COMMISSION REGULATION (EC) No 540/2002

of 26 March 2002

imposing a provisional 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

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 2238/2000 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 29 June 2001 the Commission announced by a notice ('notice of initiation') 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 certain welded tubes and pipes, of iron or non-alloy steel originating in the Czech Republic, Poland, Thailand, Turkey and the Ukraine.

(2) The proceeding was initiated as a result of a complaint lodged in May 2001 by the Defense Committee of the Welded Steel Tube Industry of the European Union ('the complainant'), on behalf of producers representing a major proportion of the Community production of certain welded tubes and pipes, of iron or non-alloy steel. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-dumping proceeding.

(3) The Commission officially advised the exporting producers and importers/traders known to be concerned as well as their associations, the representatives of the exporting countries concerned, users, suppliers, the complainant Community producers and other Community producers, 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.

(4) A number of exporting producers in the countries concerned, as well as Community producers, Community users and importers/traders made their views known in writing. All parties who so requested within the above time limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.

(5) In view of the large number of importers and exporting producers in the exporting countries concerned, and in conformity with Article 17 of Regulation (EC) No 384/96 (the 'basic Regulation'), it was considered appropriate 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, importers and exporting producers 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 information on their imports and resale in the Community (importers) or their production, turnover and exports to the Community (exporting producers) during the investigation period (see recital 11) as well as the names and the activities of all related companies.

(6) Seven importers agreed to be included in the sample and provided the requested information within the deadline. Five of them were chosen for the sample on the basis of largest representative volume of imports which could be reasonably investigated within the time available. Two of the five companies did not provide the information requested in the questionnaire for importers and were therefore considered as non-cooperating according to Article 18 of the basic Regulation.

(7) In view of the number of exporting producers concerned sampling had only to be applied for Turkey. Thirteen exporting producers agreed to be included in the sample and provided the requested information within the deadline. Six of them (of which four were related two by two) were chosen for the sample on the basis of largest representative volume of exports which could be reasonably investigated within the time available.

(8) In order to allow exporting producers in the Ukraine to submit a claim for market economy treatment ('MET') or individual treatment if they so wished, the Commission sent to all Ukrainian companies known to be concerned a market economy status and an individual treatment claim form. The Commission also sent questionnaires to all Community producers, all exporters/producers, all importers as well as all users and suppliers known to be concerned as well as to all the parties which made themselves known within the deadlines set out in the notice of initiation.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 257, 11.10.2000, p. 2.
[3] OJ C 183, 29.6.2001, p. 3.

(9) Replies were received from nine of the complainant Community producers, 11 exporting producers in the countries concerned as well as from two importers in the Community which were not related to exporting producers. The Commission also received replies from another Community producer and from four suppliers. Finally, the Commission received one claim form for MET/individual treatment from an Ukrainian producing exporter of the product concerned.

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

(a) *Community producers*

— Tubeurop France SA, Lexy, France,

— Arvedi Tubi Acciaio srl, Cremona, Italy,

— Dalmine SpA, Dalmine, Italy,

— Tuberie de Differdange SA, Differdange, Luxembourg,

— Corus Tubes BV, Oosterhout, the Netherlands,

— Aceralia Perfiles Madrid sl, Madrid, Spain,

— Aceralia Transformados SA, Vera de Bidassoa, Spain,

— Caparo Steel Products Ltd, Tredegar, United Kingdom,

— Corus UK Ltd, Corby, United Kingdom;

(b) *Suppliers in the Community*

— Usinor, Paris, France;

(c) *Exporting producers in the Czech Republic*

— Jäkl Karvina as, Karvina-Hranice,

— Zelezárny Veseli as, Veseli nad Moravou;

(d) *Exporting producer in Poland*

— Huta Buczek SA, Sosnowiec;

(e) *Exporting producers in Turkey*

— Noksel Celik Boru Sanayi AS, Ankara,

— Borusan Birlesik Boru Fabrikalari AS, Istanbul (related to Mannesmann Boru Endustrisi AS),

— Mannesmann Boru Endustrisi AS, Istanbul (related to Borusan Birlesik Boru Fabrikalari AS),

— 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),

— Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri;

(f) *Exporting producer in the Ukraine*

— OJSC Nizhnedneprovsky Tube Rolling Plant, Dnipropetrovsk;

(g) *Analogue country*

Exporting producers in Turkey

— Noksel Celik Boru Sanayi AS, Ankara,

— Borusan Birlesik Boru Fabrikalari AS, Istanbul (related to Mannesmann Boru Endustrisi AS),

— Mannesmann Boru Endustrisi AS, Istanbul (related to Borusan Birlesik Boru Fabrikalari AS),

— 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),

— Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri.

(11) The investigation of dumping and injury covered the period from 1 July 2000 to 30 June 2001 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 1997 to the end of the IP ('period considered').

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(12) The product concerned is welded tubes and pipes, of iron or non-alloy steel, of circular cross-section, threaded or threadable (gas pipes) and certain other welded tubes and pipes, of iron or non-alloy steel, of circular cross-section, of an external diameter not exceeding 168,3 mm. It is currently classifiable within the CN codes 7306 30 51, 7306 30 59, ex 7306 30 71 and ex 7306 30 78.

(13) Welded tubes and pipes are used in a wide range of applications including, amongst others, the conveyance of water, steam, natural gas, air and other liquids and gases in plumbing heating and ventilation systems, air-conditioner units, automatic sprinkler systems, and other similar uses. Quite often they are also used for construction purposes, for load-bearing, fence tubing or as protection means.

(14) The major raw material for the product concerned are hot-rolled coils (HRC), which are formed into tubes. Welded tubes and pipes may then further be treated by coating or galvanisation. These further treatments are intended to increase the quality of the product. They are mostly delivered with plain ends, but also can have bevelled or threaded ends, with or without couplings. The product concerned is produced in numerous sizes and according to various national standards and classifications. It is to a considerable extent interchangeable with regard to their end-use and, therefore, there exists a significant degree of overlap and competition between the various types of the product concerned. It is therefore concluded, as has been done in previous investigations covering the same product, that all types of the product concerned should be considered as a single product for the purpose of this investigation.

2. **Like product**

(15) It is provisionally determined that the product produced in the Czech Republic, Poland, Thailand and Turkey and exported to the Community is alike in all aspects to the product sold on the domestic markets of these countries as well as to the product produced by the Community producers and sold on the Community market. The same is true with regard to the product produced and sold for export to the Community as compared to the product produced and sold in Turkey which served as a market economy third country for the Ukraine. All these products were therefore considered to be alike within the meaning of Article 1(4) of Regulation (EC) No 384/96.

C. **DUMPING**

A. MARKET ECONOMY COUNTRIES

1. **General methodology**

(16) The general methodology set out hereinafter has been applied for all exporting market economy countries concerned. 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

(17) 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.

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

(19) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type of tube 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 tube 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 tube type exported to the Community.

(20) An examination was also made as to whether the domestic sales of each tube 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 tube type in question. In cases where the sales volume of tubes, sold at a net sales price equal to or above the calculated cost of production, represented 80 % or more of the total sales volume 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 made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of tubes represented less than 80 % of the total sales volume 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 only, provided that these sales represented 10 % or more of the total sales volume.

(21) In cases where the volume of profitable sales of any type of tube represented less than 10 % of the total sales volume, 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.

(22) Wherever domestic prices of a particular type of tube 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 another producer. In all cases where this was not possible, and in absence of any other reasonable method, constructed normal value was used.

(23) 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. To this end, the Commission examined whether the SG & A incurred and the profit realised by each of the producing exporters concerned on the domestic market constituted reliable data.

(24) Actual domestic SG & A expenses were considered reliable where the domestic sales volume of the company concerned could be regarded as representative. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade. In all cases where these conditions were not met the Commission used the SG & A expenses and profit of other producers in the domestic market of the exporting country according to Article 2(6)(a) of the basic Regulation. In cases where this was not possible or appropriate, the amount applicable for the same general category of products was taken as a basis for the construction of the normal value in accordance with Article 2(6)(b) of the basic Regulation.

Export price

(25) In all cases the product concerned was exported to independent customers in the Community, and 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.

Comparison

(26) 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

(27) 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. However, in cases where there was a pattern of significant price variations between regions, customers or time periods, and where the method comparing weighted average normal value with weighted average export price did not reflect the full degree of dumping, the weighted average normal value was compared to the individual export transactions.

(28) 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.

(29) For those countries with a level of cooperation close to the information provided by Eurostat, i.e. 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.

(30) For those countries where the level of cooperation 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. **Czech Republic**

(31) Two exporting producers in the Czech Republic replied to the questionnaire. These replies included data on domestic sales made by related domestic sales companies.

Normal value

(32) 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(6) of the basic Regulation. For that purpose, for both cooperating exporting producers' own cost of production and the companies' own SG & A expenses and profits were used.

Export price

(33) The procedures and methodologies followed by the Commission to assess the export price of products originating in the Czech Republic were the same as those explained in recital 25, 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

(34) Adjustments were made for transport, ancillary costs (bank charges), insurance and credit costs, for differences in physical characteristics and in level of trade.

Dumping margin

(35) The comparison between the normal value and the export price on a weighted to weighted average basis showed the existence of dumping in respect of both cooperating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

— Jäkl Karvina, Karvina-Hranice 28,9 %,

— Zelezárny Veseli as, Veseli nad Moravou 65,3 %.

(36) The level of cooperation for the Czech Republic was high. The residual provisional dumping margin was therefore set at the same level as for the highest margin level established for a cooperating company, i.e. 65,3 %.

3. **Poland**

(37) One exporting producer in Poland replied to the questionnaire.

Normal value

(38) The exporting producer's domestic sales of the product concerned were not made in the ordinary course of trade during the investigation period, and domestic prices could therefore not serve as a basis for normal value. Given the fact that there were no other Polish producers cooperating in this investigation, normal value could also not be based on prices of other sellers or producers.

(39) Consequently, normal value was constructed by using the company's own cost of production and SG & A expenses, plus a profit margin for the same general category of products, in accordance with Article 2(6)(b) of the basic Regulation.

Export price

(40) The procedures and methodologies followed by the Commission to assess the export price of products originating in Poland were the same as those explained in recital 25, 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

(41) No adjustments were claimed and found to be necessary for a fair comparison between normal value and export price since both were established on an ex-works basis.

Dumping margin

(42) The comparison between the normal value and the export price on a weighted to weighted average basis showed the existence of dumping for the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is:

— Huta Buczek, Sosnowiec 17,4 %.

(43) The exporting producer covered an extremely small proportion of all Polish exports of the product concerned to the Community. Indeed, the volume of exports covered by the cooperating producer represented only 0,3 % of the import data recorded in Eurostat during the IP. The provisional residual dumping margin for Poland was therefore determined in accordance with Article 18 of the basic Regulation, on the basis of the facts available. A comparison between the normal value as established for the cooperating Polish exporting producer and the export price as recorded under Eurostat showed a provisional residual dumping margin of 52,6 %, at cif Community frontier level.

4. **Thailand**

(44) One exporting producer in Thailand replied to the questionnaire but subsequently declined to cooperate in this investigation, and in particular refused a verification of the information submitted in his reply. The Commission consequently had no option but to apply Article 18 of the basic Regulation and to make use of the facts available.

Normal value

(45) To establish normal value data on domestic sales in Thailand, the information received in the above questionnaire reply was used as this information was also in line with the data submitted in the complaint and, as no other data or cooperation were available with regard to Thailand, this was the most reasonable information available in this case.

Export price

(46) The export volume covered by the information received during the investigation (see recital 44) represented only a part of the import volume originating in Thailand during the IP. Also the price level claimed in that information differed substantially from the price level according to Eurostat for the product concerned and originating in Thailand. It was therefore considered that provisionally the most reasonable basis to establish the export price was data as available in Eurostat.

Comparison

(47) Adjustments were made for transport, handling, and charging of the product concerned, where appropriate.

Dumping margin

(48) A comparison between the normal value and the export price as established under recitals 44 and 46 on a weighted to weighted average basis showed the existence of dumping of imports from Thailand. The provisional dumping margin expressed as a percentage of the cif import price at the Community border is 37,6 %.

5. **Turkey**

(49) As explained in recitals 5 and 7, and given the large number of exporting producers concerned in Turkey, sampling was applied. The companies selected in the sample are:

— Noksel Celik Boru Sanayi AS, Ankara,
— Borusan Birlesik Boru Fabrikalari AS, Istanbul,
— Mannesmann Boru Endustrisi AS, Istanbul,
— Cayirova Boru San Ve Tic AS, Istanbul,
— Yücel Boru Profil Endüstrisi AS, Istanbul,
— Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri.

The following companies were not selected but agreed to cooperate:

— Borutas Boru Sanayii ve Ticaret AS, Adapazari,
— Cinar Boru Profil San. Tic. Ltd STI, Eregli,
— Guven Boru ve Profil Sanayi ve Ticaret Ltd, 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.