COMMISSION REGULATION (EC) No 1251/2003
of 14 July 2003
imposing a provisional anti-dumping duty on imports of hollow sections originating in Turkey

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 last amended by Regulation (EC) No 1972/2002 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 16 October 2002, the Commission announced, by notice published in the *Official Journal of the European Communities* [3], the initiation of an anti-dumping proceeding with regard to imports into the Community of hollow sections originating in Russia and Turkey (the countries concerned) and commenced an investigation.

(2) The proceeding was initiated following a complaint lodged, in September 2002, by the Defence Committee of the Welded Steel Tube Industry (the complainant) on behalf of producers representing a major proportion, around 80 %, of the total Community production of hollow sections. The complaint contained evidence of dumping of the product concerned and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the complaining Community producers, the other known Community producers, importers and users' associations known to be concerned as well as the known exporting producers and the representatives of Russia and Turkey of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

2. Sampling

(4) In view of the large number of Community producers, importers in the Community not related to an exporting producer in one of the countries concerned and of exporting producers in the countries concerned, it was considered appropriate, in conformity with Article 17 of Regulation (EC) No 384/96 (the basic Regulation), to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would indeed be necessary and, if so, to select a sample, all the above parties were requested, pursuant to Article 17(2) of the basic Regulation, to make themselves known within two weeks of the initiation of the proceeding and to provide the Commission with the information requested in the notice of initiation, for the period from 1 October 2001 to 30 September 2002 (the investigation period or IP).

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ C 249, 16.10.2002, p. 5.

(5) All 14 Community producers on behalf of which the complaint had been lodged agreed to be included in the sample and provided the requested information within the deadline. Amongst them, eight companies ([1]) were selected for the sample. These were found to be representative of the overall complaining Community producers in terms of volume of production and sales of the product concerned in the Community, as well as in terms of geographic coverage.

(6) Twelve unrelated importers also agreed to be included in the sample and provided the requested basic information within the deadline. In view of this situation, the Commission services decided not to apply sampling in the case of the unrelated importers, but to send questionnaires to all the 12 aforementioned importers.

(7) As far as exporting producers are concerned, only one exporting producer in Russia made itself known within the relevant deadline, and therefore sampling was not applied for Russia. In the case of Turkey however, 19 exporting producers agreed to be included in the sample and provided the requested information within the deadline. From those producers, only 16 actually sold the product concerned in the Community during the investigation period. The choice of the sample was made in consultation with the representatives of the companies and the Turkish authorities. An agreement was reached on a sample of five companies covering around 80 % of the total exports of the product concerned to the Community during the IP. In addition to the above, among the companies which had sales to the Community, six companies not selected in the sample have requested an individual examination. In view of the large number of requests which was even exceeding the number of companies selected in the sample, it was considered that such individual examinations would be unduly burdensome in the sense of Article 17(3) of the basic Regulation and only two requests were granted.

3. **Investigation**

(8) The Commission sent questionnaires to all Community producers having agreed to be included in the sample (a full questionnaire to the eight sampled companies and a small questionnaire limited to certain macro-indicators to the six non-sampled companies, see the injury section below), all unrelated importers that made themselves known within the deadlines set out in the notice of initiation, to the only known exporting producer in Russia as well as all exporting producers in Turkey that have been included in the sample or which have been granted individual examination as well as to 11 associations of companies known to be users of the product under consideration.

(9) Replies were received from the eight sampled Community producers, from the six non-sampled Community producers, from six unrelated importers in the Community, one exporting producer in Russia, that also requested market economy treatment (MET), and six exporting producers in Turkey. No reply was received from users.

(10) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) *Sampled Community producers*

— Voestalpine Krems GmbH, Krems/Donau, Austria,

— SRW GmbH, Altensteig-Walddorf, Germany,

— Arcelor Tubes France SA, Vincey, France,

— ILVA SpA, Milano, Italy,

— Marcegaglia SpA, Mantova, Italy,

— Rautaruukki Oyj Metform, Helsinki, Finland,

— Corus UK Ltd, Corby, United Kingdom;

([1]) SRW GmbH, KEM SA, Arcelor Tubes France SA, ILVA SpA, Marcegaglia SpA, Voestalpine Krems GmbH, Rautaruukki Oyj Metform, Corus UK Ltd.

(b) *Sampled exporting producers in Turkey*

— Cayirova Boru San Ve Tic AS, Istanbul (related to Yücel Boru Profil Endüstrisi AS),

— Yücel Boru Profil Endüstrisi AS, Istanbul (related to Cayirova Boru San Ve Tic AS),

— MMZ Onur Boru Profil Uretim, Istanbul,

— Ozdemir Sanayi Ve Tic Ltd, Eregli;

(c) *Exporting producers in Turkey granted individual examination*

— Noksel Celik Boru Sanayi AS, Ankara,

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

(d) *Exporting producer in Russia*

— JSC Severstal, Cherepovets.

(11) It should be noted that due to '*force majeure*' reasons, one of the companies initially selected in the sample for Turkey, Toscelik Profil ve Sac, was finally not able to supply all the requested information to the Commission services in due time. Consequently this company was eventually excluded from the sample and was not visited, but was however still considered as cooperating.

4. **Investigation period**

(12) The investigation of dumping and injury covered the period from 1 October 2001 to 30 September 2002 (investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 1998 to the end of the investigation period (period considered).

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **General**

(13) Hollow sections consist of welded pipes, tubes and hollow profiles of a square or rectangular cross-section of iron or steel with the exception of those made of stainless steel or of a perimeter greater than 600 mm, currently classifiable within CN codes ex 7306 60 31 (TARIC code 7306 60 31 90) and ex 7306 60 39 (TARIC code 7306 60 39 90).

(14) Hollow sections are produced in a vast range of dimensions, thickness, lengths and steel grades. There are basically two fabrication processes. Hollow sections can be cold or hot formed. Both types are used primarily in the construction industry, although the latter is normally used for more demanding applications (e.g. load-bearing, engineering). Amongst the cold-formed hollow sections, the most common type, the so-called 'structural' hollow sections, are primarily used in the construction industry, but which may also be found in various applications (e.g. construction, storage, farm equipment, trailers, trucks, earth movers). By opposition, the so-called 'precision' hollow sections, generally of a smaller size, which are used in end-consumer activities like the automotive industry, office and design furniture, gardening tools and childcare applications. Volume wise, the 'structural' hollow section is by far the most employed.

2. **Product concerned**

(15) The product concerned is hollow sections originating in Russia and Turkey (the product concerned).

(16) The investigation showed that all types of the product concerned, despite differences in the production methods have the same basic physical and technical characteristics and are used for the same purposes.

(17) Therefore and for the purpose of the present anti-dumping proceeding all types of the product concerned are provisionally regarded as one product concerned.

3. **Like product**

(18) It is provisionally determined that the hollow sections produced and sold by the Community industry on the Community market are a like product within the meaning of Article 1(4) of the basic Regulation to the hollow sections exported to the Community originating in the countries concerned. Similarly, the hollow sections produced and sold in the countries concerned are alike to the hollow sections exported to the Community and originating in the countries concerned.

C. **DUMPING**

1. **General methodology**

(19) The general methodology set out hereinafter has been applied for all exporting producers in Turkey and for the sole cooperating Russian exporting producer, for which MET was granted, as explained under recitals 34 to 39. The presentation of the findings on dumping for each of the countries concerned therefore only describes what is specific for each exporting country.

Normal value

(20) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of the product concerned were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

(21) The Commission subsequently identified those types of hollow sections, sold domestically by the companies having representative domestic sales and that were identical or directly comparable to the types sold for export to the Community.

(22) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type of hollow sections sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of hollow sections were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable hollow sections type exported to the Community.

(23) An examination was also made as to whether the domestic sales of each hollow sections type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the hollow sections type in question. In cases where the sales volume of hollow sections type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of hollow sections type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.

(24) In cases where the volume of profitable sales of any type of hollow sections represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(25) Wherever domestic prices of a particular type of hollow sections sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used the prices of the product concerned charged on the domestic market by the other producers, in accordance with Article 2(1) of the basic Regulation. In all cases where this was not possible, constructed normal value was used, in accordance with Article 2(3) of the basic Regulation.

(26) 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, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit. In all cases SG&A and profit were established pursuant to the methods set out in Article 2(6) of the basic Regulation.

Export price

(27) In all cases where the product concerned was exported to independent customers in the Community, the export price was therefore established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

(28) In the case sales were made via a related importer, the export price was constructed on the basis of the resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale by that importer, including SG&A expenses, and a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation.

Comparison

(29) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

Dumping margin

(30) According to Article 2(11) of the basic Regulation, for each exporting producer the weighted average normal value was compared with the weighted average export price.

(31) For non-cooperating companies, a 'residual' dumping margin was determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(32) For those countries where the level of cooperation was high and where there was no reason to believe that any exporting producer abstained from cooperating, it was decided to set the residual dumping margin at the level of the cooperating company with the highest dumping margin, in order to ensure the effectiveness of any measures.

(33) In a case where the level of cooperation for one country was low, the residual dumping margin was determined on the basis of the highest dumped export sales to the Community of representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-cooperation and in view of the fact that there were no indications that a non-cooperating party had dumped at a lower level.

2. **Russia**

Market economy treatment

(34) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in Russia, normal value shall be determined in accordance with Article 2(1) to 2(6) for those producers which were found to meet the criteria laid down in Article 2(7)(c), i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the product concerned.