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2012/0357 (NLE)

Proposal for a

COUNCIL REGULATION

imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[1] ('the basic Regulation') in the proceeding concerning imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

By Regulation (EU) No 699/2012 the Commission imposed a provisional anti-dumping duty on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Interested parties concerned by the proceeding have had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not provide for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

[1] OJ L 343, 22.12.2009, p. 51.

On 1 November 2011, the Commission announced by a notice ('notice of initiation'), published in the *Official Journal of the European Union*, the initiation of an anti-dumping proceeding concerning imports into the Union of certain tube and pipe fittings of iron or steel originating in Russia and Turkey.

The anti-dumping proceeding was initiated following a complaint lodged on 20 September 2011 by the Defence committee of the Steel Butt-Welding Fittings Industry of the European Union ('the complainant' on behalf of producers representing more than 40% of the total Union production of certain tube and pipe fittings of iron or steel containing evidence of dumping and of material injury resulting there from.

On 31 July 2012, the Commission imposed, by Regulation (EU) No 699/2012, a provisional anti-dumping duty on imports into the Union of certain tube and pipe fittings of iron or steel originating in Russia and Turkey ranging from 2,9 % to 23,8 %.

The enclosed Commission proposal for a Council Regulation imposing a definitive anti-dumping duty ranging from 2,9 % to 23,8 % contains the definitive conclusions regarding dumping, injury, causation and Union interest. The continuation of the investigation has confirmed the essential provisional findings.

It is proposed that the Council adopt the attached proposal for a Regulation which should be published in the *Official Journal of the European Union* by 29 January 2013 at the latest.

- **Legal basis**

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Union, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

The above-mentioned basic Regulation does not provide for alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

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imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[2] ('the basic Regulation'), and in particular Article 9 thereof,

Having regard to the proposal submitted by the European Commission after having consulted the Advisory Committee,

Whereas:

A. PROCEDURE

1. Provisional measures

(1) On 31 July 2012, the European Commission ('the Commission'), by Regulation (EU) No 699/2012[3] ('the provisional Regulation') imposed a provisional anti-dumping duty on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey.

(2) The proceeding was initiated by a notice of initiation[4] published on 1 November 2011, following a complaint lodged on 20 September 2011 by the Defence committee of the Steel Butt-Welding Fittings Industry of the European Union ('the complainants') on behalf of producers representing more than 40 % of the total Union production of certain tube and pipe fittings of iron or steel.

(3) As set out in recital (15) of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2010 to 30 September 2011 ('investigation period' or 'IP'). The examination of trends relevant for the assessment

[2] OJ L 343, 22.12.2009, p. 51.
[3] OJ L 203, 31.7.2012, p. 37.
[4] OJ C 320, 1.11.2011, p. 4

of injury covered the period from 1 January 2008 to the end of the IP ('period considered').

2. **Subsequent procedure**

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

(5) The Commission continued to seek and analyse all information it deemed necessary for its definitive findings.

3. **Sampling**

(6) In the absence of any comments concerning the sampling of Union producers, unrelated importers and exporting producers, the provisional findings in recitals (5) to (11) of the provisional Regulation are hereby confirmed.

4. **Measures in force in respect of other third countries**

(7) It is reiterated that definitive anti-dumping measures are in force in respect of certain tube and pipe fittings of iron or steel originating in Malaysia, the People's Republic of China, the Republic of Korea and Thailand, and following circumvention practices also in respect of certain tube and pipe fittings of iron or steel originating in the People's Republic of China consigned from Indonesia, Sri Lanka, the Philippines and Taiwan (with certain exceptions)[5]. The countries mentioned in the preceding sentence shall hereafter be referred to as 'countries under anti-dumping measures'.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(8) As set out in recital (17) of the provisional Regulation, the product concerned is tube and 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, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 ('the product concerned').

(9) In the absence of any comments concerning the product concerned and the like product, the provisional findings in recitals (17) to (20) of the provisional Regulation are hereby confirmed.

C. DUMPING

1. Russia

1.1. *Normal value*

(10) One Russian exporting producer claimed that only data obtained from Russian companies should have been used in the dumping margin calculations and that it is not

[5] OJ L 275, 16.10.2008, p. 18 and OJ L 233, 4.9.2009, p. 1.

accurate to use data from Turkish companies. It should be recalled that in the absence of cooperation by any Russian exporting producer, the normal value for Russia has been established in accordance with Article 18(1) and 18(5) on the basis of the facts available, i.e. information obtained from those Turkish exporting producers that use Russian seamless steel pipes and tubes as input for the production of the product concerned. The claim is therefore rejected.

(11) In the absence of any other comments concerning the determination of normal value, the provisional findings in recitals (22) to (25) of the provisional Regulation are hereby confirmed.

1.2. *Export price*

(12) In the absence of any comments concerning the determination of export price, the provisional findings in recitals (26) and (27) of the provisional Regulation are hereby confirmed.

1.3. *Comparison*

(13) In the absence of any comments concerning the comparison of export price and normal value, the provisional findings in recitals (28) and (29) of the provisional Regulation are hereby confirmed.

1.4. *Dumping margin*

(14) One Russian exporting producer claimed that the provisional anti-dumping duty of 23,8% is not justified in light of the fact that the company only exports steel elbows to the Union and even those in only very small quantities. However, steel elbows are part of the product subject to this investigation and this has not been contested by any interested party. In addition, the criterion to consider imports into the Union as negligible as referred to in Article 5(7) and Article 9(3) of the basic Regulation is only considered on a country-wide level and not individually per company. The claim is therefore rejected.

(15) Another Russian exporting producer claimed it has not been dumping and that this is reflected by the fact that on multiple occasions it has lost tenders to Union competitors for supplying elbows and bends. As mentioned above, it is recalled that no Russian exporting producer cooperated in this investigation and therefore the dumping calculations for Russia were made in accordance with Article 18(1) and Article 18(5) of the basic Regulation on the basis of the facts available. Even if the claim is considered, it should be noted that the loss of tenders to Union competitors does not contradict the finding about dumping by the Russian exporting producer. The claim is therefore rejected.

(16) In the absence of any other comments concerning the dumping margin calculation, the findings in recitals (30) and (31) of the provisional Regulation are hereby confirmed.

(17) The country-wide dumping margin finally determined, expressed as a percentage of the CIF Union frontier price, duty unpaid, is the following:

Company	dumping margin
All companies	23,8 %

2. **Turkey**

2.1. *Normal value*

(18) In the absence of any comments concerning the determination of normal value, the provisional findings in recitals (32) to (40) of the provisional Regulation are hereby confirmed.

2.2. *Export price*

(19) One exporting producer claimed that the profit margin achieved on the ocean freight, i.e. the difference between the freight charged to its customers and the freight paid by the exporting producer to the shipping company, should be included in the export price. However, pursuant to Article 2(8) of the basic Regulation the export price shall be the price actually paid or payable for the product when sold for export from the exporting country to the Union. A profit margin achieved on the transport of the product to the customer cannot be considered as part of the export price of the product itself. The claim is therefore rejected.

(20) In the absence of any other comments concerning the determination of export price, the provisional findings in recitals (41) to (43) of the provisional Regulation are hereby confirmed.

2.3. *Comparison*

(21) The Turkish Steel Exporters' Association (ÇIB) claimed that the significant price differences between seamless and welded pipe fittings have not been properly taken into account in the comparison between export price and normal value. However, all cooperating companies have submitted information on a transaction-to-transaction basis with regard to sales of seamless and welded fittings. This information has been explicitly used for the comparison between export price and normal value. In other words, seamless fittings have only been compared with seamless fittings and welded fittings have only been compared with welded fittings. Therefore, the claim is rejected.

(22) In the absence of any other comments in respect of comparison, the findings in recital (44) of the provisional Regulation are hereby confirmed.

2.4. *Dumping margins*

(a) *Dumping margin for companies investigated*

(23) It is recalled that the individual dumping margin provisionally established for one of the three cooperating exporting producers was determined on the basis of a comparison of a weighted average normal value with the company's weighted average export price of the product concerned to the Union. In the absence of any comments

concerning the determination of this company's dumping margin, the provisional findings in recital (46) of the provisional Regulation are hereby confirmed.

(24) For the two other cooperating companies the dumping calculations in their respect showed that the companies conducted targeted dumping in terms of a given time period as well as in respect of given customers and regions. Indeed, there was a clear pattern of their export prices which differed significantly among different purchasers, regions as well as time periods (up to 30% for identical models of the product concerned). Furthermore, the dumping calculation based on the comparison of a weighted average normal value to a weighted average of export prices in accordance with the method provided in Article 2(11) first part of the first sentence of the basic Regulation did not reflect the full degree of dumping being practised by the two producers concerned, as demonstrated in recital (27) below. The dumping margin could also not be established by a comparison of individual normal values and individual export prices to the Union on a transaction-to-transaction basis in accordance with Article 2(11) second part of the first sentence of the basic Regulation, given the lack of sufficient domestic transactions for normal value corresponding to the export transactions as demonstrated in recital (28) below.

(25) Therefore, in order to reflect the full amount of dumping being practised by the two companies concerned, in accordance with Article 2(11) of the basic Regulation, the normal value established on a weighted average basis was compared in their case to prices of all individual export transactions to the Union. Given that such method of comparison is an exception to the two first methods provided in Article 2(11) of the basic Regulation, the Commission carefully checked whether the conditions to resort to it were clearly met in this case. The detailed dumping calculations, including the established export price patterns, have been disclosed. None of the Turkish exporting producers contested the underlying data.

(26) However, both cooperating companies, the ÇIB and the Turkish Government, claimed that insufficient explanation has been provided as to the targeted dumping established for the two Turkish exporting producers and that in any event, any pattern of export prices was unintended. In a hearing with the Hearing Officer, requested by the two Turkish exporters, detailed explanations have been provided to the two companies with regard to the establishment of targeted dumping and the underlying dumping margin calculations. The Commission also clarified that even if unintentional[6], their practices had the effect of targeted dumping. It is noted that the basic regulation does not require the investigating authority to identify potential reasons for targeted dumping, such as currency fluctuations, different regional pricing policies etc. The mere establishment of patterns of export prices differing significantly among different purchasers, regions or time periods, is sufficient[7]. Further to the hearing, company-specific explanations have also been disclosed to the two companies. Moreover, a Note Verbale has been sent to the Permanent Delegation of Turkey to the EU with clarifications on the establishment of targeted dumping and the methodology applied for the dumping margin calculation. Furthermore, in another hearing with the Hearing Officer, requested by the ÇIB, detailed explanations have been provided to the ÇIB

6 T-274/02, Ritek, § 57.
7 T-274/02, Ritek, § 60.

with regard to the establishment of targeted dumping and the underlying dumping margin calculations.

(27) In fact, the investigation has established for each of the two exporting producers three clear patterns of export prices covering the vast majority of their export sales to the Union, i.e. export prices differed significantly among different purchasers, regions as well as time periods, as it was demonstrated by the underlying data disclosed to the parties. This was the result of a thorough examination of the exceptional circumstances of this case on the basis of which it was considered necessary to resort to targeted dumping. Having established significant export price differences, and whereas only one of these three patterns of export prices would be sufficient to resort to the weighted average to all individual export transaction comparison methodology, this comparison method was considered appropriate in this particular case. Furthermore, for each of the two companies, the total amount of dumping established by comparison of the weighted average normal value with the weighted average export price of the product concerned to the Union (the first symmetrical method) significantly differs from the amount of dumping established by comparison of the normal value established on a weighted average basis with prices of all individual export transactions to the Union (the asymmetrical method), as it was demonstrated by the underlying data disclosed to the parties. Therefore it can be concluded that the use of the first symmetrical method would have the effect of inappropriately disguising the targeted dumping which took place during a specific time period, in specific regions and to specific customers. In other words, the dumping margin established by the first symmetrical method would not reflect the full degree of dumping being practiced by the two companies concerned.

(28) The dumping margin could also not be established by a comparison of individual normal values with individual export prices to the Union on a transaction to transaction basis in accordance with Article 2(11) second part of the first sentence of the basic Regulation (the second symmetrical method). This method involves identifying individual domestic transactions, which are comparable to individual export transactions, taking into account factors such as sales quantity and transaction date. Given the lack of sufficient domestic transactions for normal value corresponding to the export transactions, it was not possible to establish the dumping margin on the basis of the second symmetrical method. Therefore, given the establishment of a pattern of export prices which differed significantly among different purchasers, regions or time periods and given that the two symmetrical methods would not reflect the full degree of dumping, it has been concluded, in accordance with the second sentence of Article 2(11), to establish the dumping margin on the basis of the asymmetrical method.

(29) Both cooperating companies and the ÇIB claimed that it was unjustified to compare export prices converted in Turkish Lira, given the fact that sales to the Union have been made in Euro while Turkish Lira is only used for accountancy reasons. It was argued that currency exchange fluctuations between Euro and Turkish Lira have had a significant effect on the price determinations which would inevitably affect the result of export price comparison between different time periods in an unjustified manner. However, the Commission's consistent practice is to carry out export price comparison and dumping margin calculations in the accounting currency of co-operating exporting producers in the exporting country. It should be noted that costs and domestic prices used as a basis for normal value are expressed in Turkish Lira. Consequently, the

comparison of export prices with the normal value is carried out in that currency. Thus, the only logical approach to establish a pattern of export prices, within the framework of the same dumping calculation, is to use the same export prices already expressed in Turkish Lira. In addition, as stated above, the basic Regulation does not require an analysis of possible reasons of targeted dumping, such as exchange rate fluctuations[8]. The claim is therefore rejected.

(30) Both cooperating exporting producers claimed that, in order to establish a pattern of export prices, weighted average prices of comparable product types should be taken into account rather than arithmetic average prices. However, Article 2(11) of the basic Regulation refers to a pattern of export prices and not to a pattern of weighted average export prices or a pattern of export values. The use of a weighted average export price would distort the analysis by taking into account the volume of exports instead of only the export prices. In any case, even when weighted average prices are used instead of arithmetic average export prices, still a pattern of export prices could be established which differs significantly among different purchasers, regions as well as time periods. Two parties contested the significance of differences in patterns of export prices, if any, in case weighted averages are used. It is noted that the parties do not contest the factual findings based on the arithmetic average, which is the appropriate methodology as explained above. This claim is therefore rejected.

(31) The ÇIB claimed that the application of zeroing is unjustified by referring to a WTO Appellate Body Report[9] in which the zeroing practice was found to be contrary to the WTO Anti-Dumping Agreement. The General Court[10] has, however, confirmed that the findings of the Bed Linen Report are not applicable in a situation of targeted dumping. Indeed, the Bed linen Report concerns only the zeroing technique in the context of the first symmetrical method and cannot be considered to deal with this mechanism when it is used in the context of the asymmetrical method. Therefore, even if, as the WTO Appellate Body found, it might indeed be contrary to Article 2.4.2 of the 1994 Anti-dumping Code and unfair to employ the zeroing technique in the context of the first symmetrical method, and especially in the absence of an export price pattern, it is not contrary to that provision or to Article 2(11) of the basic Regulation, or unfair within the meaning of Article 2(10) of that Regulation, to employ the zeroing technique in the context of the asymmetrical method, where the two conditions for applying that method are met. Furthermore, the zeroing technique has proved to be mathematically necessary in order to distinguish, in terms of its results, the asymmetrical method from the first symmetrical method. In the absence of that reduction, the asymmetrical method will always yield the same result as the first symmetrical method. This claim is therefore rejected.

(32) Further, the ÇIB claimed that the use of zeroing causes a violation of the lesser duty rule. It was argued that, because of the zeroing practice used, margins of dumping have been calculated at a level higher than they should actually have been.

(33) However, the use of zeroing in the asymmetrical method does not preclude the application of the lesser duty rule. For all three cooperating companies the dumping

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8 T-274/02, Ritek, § 51 – last sentence.

9 WTO Appellate Body Report, European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India

10 T-274/02, Ritek, § 98-103

margins, regardless of the methodology used, have been compared with the companies' injury elimination levels to ensure that the lower of the two would determine the duty. The claim is therefore rejected.

(34) In the absence of any other comments in respect of the dumping margins for companies investigated, the findings in recitals (47) and (48) of the provisional Regulation are hereby confirmed.

(b) *Dumping margin for non-cooperating companies*

(35) In the absence of any comments concerning the dumping margin for non-cooperating companies, the provisional findings in recital (49) of the provisional Regulation are hereby confirmed.

(36) The country-wide dumping margins finally determined, expressed as a percentage of the CIF Union frontier price, duty unpaid, are the following:

Company	dumping margin
RSA	9,6 %
Sardogan	2,9 %
Unifit	12,1 %
All other companies	16,7 %

D. **INJURY**

1. **Union production, Union industry and consumption**

(37) In the absence of any comments with regard to Union production, Union industry and consumption the content of recitals (51) to (54) of the provisional Regulation is hereby confirmed.

2. **Imports from the countries concerned**

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

(38) Following provisional disclosure, the ÇIB argued that the cumulative assessment of dumped imports from the two countries concerned is not warranted. In principle, they echoed the comments made by the Turkish exporting producers following the initiation and claimed that imports from Russia and Turkey show different trends in terms of volume and prices.

(39) It is reiterated in this regard, as already stated in recital (59) of the provisional Regulation that the investigation established that while imports from Turkey are relatively stable in terms of volumes, imports from Russia are increasing in absolute terms. However, given the contraction in demand in the period considered, the market shares of imports from both countries are increasing.

(40) At the same time their pricing do not appear to be substantially different, with Russian average prices being somewhat lower but very close to the average Turkish prices. It is also reiterated in this regard that for companies in both countries the investigation established significant undercutting of up to ca. 30% (see recital (65) of the provisional Regulation). Consequently, the claim is rejected.

(41) The ÇIB also argued that imports from Turkey should be considered insignificant and pointed out that in a previous case concerning a similar product – namely in "pipe and tube fittings from the PRC, Croatia, Slovakia, Taiwan and Thailand"[11] – imports from Slovakia and Taiwan have been considered insignificant (although they were above *de minimis* threshold) and therefore not cumulated with dumped imports from other countries.

(42) It is noted in this regard that in the case mentioned above imports from Slovakia and Taiwan were indeed found to be dumped and despite being above the 1% market share threshold they were not cumulated with other dumped imports. The situation in that case, however, was very different from the current one, as imports from Slovakia and Taiwan were actually sharply losing their market share and where not considered significant when compared to the volume of imports from the other countries and consequently were considered not to be causing injury. In contrast, in the case at hand imports from both Turkey and Russia are increasing their market share and are comparable to each other in terms of volumes. Consequently, the claim is rejected.

(43) The ÇIB also argued that imports from Turkey and Russia are not similar in terms of conditions of competition as there are "differences in geographical concentration of sales". They have provided statistics showing that during the IP Turkey has concentrated over 70% of their sales on Spain, France, Italy and Poland, while Russia concentrated almost all of their sales on Czech Republic and Germany.

(44) It is noted in this regard that differences in geographical concentration of sales cannot be considered to be an indication of different conditions of competition. Given that the European Union is a single market, the point of entry of any imports will normally not be decisive for the competitiveness of these imports with each other and vis-à-vis the like product. It is also reiterated with respect to conditions of competition that price-wise Russian and Turkish imports are similar and were both found to undercut Union prices and that their channels of sales are similar. Consequently, the claim is rejected.

(45) In the absence of any other comments with regard to cumulative assessment of the dumped imports from the countries concerned the content of recitals (55) to (60) of the provisional Regulation is hereby confirmed.

3.2. *Volume, market share of the dumped imports concerned, their import prices and undercutting.*

(46) In the absence of any comments with regard to volume and market share of the dumped imports concerned, their import prices and undercutting, recitals (61) to (65) of the provisional Regulation are hereby confirmed.

[11] OJ L 234, 3.10.1995, p.4.

(47) It is reiterated that the dumped product concerned originating in the countries concerned sold in the Union undercut the Union industry's prices by up to ca. 30 %.

3. Situation of the Union industry

(48) Following provisional disclosure the ÇIB and the Turkish Government claimed that given that the Union industry increased their market share by some 3% between 2008 and the IP, the Commission should have concluded that the Union industry did not suffer material injury in the period considered.

(49) It is noted in this regard that firstly, it was clearly recognised in the provisional Regulation (see for example recitals (72), (86) or (91) of the provisional Regulation) that there was a slight increase in the market share of the Union industry. Secondly, the recital (72) of the provisional Regulation clarifies that the increased market share is a reflection of the fact that the sales volumes of the Union producers dropped slightly less than the consumption in the period considered.

(50) Moreover, apart from falling stocks referred to below, it is the only injury indicator that shows a positive development over the period considered. Consequently, the claim is rejected.

(51) The Turkish government also claimed that a dropping closing stock of the sampled Union producers is an indication of a non-injurious situation of the Union industry.

(52) It is noted in this regard that indeed as stated in recital (79) of the provisional Regulation the closing stock of the sampled Union producers decreased by 18% between 2008 and the IP.

(53) At the same time it is recognised that a drop in stocks could be seen as a positive sign but only in a situation when sales would be growing at a faster pace than production. However, this is not the case in the current investigation. To the contrary, the drop in stocks in this case is just a reflection of production volumes dropping at a faster pace than sales. In this situation the drop in stocks cannot be seen as a positive development. Consequently, the claim is rejected.

(54) In the absence of any other claim or comments, the content of recitals (66) to (88) of the provisional Regulation including the conclusion that Union industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation is hereby confirmed.

E. CAUSATION

1. Effect of the dumped imports

(55) In the absence of any specific comments, recitals (90) to (93) of the provisional Regulation are hereby confirmed.

2. Effect of other factors

(56) Following the provisional disclosure the ÇIB and the Turkish Government claimed that the actual cause of any injury suffered by the Union industry would be low priced

imports from other third countries and in particular from countries under anti-dumping measures.

(57) In this regard it is noted that, as already stated in recital (96) of the provisional Regulation, imports from the eight countries under anti-dumping measures continued to penetrate the Union market although their market share declined from 21 % in 2008 to 17 % in the IP. The average prices of those imports are generally lower than those of the dumped imports from the countries concerned. Even when the applicable anti-dumping duty is taken into account, the prices of those imports remain low and comparable with the prices of Russian and Turkish imports and are below the average prices of the Union producers.

(58) However, it is noted that for the countries under anti-dumping measures (as for all third countries) only limited statistical information and average prices are available and the established price difference is not necessarily conclusive and may be a result of a different product mix. Moreover, imports from countries under anti-dumping measures show a clear downward trend. Hence, the conclusion that they were not breaking the causal link between injury to the Union industry and the increased dumped imports from Turkey and Russia.

(59) With regard to imports from other third countries their market share declined during the period considered from 7 % in 2008 to 6 % in the IP while Russia and Turkey increased. The average prices of those imports were generally higher than the dumped imports from the countries concerned and close to the average prices of the Union producers and as such are considered not to break the causal link between injury to the Union industry and the increased dumped imports from Turkey and Russia. Consequently, the claim is rejected and the provisional conclusion that imports from third countries are not breaking the causal link is confirmed.

(60) The Turkish Government also argued that any injury suffered by the Union industry would be caused by the increased cost of production resulting from contraction in demand.

(61) It is noted in this regard that, as already stated in recitals (101) of the provisional Regulation, the financial and economic crisis of 2008/2009 is in all likelihood the reason behind the decreased consumption for pipe fittings. The consumption has dropped by over 40 % between 2008 and 2009 and remained at this low level throughout the rest of the period considered (although slightly increasing in the IP). Given that fixed costs make up to 40 % of the manufacturing costs of the Union producers, the decreased demand, sales and output result in significantly higher unit manufacturing costs. This obviously has had an important impact on the profitability of the Union industry.

(62) At the same time, any negative impact of higher unit manufacturing cost was clearly deepened by the fact that the prices of the Union industry were dropping subject to severe price pressure and significant undercutting by the dumped imports from Turkey and Russia. In a normal market situation the Union industry should have a possibility to minimise the impact of any unit cost increase by at least keeping the normal price level, which was clearly not possible in the situation of exerted price pressure by artificially cheap dumped imports from the countries concerned.

(63) Consequently, the claim is rejected and it is definitely concluded that any negative effect of contraction in demand is not such as to break the causal link between the injury suffered by the Union industry and the dumped imports from Russia and Turkey.

(64) In the absence of any other claim or comments, the content of recitals (94) to (106) of the provisional Regulation, including the conclusion that the dumped imports from the countries concerned have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation is hereby confirmed.

G. UNION INTEREST

(65) Following the provisional disclosure the ÇIB claimed that imposition of any measures would lead to a situation in which ERNE Fittings, a complainant would have a monopoly-like position in the Union market.

(66) It is noted in this regard that ERNE is only one of two complainants and that the second one – INTERFIT – is similar in size to ERNE. In addition, data in the provisional Regulation concerning the sampled Union producers also included a third Union producer – Virgilio CENA & Figli. Moreover, there is a significant number of smaller companies in the Union producing and selling the product under investigation and there are significant imports from other sources. Given the above, it is considered that there is no risk of monopolisation of ERNE's position.

(67) In the absence of any other comments, recitals (107) to (117) of the provisional Regulation, including the conclusion that no compelling reasons exist against the imposition of measures on the dumped imports from the countries concerned are hereby confirmed.

H. DEFINITIVE MEASURES

1. Injury elimination level

(68) In the absence of any specific comments, recitals (118) to (120) of the provisional Regulation are hereby confirmed.

2. Definitive measures

(69) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9 of the basic Regulation, it is considered that a definitive anti-dumping duty should be imposed on imports of the product concerned originating in Russia and Turkey at the level of the lowest of the dumping margin and injury elimination level found, in accordance with the lesser duty rule, which is in all cases the dumping margin.

(70) For Russia, in the absence of cooperation by Russian exporting producers, a country-wide dumping margin was calculated as explained in recitals (21) to (31) of the provisional Regulation and hereby confirmed.

(71) For Turkey, given that the level of cooperation was considered to be relatively low, the residual dumping margin was based on a reasonable method leading to a margin which is higher than the highest among the individual margins of the three cooperating

companies as explained in recital (49) of the provisional Regulation and hereby confirmed.

(72) On the basis of the above, the proposed duty rates are :

Country	Company	Definitive anti-dumping duty
Russia	All companies	23,8 %
Turkey	RSA	9,6 %
	Sardogan	2,9 %
	Unifit	12,1 %
	All other companies	16,7 %

(73) 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 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 countries 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'.

(74) Any claim requesting the application of an individual company anti-dumping duty rate (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[12] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.

(75) 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 tube and pipe fittings of iron or steel originating in Russia and Turkey and the definitive collection of the amounts secured by way of the provisional duty ('final disclosure'). They were also granted a period within which they could make representations subsequent to this disclosure.

[12] European Commission, Directorate-General for Trade, Directorate H, Office N105 08/20, 1049 Brussels, BELGIUM.

(76) Following the final disclosure, submissions were received from the complainant as well as from two cooperating exporting producers from Turkey and the ÇIB. Both Turkish producers and the ÇIB requested and have been granted hearings.

(77) The complainant agreed with all findings as disclosed. The oral and written comments submitted by two Turkish exporters and the ÇIB were a reiteration of the comments already made following the provisional disclosure. It is noted that none of the interested parties contested the underlying data.

(78) A justification and a reply to the claim for the application of the asymmetrical method including zeroing in the dumping calculation is provided in recitals (24) to (33) above. The use of Turkish Lira for the establishment of export price patterns is explained and the relevant claim addressed in recital (29) above. The use of arithmetical average prices instead of weighted average prices in identifying patterns of export prices is explained and the relevant claim addressed in recital (30) above . The claim to include the profit margin achieved on the ocean freight into the export price is described and dismissed in recital (19) above. The claim that no cumulative assessment of Turkish and Russian imports is warranted in view of differences in geographical concentration of Turkish and Russian sales is described and dismissed in recitals (43) and (44) above. The claim that Union industry suffered no injury given their increased market share is addressed and dismissed in recitals (48) to (50) above.

(79) Given that following the final disclosure no arguments that would influence the outcome of the assessment of the case were brought forward, no modification of the findings as detailed above is warranted.

I. DEFINITIVE COLLECTION OF THE PROVISIONAL DUTY

(80) In view of the magnitude of the dumping margin found and given the level of the injury caused to the Union industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duty imposed by the provisional Regulation should be definitively collected to the extent of the amount of the definitive duty imposed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tube and 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, currently falling within CN codes ex 7307 93 11, ex 7307 93 19 and ex 7307 99 80 (TARIC codes 7307 93 11 91, 7307 93 11 93, 7307 93 11 94, 7307 93 11 95, 7307 93 11 99, 7307 93 19 91, 7307 93 19 93, 7307 93 19 94, 7307 93 19 95, 7307 93 19 99, 7307 99 80 92, 7307 99 80 93, 7307 99 80 94, 7307 99 80 95 and 7307 99 80 98) and originating in Russia and Turkey.

2. The rate of the definitive anti-dumping duty applicable to the net free-at-Union-frontier price, before duty, of the products described in paragraph 1 and manufactured by the companies listed below, shall be as follows:

Country	Company	anti-dumping duty	TARIC additional code
Russia	All companies	23,8 %	-
Turkey	RSA Tesisat Malzemeleri San ve Ticaret AŞ, Küçükköy, Istanbul	9,6 %	B295
	SARDOĞAN Endüstri ve Ticaret, Kurtköy Pendik, Istanbul	2,9 %	B296
	UNIFIT BORU BAĞLANTI ELEM. END. MAM. SAN. VE TİC. AŞ, Tuzla, Istanbul	12,1 %	B297
	All other companies	16,7 %	B999

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

Article 2

The amounts secured by way of provisional anti-dumping duty pursuant to Commission Regulation (EU) No 699/2012 on imports of certain tube and pipe fittings of iron or steel originating in Russia and Turkey shall be definitively collected.

Article 3

This Regulation shall enter into force on the day following that of 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.

Done at Brussels,

For the Council
The President