

(72) Productivity increased by 3 % between 1996 and 1998, from 77,6 tonnes per employee to 80,2. It then decreased but regained its 1998 level during the IP.

Investment

Investments	1996	1997	1998	1999	2000	IP
EUR 1 000	2 738	2 222	2 441	3 094	2 781	2 529

(73) New investments remained at a relatively stable level during the period under review. These investment mainly consisted of renewal or improvement of existing equipment and are not related to any capacity increases.

Growth

(74) As explained above, between the years 1996 and 1998, the Community industry could benefit from the growing market, and increased its sales volume and market share. Thereafter however, the Community consumption decreased and, in spite of the decreasing import volume from the countries concerned (specifically circumvented via Taiwan), the Community industry sales and market shares decreased.

Magnitude of dumping margin

(75) In view of the low volume of imports from the countries concerned during the IP, the magnitude of the established dumping margin is expected to have negative effects especially if the volume of the imports concerned increases in the future. In this context the conclusions in heading E.4. are recalled, which stated that it is highly probable that imports to the Community from the countries concerned will resume in significant quantities and at dumped prices, should the measures be repealed.

Recovery from the effects of past dumping

(76) As indicated by the positive evolution of most of the above listed indicators, the economic situation of the Community industry recovered, in the years 1996 to 1998, from the injurious effect of dumped imports originating in the two countries concerned. Thereafter the situation deteriorated again, resulting from the effect of increasing dumped imports from other third countries (see heading C).

CONCLUSION ON THE ANALYSIS OF THE SITUATION OF THE COMMUNITY MARKET

(77) The introduction of the measures against China and Thailand clearly had a positive impact on the economic situation of the Community industry when compared to the situation before their introduction. Most of the injury indicators showed a positive development between 1996 and 1998. Production, capacity utilisation and sales volume went up, resulting in a gain in market shares and increasing employment. The profitability indicators such as return on turnover, return on investments and cash flow also developed favourably. Had the measures not been circumvented by imports from Taiwan, this development would have been even more favourable. However, after 1998, the economic

▼B

situation of the Community industry generally deteriorated: volume of sales, market shares and production decreased as well as profitability and prices. The injury suffered by the Community industry during this period was caused by dumped imports originating in the Czech Republic, Malaysia, Russia, the Republic of Korea and Slovakia, and therefore definitive anti-dumping measures were imposed against these countries in August 2002 ([1]).

H. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF INJURY

(78) In order to assess the likely effect of the expiry of the measures in force, the following elements were considered:

(a) As explained under recitals 33 to 44:

— there are clear indications that the Chinese and Thai producers have the potential to raise and/or redirect their export volumes to the Community market,

— on the basis of the export price behaviour established in respect of Chinese and Thai exports to the USA, it is likely that, in the absence of measures, producers in the countries concerned would readopt a policy of dumped prices on the Community market. Indeed, on an overall basis, the prices charged to these export markets are lower than the prices of the Community industry, even though a detailed analysis could not be carried out in view of the numerous variety of different product types and accordingly the impossibility to establish precise price comparisons for all product types.

(b) The investigation showed that, on the basis of comparable product types, the Thai cooperating exporting producers sold the product concerned at a significantly lower price than the Community industry's. As to China, in the absence of cooperation and due to the variety of product types and thus import prices, no price comparison on a type per type basis could be carried out. However, the available facts indicate that the average Chinese import price is significantly lower than the one practised by Thai producers. It can accordingly be concluded that the difference between the sales prices of the products concerned originating in China and the Community industry's, without imposition of anti-dumping duties, is at least as significant as for imports originating in Thailand.

(c) These low prices would most likely continue to be charged by the countries concerned, also in order to regain their lost market shares. Such a price behaviour, coupled with the ability of China and Thailand to deliver significant quantities of the product concerned on the Community market, would in all likelihood have the effect of reinforcing the price-depressive trend on the market, with an expected negative impact on the economic situation of the Community industry.

(79) Moreover, the lapsing of the measures against Chinese imports would entail the lapsing of the circumvention measures with regard to the imports of the product concerned from Taiwan. In this respect it should be recalled that, as explained under recital 41, the measures against Chinese imports were found to be massively circumvented and therefore extended to Taiwan. Should these measures against Taiwan be repealed, there is a strong likelihood that circumvention will resume.

([1]) Council Regulation (EC) No 1514/2002 of 19 August 2002 (OJ L 228, 24.8.2002, p. 1).

▼B

(80) On the basis of the above, it is concluded that, should the measures be repealed, there is a likelihood of recurrence of injury from China and Thailand.

I. COMMUNITY INTEREST

PRELIMINARY REMARK

(81) According to Article 21 of the basic Regulation, it was examined whether maintenance of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers/traders as well as the users of the product under consideration.

(82) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

(83) On this basis it was examined whether, despite the conclusions on the likelihood of a recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

Interest of the Community industry

(84) The Community industry has proven to be a structurally viable industry. This was confirmed by the positive development of its economic situation at a time when effective competition had been restored after the imposition of the anti-dumping measures that are currently in force. The level of profit it could reach two years after the imposition of the measures was considered at the time of the original investigation to be reasonable with regards to what the industry could be expected to obtain in the absence of dumped imports.

(85) It can reasonably be expected that the Community industry will continue to benefit from the measures currently imposed. Should the measures not be maintained, it is likely that the Community industry will suffer injury, even if action is taken against the other countries that are importing at dumped prices.

Interest of unrelated importers/traders

(86) The Commission sent questionnaires to 57 unrelated importers/traders. Only two importers replied to the questionnaire. One of these importers used to purchase the product concerned from China, but changed its supplier after the measures were imposed. It claimed accordingly not to be affected whether measures were to be maintained or repealed. The second importer is in favour of the prolongation of the measures and claimed that unfair trade behaviour before measures were imposed had a distorting effect on the Community market.

(87) Nineteen other importers replied that they were not concerned by the proceeding since they did not purchase from the countries concerned during the period under review. No other reaction was received and it can accordingly be concluded that the maintenance of the measures will not have a significant negative effect on importers or traders.

Interest of users

(88) The users of the product concerned are mainly petrochemical industries as well as industries active in the building sector. The Commission sent out questionnaires to 23 users and 5 European

▼B

associations of potential users. Only three companies replied and these all claimed not to be interested in the proceeding.

(89) This lack of cooperation appears to confirm that the tube or pipe fittings represent a very small part of total production costs for these companies, and that the measures currently in force did not have any substantial negative effect on their economic situation.

J. CONCLUSION ON COMMUNITY INTEREST

(90) Given the above reasons, it is concluded that it is not considered that any possible impact on importers and user industries would be capable of offsetting the positive effect on the Community industry of the measures against recurrent injurious dumping. Accordingly there are no compelling reasons against the continuation of the anti-dumping measures.

Form of the measures as regards Thailand

(91) As stated in the notice of initiation, the interim review regarding the form of the measure for imports originating in Thailand was initiated by the Commission on its own initiative.

(92) No final conclusions in this respect have been reached yet and the investigation is still on-going.

K. ANTI-DUMPING MEASURES

(93) All parties were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure. No comments were received which were of a nature to change the above conclusions.

(94) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of tube or pipe fittings, of iron or steel, originating in China and Thailand or consigned from Taiwan, as extended by Council Regulation (EC) No 763/2000 and as amended by Council Regulation (EC) No 2314/2000, should be maintained. It is recalled that these measures consist of an *ad valorem* duty for both countries concerned, with the exception of the imports of the product concerned which are manufactured and sold for export to the Community by two Thai companies for which undertakings have been accepted,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, falling within CN codes ex 7307 93 11 (TARIC code 7307 93 11 99), ex 7307 93 19 (TARIC code 7307 93 19 99), ex 7307 99 30 (TARIC code 7307 99 30 98) and ex 7307 99 90 (TARIC code 7307 99 90 98) and originating in the People's Republic of China and Thailand.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows for the products manufactured by:

Country	Rate of duty	TARIC additional code
People's Republic of China	58,6%	—
Thailand	58,9%	8851

▼B

Country	Rate of duty	TARIC additional code
Except: Thai Benkan Co. Ltd, Prapadaeng-Samutprakarn	0%	A118

▼M1

2a Notwithstanding paragraph 2, where imports of the product concerned from Thailand are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Commission Regulation (EC) No 1694/2002 ([1]), the rate of anti-dumping duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Company	Rate of AD duty (%) applicable when safeguard additional duty is payable					TARIC additional code
		To 28.3.200-3	29.3.200-3 to 28.9.200-3	29.9.200-3 to 28.3.200-4	29.3.200-4 to 28.9.200-4	29.9.200-4 to 28.3.200-5	
Thailand	All (Except: Thai Benkan Co. Ltd, Prapadaeng Samutprakarn)	35,2 %	37,6 %	37,6 %	39,7 %	39,7 %	8851

▼B

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

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

Article 2

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

Country	Company	TARIC additional code
Thailand	Awaji Sangyo (Thailand) Co. Ltd, Samutprakarn	8850
	TTU Industrial Corp. Ltd Bangkok.	8850

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

(a) a commercial invoice containing at least the elements listed in the Annex is presented to Member States' customs authorities upon presentation of the declaration for release into free circulation; and

(b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

([1]) OJ L 261, 28.9.2002, p. 1.

▼B

Article 3

►M1 1. ◄ The definitive anti-dumping duty imposed by Article 1 on imports originating in the People's Republic of China is hereby extended to imports of the same fittings (TARIC codes: 7307 93 11 91; 7307 93 19 91; 7307 99 30 92; 7307 99 90 92) consigned from Taiwan (TARIC additional code A 999), with the exception of those produced by Chup Hsin Enterprise Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 098), Rigid Industries Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 099) and Niang Hong Pipe Fittings Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A 100).

▼M1

2. Notwithstanding paragraph 1, with the exception of those fittings produced by the said Chup Hsin Enterprise Co. Ltd, Rigid Industries Co. Ltd and Niang Hong Pipe Fittings Co. Ltd, where imports of fittings consigned from Taiwan are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Regulation (EC) No 1694/2002, the rate of anti-dumping duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Company	Rate of AD duty (%) applicable when safeguard additional duty is payable					TARIC additional code
		To 28.3.2003	29.3.2003 to 28.9.2003	29.9.2003 to 28.3.2004	29.3.2004 to 28.9.2004	29.9.2004 to 28.3.2005	
Taiwan	All (except Chup Hsin Enterprise Co. Ltd, Rigid Industries Co. Ltd and Niang Hong Pipe Fittings Co. Ltd)	34,9 %	37,3 %	37,3 %	39,4 %	39,4 %	A999

▼B

Article 4

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

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

▼B

ANNEX

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

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'
2. The name of the company mentioned in Article 2(1) issuing the commercial invoice
3. The commercial invoice number
4. The date of issue of the commercial invoice
5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier
6. The exact description of the goods
7. The description of the terms of sale, including:
   - price,
   - the applicable payment terms,
   - the applicable delivery terms,
   - total discounts and rebates.
8. Name of the company acting as an importer to which the invoice is issued directly by the company
9. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export by [company name] to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company name], and accepted by the European Commission through [Decision 1996/252/EC]. I declare that the information provided in this invoice is complete and correct.'.