

## COMMISSION REGULATION (EU) No 1071/2012

of 14 November 2012

**imposing a provisional anti-dumping duty on imports of threaded tube or pipe cast fittings, of malleable cast iron, originating in the People's Republic of China and Thailand**

THE EUROPEAN COMMISSION,

their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.

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

(4) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

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 <sup>(1)</sup> (the basic Regulation), and in particular Article 7 thereof,

(5) In view of the large number of exporting producers in the PRC, Union producers and unrelated importers, sampling was envisaged in the Notice of Initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC, Union producers and unrelated importers were asked to make themselves known to the Commission and to provide, as specified in the Notice of Initiation, basic information on their activities related to threaded malleable fittings (as defined in Section B Below) for the period from 1.1.2011 to 31.12.2011. No sampling was envisaged for the exporting producers in the other two countries concerned, Thailand and Indonesia.

After consulting the Advisory Committee,

Whereas:

**A. PROCEDURE****1. Initiation**(1) On 16 February 2012, the European Commission (the Commission) announced, by a notice published in the *Official Journal of the European Union* <sup>(2)</sup> (Notice of Initiation), the initiation of an anti-dumping proceeding with regard to imports into the Union of threaded tube or pipe cast fittings, of malleable cast iron, originating in the People's Republic of China (the PRC), Thailand and Indonesia (the countries concerned).

(6) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers in the PRC known to be concerned and to the Chinese authorities. Two companies requested MET pursuant to Article 2(7) of the basic Regulation, and four companies requested IT pursuant to Article 9(5) of the basic Regulation.

(2) The proceeding was initiated as a result of a complaint lodged on 3 January 2012 by the Defence Committee of Tube or Pipe Cast Fittings, of Malleable Cast Iron of the European Union (the complainant) on behalf of producers representing more than 50 %, of the total Union production of threaded tube or pipe cast fittings of malleable cast iron ('threaded malleable fittings'). The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.

(7) The Commission officially disclosed the MET findings to the exporting producers concerned in the PRC, the Chinese authorities and the complainant. They were also given an opportunity to make their views known in writing.

**2. Parties concerned by the proceeding**

(3) The Commission officially advised the complainant, the Union producers, the exporting producers, unrelated importers, users and the representatives of the exporting countries of the initiation of the investigation. The Commission also advised producers in Argentina as it was envisaged as a possible analogue country. Interested parties were given an opportunity to make

(8) As regards the Union producers and as duly explained in recital (29) below, six Union producers provided the requested information and agreed to be included in a sample. On the basis of the information received from the cooperating Union producers, the Commission selected a sample of three Union producers on the basis of their sales volume.

(9) As explained in recital (31) below, 33 unrelated importers provided the requested information and agreed to be included in the sample. On the basis of the information received from these parties, the Commission selected a sample of nine importers having the largest volume of imports to the Union and their geographic location in the Union. As one importer did not submit a questionnaire reply, the final sample consisted of the remaining eight importers.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.<sup>(2)</sup> OJ C 44, 16.2.2012, p. 33.

- (10) As explained in recital (30) below, 12 exporting producers in the PRC provided the requested information and agreed to be included in the sample. On the basis of the information received from these parties, the Commission selected a sample of three exporting producers in the PRC having the largest volume of exports to the Union.
- (11) The Commission sent questionnaires to the three sampled Union producers, the three sampled Chinese exporting producers, three Thai exporting producers, three Indonesian exporting producers, nine sampled unrelated importers and seven users.
- (12) Questionnaire replies were received from three sampled Union producers, three Chinese exporting producers, two Thai exporting producers, one Indonesian exporting producer and eight unrelated importers. None of the users submitted a questionnaire reply.
- (13) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies:
- (a) Union producers
- ATUSA Accesorios de Tuberia S.A., Salvatierra (Alava), Spain
  - Berg Montana Fittings EAD, Montana, Bulgaria
  - Georg Fischer Fittings GmbH, Traisen, Austria
- (b) Exporting producers in the PRC
- Hebei Jianzhi Casting Group Ltd., Yutian County, Hebei, PRC
  - Jinan Meide Casting Co., Ltd., Pingyin, Shandong, PRC
  - Qingdao Madison Industrial Co., Ltd., Jimo, Shandong, PRC
- (c) Exporting producers in Thailand
- Siam Fittings Co., Ltd., Samutsakorn, Thailand;
  - BIS Pipe Fitting Industry Co., Ltd, Samutsakorn, Thailand
- (d) Exporting producer in Indonesia
- PT. Tri Sinar Purnama, Semarang, Indonesia
- (e) Unrelated importers in the Union
- Crane Limited, Ipswich, United Kingdom
  - GEBO Armaturen GmbH, Schwelm, Germany
  - Hitachi Metals Europe GmbH, Düsseldorf, Germany
  - MegaGroup Trade Holding B.V., Veghel, the Netherlands
  - Raccorditalia s.r.l., Brugherio(MB), Italy
- (14) In view of the need to establish a normal value for the exporting producers in the PRC in case MET is not granted to them, a verification to establish normal value on the basis of data from India as analogue country took place at the premises of the following company:
- Jainson Industries, Jalandhar, Punjab, India
- 3. Investigation period and period considered**
- (15) The investigation of dumping and injury covered the period from 1.1.2011 to 31.12.2011 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 2008 to the end of the investigation period (the period considered).
- B. PRODUCT CONCERNED AND LIKE PRODUCT**
- 1. Product concerned**
- (16) The product concerned as described in the Notice of Initiation is threaded tube or pipe cast fittings, of malleable cast iron ('the product concerned'), currently falling within CN code ex 7307 19 10.
- (17) The main input raw materials are metal scrap, coke/electricity, sand (for moulding) and zinc (for galvanisation). The first step of the manufacturing process is the melting of metal scrap in cupolas. This is followed by the moulding process and the casting of the various shapes which are then separated into single pieces. The products have to go through a lengthy annealing process to ensure that they are sufficiently malleable to be used in applications where e.g. shock and vibration resistance are required and to withstand quick temperature changes. Subsequently, fittings can be galvanized, if needed. Then the threading of the products takes place.
- (18) Threaded malleable fittings are used for connecting two or more pipes or tubes, connecting a pipe to an apparatus, changing the direction of a fluid flow, or closing a pipe. Threaded malleable fittings are mainly used in the gas, water and heating systems of residential and non-residential buildings. They are also used in the pipe systems of oil refineries. Malleable fittings are available in many configurations, the most common being 90-degree elbows, tees, couplings, crosses, and unions. They are produced in both black (non-galvanized) and galvanized form.
- 2. Like product**
- (19) The product concerned and the product produced and sold on the domestic market of the PRC, Thailand and Indonesia, and on the domestic market of India, which served as an analogue country, as well as the product manufactured and sold in the Union by the Union industry were found to have the same basic physical and technical characteristics. They are therefore provisionally considered as alike within the meaning of Article 1(4) of the basic Regulation (the like product).

*Claims regarding product scope*

- (20) Several claims have been submitted in respect of the product scope, mostly by importers but also by authorities of a Member State. The claims are addressed individually below.

*Electro-galvanized fittings*

- (21) An importer claimed that 'electro-galvanized fittings' should be excluded from the definition of the threaded malleable fittings. It is argued that the production of electro-galvanized fittings requires additional production steps after threading, such as washing and an additional electrical galvanization. This arguably leads to a number of quality improvements and advantages vis-à-vis regular fittings. However, it is clear that electro-galvanized fittings are fully interchangeable with regular fittings, and therefore have the same basic physical and technical characteristics. They are therefore considered to be product concerned.

*Bodies of compression fittings*

- (22) The same importer imports bodies of compression fittings, which it further assembles together with other parts into finished compression fittings. It has been questioned whether the bodies of compression fittings fall under the definition of the product concerned. While these bodies look like a fitting and are threaded, they cannot be used directly to connect pipes – they have to be assembled before the assembled fitting connects the pipes. Although they are more expensive, they are interchangeable with other threaded fittings, since they are also used to connect pipes and tubes, albeit mainly in repairing rather than in new installations. It is therefore provisionally concluded that compression fittings and their bodies fall within the definition of the product concerned.

*Black heart and white heart fittings*

- (23) Some parties claimed that the malleable fittings manufactured and sold by the Union producers could not be considered comparable to those produced and exported to the Union by the exporting countries concerned on the grounds that the grade of the material used for the Union produced ones is, in general, white heart, while the grade of the material used for the exported ones is black heart malleable cast iron.

- (24) As already concluded in Council Regulation (EC) No 1784/2000<sup>(1)</sup> regarding the same product, the investigation has provisionally shown that there is no difference in market perception distinguishing between white heart fittings and black heart fittings as in all respects other than the carbon content they have closely resembling characteristics, the same end uses and are thus interchangeable. This has been confirmed by the fact that

the importers/traders which purchase both black heart malleable fittings from the countries concerned and white heart malleable fittings produced by the Union industry, sell them to the users without making a distinction between the two grades of material. As to the users of the product under consideration, the investigation has confirmed that they do not differentiate between white heart and black heart fittings to any significant degree.

- (25) This is also suggested by the fact that both white heart and black heart fittings are included in the European Standard EN 10242 and in the international standard ISO 49, which specify the requirements for the design and performance of the malleable fittings. As concerns, in particular, the grade of the material used, both white heart and black heart are admitted.
- (26) Given the above, it is provisionally concluded that the white heart malleable fittings manufactured and sold by part of the Union producers should be considered as like product to the black heart malleable fittings produced and exported to the Union by the exporting countries concerned.

*Claim regarding import of unthreaded fittings*

- (27) One importer imports limited quantities of unfinished fittings which are not threaded. The threading is applied subsequently by the importer. Since the imported goods are not threaded, they are not considered as product concerned.

*Claim regarding the definition of 'malleable cast iron' under the Combined Nomenclature*

- (28) The authorities of one of the Member States pointed out the fact that, according to the explanatory notes to the Combined Nomenclature<sup>(2)</sup>, the expression 'malleable' includes spheroidal graphite cast iron (identical to ductile cast iron). While no sales of threaded fittings made from ductile cast iron were reported by any interested party during the IP, there is evidence that this is possible. As these fittings have the same basic physical characteristics as the threaded malleable fittings investigated, it is considered appropriate to clarify that ductile iron products are falling within the scope of the proceeding and the measures.

**C. SAMPLING****1. Sampling of Union producers**

- (29) In accordance with Article 17 of the basic Regulation, the Commission selected a sample based on the largest representative volume of sales of threaded malleable fittings to unrelated customers in the Union, which can reasonably be investigated within the time available. The selected sample consists of three producers belonging to

<sup>(1)</sup> OJ L 208, 18.8.2000, p. 8. Rec. 14f.

<sup>(2)</sup> OJ C 137, 6.5.2011, p. 1.

two groups of companies, representing 81 % of sales of threaded malleable fittings to unrelated customers in the Union out of six Union producers known to produce the like product. In accordance with Article 17(2) of the basic Regulation, all Union producers and the complainant were consulted, and all interested parties were invited to comment on the proposed sample. No comments on the selection of the sample were made.

## 2. Sampling of exporting producers in the PRC

(30) In accordance with Article 17 of the basic Regulation, the Commission selected a sample based on the largest representative volume of exports which can reasonably be investigated within the time available. Twelve exporting producers accounting for 51 % of Chinese exports to the Union during the IP submitted sampling information requested in Annex A to the Notice of Initiation. The selected sample consists of three companies, representing 88 % of the export volume of the cooperating parties from the PRC to the Union. In accordance with Article 17(2) of the basic Regulation, all exporting producers concerned and the Chinese authorities were consulted. No comments on the selection of the sample were made.

## 3. Sampling of unrelated importers

(31) In accordance with Article 17 of the basic Regulation, the Commission selected a sample based on the largest representative volume of imports into the Union as well as the geographical location of the companies, which can reasonably be investigated within the time available. A total of 33 unrelated importers submitted the sampling information requested in Annex B to the Notice of Initiation. The initial sample selected consists of six importers in five Member States, representing 59 % of imports of threaded malleable fittings of cooperating importers into the Union. In accordance with Article 17(2) of the basic Regulation, all importers were consulted. Following comments, three further companies were added to the sample, resulting in a final sample of nine importers in six Member States, representing 67 % of imports of threaded malleable fittings of cooperating importers into the Union. No further comments were received on the enlarged sample. As one importer did not submit a questionnaire reply, the final sample consisted of the remaining eight importers.

## D. DUMPING

### 1. People's Republic of China

#### 1.1. Market economy treatment

(32) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with Article 2(1) to (6) for those

producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(33) Briefly, and for ease of reference only, these criteria are set out below:

1. business decisions are made in response to market conditions and without significant State interference, and costs reflect market values;
2. firms have one clear set of basic accounting records, which are independently audited, in line with international accounting standards and applied for all purposes;
3. there are no significant distortions carried over from the former non-market economy system;
4. legal certainty and stability is provided by bankruptcy and property laws; and
5. currency exchanges are carried out at the market rate.

(34) Two exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines.

(35) The Commission sought all the information deemed necessary and verified all the information submitted in the MET claims at the premises of the companies in question.

(36) The verification established that both exporting producers claiming MET did not meet the requirements of the criteria laid down in Article 2(7)(c) of the basic Regulation.

(37) The audited accounts of both exporters did not comply with international accounting standards, and the audited accounts of one exporter were even incomplete, as they did not include a cash-flow statement. It is therefore evident that they fail to comply with criterion 2.

(38) One exporter could not demonstrate that the capital contributed during its privatisation was properly evaluated, while the second exporter received state benefits mainly in the form of a preferential income tax rate. They therefore fail to comply with criterion 3.

(39) One company claiming MET commented on the disclosure. It did not dispute any of the facts contained in the disclosure, but raised three main issues in its comments.

- (40) Firstly, it argued that the MET determination is illegal, since it was made almost two months after the statutory deadline. In this respect, it has to be mentioned that this delay was mainly due to the fact that an earlier MET verification could not take place as the Chinese exporters were not available at that time. It should be underlined that the timing of the determination did not have any impact on the outcome.
- (41) Secondly, it was argued that the non-compliance with the audited accounts is exclusively based on formal grounds. Furthermore, it was argued that *'an accounting practice that is not fully formally in line with IAS does not constitute a violation of the second MET criterion as long as it has not affected the company's financial results.'* In this respect, it is worth noting that criterion 2 does not have any reference to the financial results of the company. The claim is therefore unfounded. The relevant criterion, 'accounting records which are independently audited in line with international accounting standards', is indeed a formal requirement. It is nevertheless worth mentioning that all violations were of a significant nature, either due to the magnitude of the amounts involved or the significance of the violation (i.e. a mandatory analysis was simply not carried out).
- (42) Lastly, it was claimed that the benefits received in the form of a preferential income tax rate have not been used in the past to deny MET. In this respect, it is noted that every case is judged on its own merits. Under MET criterion 3 it is assessed whether the Chinese exporters are subject to significant distortions carried over from the former non-market economy system. Such is the case here with regard to state benefits, which were mainly in the form of a preferential tax rate. General comments of the kind put forward by the Chinese exporter are therefore not sufficiently substantiated.
- (43) In conclusion, it has not been shown that MET criteria 2 and 3 were fulfilled by either of the exporting producers. Therefore, MET cannot be granted to these companies.

#### 1.2. Individual treatment

- (44) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that provision, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation.
- (45) Briefly, and for ease of reference only, these criteria are set out below:
1. in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;
  2. export prices and quantities, and conditions and terms of sale are freely determined;
3. the majority of the shares belong to private persons. State officials appearing on the Boards of Directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from state interference;
  4. exchange rate conversions are carried out at the market rate; and
  5. state interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.
- (46) The exporting producers which did not meet the MET criteria as well as the third sampled producer all claimed IT. On the basis of the information available, it was provisionally established that all sampled exporting producers fulfilled the requirements foreseen in Article 9(5) of the basic Regulation and, thus, can be granted IT.

#### 1.3. Analogue country

- (47) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET shall be established on the basis of the price or constructed value in a market economy third country ('analogue country').
- (48) In the Notice of Initiation the Commission indicated its intention to use Argentina as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited all interested parties to comment thereon.
- (49) A number of exporters and importers have submitted comments on the choice of the analogue country arguing that Argentina would not be a suitable analogue country, mainly due to the low level of domestic competition and the consequent high price level on the Argentinian domestic market. Indeed, there are indications that the Argentinian market is largely shared between three domestic producers. According to Argentinian statistics, imports into the Argentinian market are negligible, since the traditionally largest foreign suppliers Brazil and China are subject to high anti-dumping duties.
- (50) The same exporters and importers proposed Thailand, India and Indonesia as more suitable analogue countries. Taking account of the comments by interested parties, cooperation from Argentinian and Indian producers was sought, and finally one Argentinian and one Indian producer accepted to cooperate.
- (51) An analysis of these replies showed that the domestic prices reported by the sole cooperating Argentinian producer were indeed very high, substantially higher than the sales prices of the sampled Union producers as well as their non-injurious price.

(52) On the other hand, it turned out that the Indian market is highly competitive with an estimated number of 300 producers. As a result, the domestic prices reported by the cooperating Indian exporter can be considered reasonable.

(53) Thailand and Indonesia are involved in the same investigation, but a very limited number of producers operate in both countries rendering their domestic markets less competitive compared to India. It is therefore provisionally concluded that India is an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

#### 1.4. Normal Value

(54) Since no sampled Chinese exporter was granted MET, normal value was established pursuant to the provision of Article 2(7)(a) of the basic Regulation, using India as analogue market economy third country.

(55) It was first established for each exporting producer concerned, whether the total domestic sales of threaded malleable fittings of the analogue country producer were representative, i.e. whether the total volume of such sales represented at least 5 % of each exporting producer's total volume of export sales of the product concerned to the Union during the IP. This was the case for two of the three sampled exporting producers.

(56) Subsequently, those product types sold domestically by the companies where the analogue country producer had overall representative domestic sales that were identical or directly comparable with the types sold for export to the Union were identified.

(57) For each type sold by the analogue country producer on its domestic market and found to be directly comparable with the type of threaded malleable fittings sold for export to the Union by the exporting producers, it was established whether domestic sales were sufficiently representative. Domestic sales of a particular product type were considered sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the IP represented at least 5 % of the total volume of the comparable product type sold for export to the Union by the exporting producer.

(58) The Commission subsequently examined for the analogue country producer whether each type of the like product sold domestically in representative quantities could be considered as being sold in the ordinary course of trade. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the IP.

(59) Where the sales volume of a product 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 sales price of that type was equal to or higher than the cost of production, normal value was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP.

(60) Where the volume of profitable sales of a product 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.

(61) Where the product types were all sold at a loss, it was considered that they were not sold in the ordinary course of trade.

(62) For sales of product types not made in the ordinary course of trade, as well as for product types which were not sold in representative quantities on the domestic market, a constructed normal value was used.

(63) To construct normal value, the weighted average selling, general and administrative (SG&A) expenses incurred and the weighted average profit realised by the sole cooperating analogue country producer on domestic sales of the like product, in the ordinary course of trade during the investigation period, was added to its own average cost of production during the investigation period. For any product type sold in non-representative quantities in the domestic market, the weighted average profit and SG&A expenses in the ordinary course of trade of these non-representative sales was used to construct normal value. Where necessary, the costs of production and SG&A expenses were adjusted, before being used in the ordinary course of trade test and in constructing normal values.

#### 1.5. Export price

(64) As the sampled producers were granted IT and made export sales of the product concerned to the Union directly to independent customers in the Union, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

#### 1.6. Comparison

(65) The comparison between normal value and export price was made on an ex-works basis.

(66) 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 prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(67) Appropriate adjustments for physical characteristics, indirect taxes, transport, insurance, handling loading and ancillary costs, packing, credit, commissions and bank charges were made in all cases where they were found to be reasonable, accurate and supported by verified evidence.

#### 1.7. Dumping margins

(68) For the sampled companies, the weighted average normal value of each type of the like product established for the analogue country was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Articles 2(11) and 2(12) of the basic Regulation.

(69) On this basis the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Dumping Margin
Hebei Jianzhi	67,8 %
Jinan Meide	39,3 %
Qingdao Madison	32,1 %

(70) The weighted average dumping margin of the cooperating exporting producers not included in the sample was calculated in accordance with the provisions of Article 9(6) of the basic Regulation. This margin was established on the basis of the margins established for the sampled exporting producers.

(71) On this basis, the dumping margin calculated for the cooperating companies not included in the sample was provisionally established at 42,3 %.

(72) With regard to all other exporting producers in the PRC, the dumping margins were established on the basis of the facts available in accordance with Article 18 of the basic Regulation. To this end the level of cooperation was first established by comparing the volume of exports to the Union reported by the cooperating exporting producers with the equivalent Eurostat import statistics.

(73) As the cooperation accounted for more than 50 % of total Chinese exports to the Union and the industry can be considered fragmented due to the high number of exporting producers in the PRC, the level of cooperation can be considered high. Since there was no reason to believe that any exporting producer deliberately abstained from cooperating, the residual dumping margin was set at the level of the sampled company with the highest dumping margin. This was considered appropriate since there were no indications that the non-

cooperating companies were dumping at a lower level, and in order to ensure the effectiveness of any measures.

(74) On this basis the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Dumping Margin
Hebei Jianzhi	67,8 %
Jinan Meide	39,3 %
Qingdao Madison	32,1 %
Other cooperating companies	42,3 %
All other companies	67,8 %

## 2. Thailand and Indonesia

### 2.1. Normal Value

(75) In accordance with Article 2(2) of the basic Regulation, the Commission first established for each of the cooperating exporting producers whether its total domestic sales of the like product were representative, i.e. whether the total volume of such sales represented at least 5 % of its total volume of export sales of the product concerned to the Union. The investigation established that the domestic sales of the like product were representative for all cooperating exporting producers in Thailand and Indonesia.

(76) The Commission subsequently identified those product types sold domestically by the companies having overall representative domestic sales that were identical or closely resembling with the types sold for export to the Union.

(77) For each type of the like product sold by the exporting producers on their domestic market and found to be comparable with the type of the product concerned sold for export to the Union, 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 product type were considered sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the IP represented at least 5 % of the total volume of the comparable product type sold for export to the Union.

(78) The Commission subsequently examined whether each type of the like product sold domestically in representative quantities could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the investigation period.

(79) Where the sales volume of a product 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 sales price was equal to or higher than the unit cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question.

(80) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that product type, or where the weighted average price of that type was below the unit cost, normal value was based on the actual domestic price, which was calculated as the weighted average price of only the profitable domestic sales of the type in question.

(81) Where the product types were all sold at a loss, it was considered that they were not sold in the ordinary course of trade.

(82) For sales of product types not made in the ordinary course of trade, as well as for product types which were not sold in representative quantities on the domestic market, a constructed normal value was used.

(83) To construct normal value, the weighted average selling, general and administrative ('SG&A') expenses incurred and the weighted average profit realised by the cooperating exporting producers concerned on domestic sales of the like product, in the ordinary course of trade during the investigation period, was added to their own average cost of manufacturing during the investigation period. For any product type sold in non-representative quantities in the domestic market, the weighted average profit and SG&A expenses in the ordinary course of trade of these non-representative sales was used to construct normal value.

#### 2.2. Export price

(84) As all exports of the product concerned of the cooperating Thai and Indonesian exporters were made to independent customers in the Union, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

#### 2.3. Comparison

(85) The comparison between normal value and export price was made on an ex-works basis.

(86) 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 prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(87) Appropriate adjustments for level of trade, transport, insurance, handling loading and ancillary costs, packing, credit, commissions and bank charges were made in all cases where they were found to be reasonable, accurate and supported by verified evidence.

#### 2.4. Dumping margins

##### (a) Thailand

(88) For the two cooperating companies in Thailand, the weighted average normal value of each type of the like product was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Article 2(11) and 2(12) of the basic Regulation.

(89) Given that the level of cooperation was considered to be high (the volume of exports of the two cooperating Thai companies represented more than 80 % of total Thai exports to the Union during the IP), the dumping margin for all other Thai exporting producers was set at the level of the highest dumping margin of the two cooperating companies.

(90) On this basis the provisional weighted average dumping margins for Thai companies expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Dumping Margin
BIS Pipe Fitting Industry Co., Ltd	15,9 %
Siam Fittings Co., Ltd	50,7 %
All other companies	50,7 %

##### (b) Indonesia

(91) For the sole cooperating company, the weighted average normal value of each type of the like product was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Article 2(11) and 2(12) of the basic Regulation.

(92) Given that the level of cooperation was considered to be high (the volume of exports of the sole cooperating Indonesian company represented more than 80 % of total Indonesian exports to the Union during the IP), the dumping margin for all other Indonesian exporting producers was set at the same level as for the cooperating company.

(93) On this basis the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:



Company	Dumping Margin
PT. Tri Sinar Purnama	11,0 %
All other companies	11,0 %

## E. INJURY

### 1. Union production

- (94) During the IP, the like product was manufactured by six producers in the Union. As indicated under recital (29) above, two groups of Union producers, comprised of three Union producers were selected in the sample, representing 81 % of the total Union production of the like product.

### 2. Definition of the Union industry

- (95) Within the meaning of Article 4(1) and Article 5(4) of the basic Regulation, all six existing Union producers manufacturing the like product during the IP constitute the Union industry and they will therefore be hereafter referred to as the 'Union industry'.

### 3. Union consumption

- (96) Union consumption was established on the basis of the sales volume of the Union industry on the Union market, and the import volume reported by Eurostat, as adjusted by the findings of the investigation.
- (97) Union consumption significantly decreased by 21 % between 2008 and 2009, subsequently increasing by 12 percentage points to a level 9 % below the consumption at the beginning of the period considered.

Union consumption (tonnes)				
	2008	2009	2010	IP
Union consumption	72 231	57 398	59 190	65 460
Index	100	79	82	91

Source: Complaint data, Eurostat and questionnaire replies.

## 4. Imports from the countries concerned

### 4.1. Cumulative assessment of the effects of the imports from the countries concerned

- (98) The Commission examined whether imports of threaded malleable fittings originating in the countries concerned should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.
- (99) The margin of dumping established in relation to the imports from each of the countries concerned was

above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation (see recitals (74), (90) and (93) above).

- (100) With regard to the volumes of the dumped imports from Indonesia, it was found that they constituted only around 2,5 % of all imports of the like product to the Union during the IP. Therefore, they can be considered as not constituting a cause of material injury to the Union industry in the sense of Article 9(3) of the basic Regulation or the provisions of the WTO Anti-Dumping Agreement<sup>(1)</sup>.
- (101) At the same time the investigation established at this provisional stage that the majority of imports from Indonesia may well have been improperly declared under a different CN code, namely 7307 99 10 instead of 7307 19 10 that is normally relevant for threaded tube or pipe cast fittings, of malleable cast iron. However, all or at least a large part of those possibly misdeclared imports are already included in the figure of 2,5 % mentioned in the previous recital.
- (102) In the light of the above, it was provisionally decided not to cumulate those imports with the dumped imports from Thailand and the PRC.
- (103) With regard to the volumes of the dumped imports from Thailand and the PRC, they cannot be considered negligible as their market share attain 5,4 % and 47,3 %, respectively, in the IP.
- (104) The cumulative assessment was provisionally considered appropriate in view of the comparable conditions of competition between the imports from these two countries and the like Union product, i.e. through the same sales channels and to the same categories of customers. Indeed, in a number of cases it was shown that the imported products from the PRC and Thailand were sold via the same distributors.
- (105) In the light of the above, it was provisionally considered that all the criteria set out in Article 3(4) of the basic Regulation were met. The imports from Thailand and the PRC were therefore examined cumulatively. They are hereby referred to as 'imports from the two countries concerned'.

### 4.2. Volume and market share of the imports from the two countries concerned

- (106) The volume of imports of the product concerned from the two countries concerned into the Union market has increased by 15 % over the period considered. While imports initially decreased by 16 % between 2008 and 2009 due to the decrease in consumption mentioned in recital (97) above, they substantially increased by 31 percentage points subsequently until the IP.

<sup>(1)</sup> See Commission Decision 98/175/EC of 3 March 1998, OJ L 63 of 4.3.1998, p. 32, recital 2.

Union import volume (tonnes)				
	2008	2009	2010	IP
PRC	26 188	22 413	22 065	30 786
<i>Index</i>	100	86	84	118
Thailand	3 723	2 681	3 331	3 485
<i>Index</i>	100	72	89	94
Two countries concerned	29 911	25 094	25 396	34 271
<i>Index</i>	100	84	85	115

Source: Eurostat and findings of the investigation.

- (107) The market share of dumped imports from the two countries concerned has increased by 11 percentage points from 41,7 % to 52,7 % during the period considered. This market share growth mainly took place between 2010 and the IP, during a period of recovering demand.

Union market share				
	2008	2009	2010	IP
PRC	36,5 %	39,3 %	37,7 %	47,3 %
<i>Index</i>	100	108	103	129
Thailand	5,2 %	4,7 %	5,7 %	5,4 %
<i>Index</i>	100	91	110	103
Two countries concerned	41,7 %	44,0 %	43,4 %	52,7 %
<i>Index</i>	100	106	104	126

Source: Complaint data, Eurostat and questionnaire replies.

#### 4.3. Prices of the imports from the two countries concerned and price undercutting

##### (a) Price evolution

- (108) The table below shows the average price of dumped imports from the two countries concerned, at the Union frontier duty unpaid, as reported by Eurostat. During the period considered the average price of imports from the two countries concerned continuously increased by a total of 14 %.

Import prices (EUR/tonne)				
	2008	2009	2010	IP
PRC	1 428	1 557	1 631	1 676

Import prices (EUR/tonne)				
	2008	2009	2010	IP
<i>Index</i>	100	109	114	117
Thailand	2 126	2 208	2 036	2 148
<i>Index</i>	100	104	96	101
Two countries concerned	1 515	1 626	1 679	1 721
<i>Index</i>	100	107	111	114

Source: Eurostat.

##### (b) Price undercutting

- (109) A type-to-type price comparison was made between the selling prices of the exporting producers and the sampled Union producers' selling prices in the Union. To this end, the sampled Union producers' prices to unrelated customers have been compared with the prices of sampled exporting producers of the two countries concerned. Adjustments were applied where necessary to take account of differences in the level of trade (notably OEM sales) and post-importation costs.
- (110) The comparison showed that, during the IP, imports of the product concerned originating in Thailand and the PRC were sold in the Union at prices which undercut the Union industry prices, when expressed as a percentage of the latter, by 25 % to 55 %.

#### 5. Situation of the Union industry

- (111) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors having a bearing on the state of the Union industry during the period considered. The data presented below relate to all Union producers for production, production capacity, capacity utilisation, sales and market shares, and to the sampled Union producers for all the remaining indicators. As concerns the indicators based on the sampled producers, given that the sample was comprised of only two groups of producers, for confidentiality reasons the actual aggregate data could not be disclosed in the related tables below; instead, only the indices are presented in order to show the trend of those indicators.

##### 5.1. Production, production capacity and capacity utilisation

- (112) The Union production volumes sharply fell between 2008 and 2009 by 39 %, and subsequently slightly decreased from the already low level despite a 12 percentage point increase in consumption in the following years, as indicated in recital (97) above.

Union production volume (tonnes)				
All producers	2008	2009	2010	IP
Union consumption	55 726	33 780	32 303	32 646
<i>Index</i>	100	61	58	59

Source: Complaint data and questionnaire replies.

- (113) The production capacity of the Union industry decreased by 21 % during the period considered, mainly between 2008 and 2009. The main reason for the reduction of the production capacity was the shutdown of three Union producers during the period considered.

Union production capacity (tonnes)				
All producers	2008	2009	2010	IP
Production capacity	90 400	75 440	71 440	71 440
<i>Index</i>	100	83	79	79

Source: Complaint data and questionnaire replies.

- (114) Despite the decrease in production capacity, the capacity utilisation of the Union industry decreased by 26 %, mainly between 2008 and 2009.

Union production capacity utilisation				
All producers	2008	2009	2010	IP
Production capacity utilisation	62 %	45 %	45 %	46 %
<i>Index</i>	100	73	73	74

Source: Complaint data and questionnaire replies.

## 5.2. Stocks

- (115) The volume of stocks decreased by 23 % during the period considered, in line with the decreasing sales and production volumes of the Union industry.

Stocks (tonnes)				
Sample	2008	2009	2010	IP
<i>Index</i>	100	91	75	77

Source: Questionnaire replies sampled Union producers.

## 5.3. Sales volume and market share

- (116) The sales volume of all Union producers on the Union market significantly decreased by 25 % between 2008

and 2009 due to a decreasing demand. After 2009, however, the demand substantially increased in the Union, as mentioned in recital (97) above, but the Union sales remained at the low level of 2009 until the end of the period considered.

Union sales volume (tonnes)				
All producers	2008	2009	2010	IP
Union sales	34 210	25 702	26 717	25 333
<i>Index</i>	100	75	78	74

Source: Questionnaire replies sampled Union producers.

- (117) The market share of the Union industry continuously decreased by 9 percentage points or 18 % during the period considered, while the dumped imports gained 11 percentage points of market share during the same period, as indicated in recital (107) above.

Union market share				
All producers	2008	2009	2010	IP
Union sales	47,7 %	45,1 %	45,6 %	38,9 %
<i>Index</i>	100	95	96	82

Source: Complaint data, Eurostat and questionnaire replies.

## 5.4. Prices and factors affecting prices

- (118) The sampled Union producers were able to only moderately increase their sales prices by 4 % during the period considered. Due to the increasing quantities of dumped imports entering the Union market, this price increase was lower than the increase in costs.

Average Union price per tonne				
Sample	2008	2009	2010	IP
<i>Index</i>	100	103	103	104

Source: Questionnaire replies sampled Union producers.

## 5.5. Profitability, return on investment and cash flow

- (119) Profitability of the Union industry was established by expressing the pre-tax net profit of the sales of the like product on the Union market to unrelated customers as a percentage of the turnover of these sales. While the profitability of the Union industry was satisfactory at the beginning of the period considered, it was almost completely eliminated in 2009. Although it somewhat recovered subsequently, it remained far below the non-injurious level throughout the rest of the period considered.

- (120) As concerns the return on investments, expressed as the profit in percent of the net book value of investments, this indicator followed the same trend as the profitability.

Profitability & return on investments (ROI)				
Sample	2008	2009	2010	IP
Profitability (Index)	100	8	38	37
ROI (Index)	100	1	36	40

Source: Questionnaire replies sampled Union producers.

- (121) The net cash flow from operating activities continuously decreased by a total of 64 % during the period considered, reaching a very low level during the IP.

Cash flow (EUR)				
Sample	2008	2009	2010	IP
Index	100	55	58	36

Source: Questionnaire replies sampled Union producers.

#### 5.6. Growth

- (122) As indicated in recital (97) above, the Union consumption was growing significantly between 2009 and the IP by 8 000 tonnes, while the volume of dumped imports increased by 9 000 tonnes during the same period, as indicated in recital (106) above. The complete growth of the Union market between 2009 and the IP was therefore absorbed by dumped imports, while the Union sales of the Union industry remained at the very low level of 2009. It is therefore shown that the Union industry could not benefit from the recent growth in Union consumption due to the increasing market share of dumped imports from the two countries concerned.

#### 5.7. Investments and ability to raise capital

- (123) During the period considered, the investments of the sampled Union producers developed as follows:

Net investments (EUR)				
Sample	2008	2009	2010	IP
Index	100	65	41	76

Source: Questionnaire replies sampled Union producers.

- (124) As the table above shows, the Union producers have substantially decreased investments between 2008 and 2010. This trend reversed during the IP, when the investments significantly rebounded, but without reaching the level at the beginning of the period considered.

#### 5.8. Ability to raise capital

- (125) Due to the insufficient profitability described in recital(119) above, some of the Union producers have encountered difficulties to raise capital for future investments in the current circumstances. Also, the unsatisfactory return on investment adds to the problems in raising capital.

#### 5.9. Employment, productivity and labour costs

- (126) The employment in full-time equivalents (FTE) largely followed the development of the production volumes (see recital (112) above), which indicates that the Union industry has attempted to rationalise manufacturing costs when it was necessary. The Union industry tried to adapt their workforce to the worsening market situation, leading to a steady overall decrease in employment of 36 % during the period considered.

Employment in FTE				
Sample	2008	2009	2010	IP
Index	100	75	67	64

Source: Questionnaire replies sampled Union producers.

- (127) Despite the above attempts of the Union industry to align the employment to worsening market situation, the output per FTE of the Union producers fell considerably by 19 % between 2008 and 2009. The situation continuously improved afterwards, but remained 9 % below the beginning of the period considered.

Productivity (tonnes/FTE)				
Sample	2008	2009	2010	IP
Index	100	81	87	91

Source: Questionnaire replies sampled Union producers.

- (128) During the period considered, average labour costs of the Union industry continuously increased by a total 12 %.

Labour costs (EUR/FTE)				
Sample	2008	2009	2010	IP
Index	100	106	112	112

Source: Questionnaire replies sampled Union producers.

#### 5.10. Magnitude of the dumping margin

- (129) The dumping margins for imports from the two countries concerned, as specified in recitals (74) and (90), are high. Given the volume, market share and prices of the dumped imports, the impact of the margins of dumping can be considered substantial.

### 5.11. Recovery from past dumping

- (130) Threaded malleable fittings, originating in Brazil, the Czech Republic, Japan, the PRC, the Republic of Korea and Thailand were already subject to measures<sup>(1)</sup> between 2000 and 2005<sup>(2)</sup> ('the previous measures'). The satisfactory profitability of the Union industry at the beginning of the period considered (see recital (119) above) suggests that these measures brought temporary relief to the Union industry. The increasing volumes of dumped imports have, however, put an end to this rather positive period. It is also noted that the combined market share of the six countries concerned by the previous measures was never above 29 %<sup>(3)</sup>, while the two countries concerned by the current investigation held a market share of 52,7 % during the IP, as indicated in recital (107) above.

## 6. Conclusion on injury

- (131) The injury indicators developed negatively during the period considered. This is particularly noticeable for the indicators concerning profitability, production volumes, capacity utilisation, sales volumes and market share that have all showed a clearly deteriorating trend.
- (132) At the same time, imports of threaded malleable fittings from the two countries concerned were undercutting Union industry prices by up to 55 % during the IP (see recital (110) above), substantially increasing their market share at the same time (see recital (107) above).
- (133) In the light of the foregoing, it is provisionally concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

## F. CAUSATION

### 1. Introduction

- (134) In accordance with Article 3(6) and 3(7) of the basic Regulation, it was examined whether the dumped imports originating in the PRC and Thailand have caused injury to the Union industry to a degree that may be considered as material. Known factors other than the dumped imports, which could at the same time have injured the Union industry, were also examined in order to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

### 2. Effect of the dumped imports

- (135) Between 2008 and the IP, the volume of the dumped imports from the two countries concerned increased in terms of volume by 15 % in a market contracting by 9 %, which resulted in an increase of Union market share from 41,7 % to 52,7 %.

<sup>(1)</sup> OJ L 55, 29.2.2000, p. 3 (provisional), OJ L 208, 18.8.2000, p. 8 (definitive).

<sup>(2)</sup> Due to the enlargement of the EU, measures against the Czech Republic lapsed on 1 May 2004.

<sup>(3)</sup> OJ L 55, 29.2.2000, p. 3, rec. 146.

- (136) The increase in dumped imports of the product concerned from the two countries concerned over the period considered coincided with a downward trend in most injury indicators of the Union industry. The Union industry lost 8,7 percentage points of market share, and had to reduce its production by 41 %. The significant price undercutting prevented the Union industry from passing on the increased production costs in the sales prices to an acceptable extent, which resulted in very low profitability levels during most of the period considered.

- (137) Based on the above it is provisionally concluded that the low-priced dumped imports from the two countries concerned, which entered the Union market in large and overall increasing volumes and which significantly undercut the Union industry prices throughout the period considered, are causing material injury to the Union industry.

## 3. Effect of other factors

### 3.1. Imports from other third countries

- (138) While Eurostat reports significant imports from India at very low prices during the whole period considered, there are indications that these imports are not the product concerned, but different products reported under the same CN code.
- (139) For the other third countries, there were limited imports throughout the whole period considered. The total market share of imports from countries other than the two countries concerned has decreased by 2,1 percentage points, from 10,5 % to 8,4 %.

- (140) The next largest sources of imports during the IP were Indonesia, Brazil and Turkey, which held market shares between 1,3 % and 1,6 % respectively, and all of these countries lost market share during the period considered.

Import market share				
	2008	2009	2010	IP
Brazil	3,6 %	3,8 %	4,0 %	1,5 %
Indonesia	1,8 %	2,5 %	1,9 %	1,6 %
Turkey	1,6 %	2,0 %	1,9 %	1,3 %
Other Countries	3,6 %	2,5 %	3,2 %	4,0 %
Total	10,5 %	10,8 %	11,0 %	8,4 %
<i>Index</i>	100	105	104	80

Source: Eurostat.

- (141) Due to the limited volumes and decreasing trends, it can be concluded that imports from third countries other than the countries concerned do not appear to have contributed to the injury suffered by the Union industry during the IP.

### 3.2. Export performance of the Union industry

- (142) As concerns the development of export sales of the Union industry, exports continuously decreased by a total of 34 % during the period considered.

Export sales (tonnes)				
Sample	2008	2009	2010	IP
Export sales	7 134	5 043	4 969	4 700
Index	100	71	70	66

Source: Questionnaire replies sampled EU producers.

- (143) However, during the whole period considered, export sales accounted for only 13 %-15 % of the Union industry's production. Therefore they do not appear to have contributed to any significant degree to the injury suffered by the Union industry during the IP.

### 3.3. Development of Union consumption

- (144) As indicated in recital (97) above, the Union consumption decreased by 21 % between 2008 and 2009, resulting in a decrease of Union sales of the Union industry of 25 % during the same period. After 2009, however, the Union consumption was growing significantly, by around 8 000 tonnes, while the volume of dumped imports increased by around 9 000 tonnes during the same period, as indicated in recital (106) above. The complete growth of the Union market between 2009 and the IP was therefore absorbed by dumped imports, while the Union sales of the Union industry remained at the very low level of 2009.

- (145) Interested parties claimed that an important cause of injury was the crisis on the Spanish construction market, which allegedly strongly affects ATUSA, a Spanish company and one of the main complainants. However, ATUSA sells in most EU Member States and the actual impact of the Spanish construction crises was limited to their Spanish sales, which never accounted for the majority of their sales. Moreover, the injury picture is clear in respect of both of the sampled company groups, the totality of complainants as well as the total Union industry. In any event, the injury analysis was not limited to the performance of one Union producer or one national market, but with regard to the whole Union industry.

- (146) Interested parties also claimed that the injury caused by the negative development of Union consumption was

not caused by dumped imports, but by substitution effects. In this respect, it is noted that the negative development of Union consumption may have caused injury to the Union producers. This injury was, however, aggravated by the steady increase of dumped imports in a shrinking market. As indicated above, the recent recovery of Union consumption has exclusively benefited the dumped imports, while Union producers were not able to increase their sales volume.

### 3.4. Structural problems of the Union producers

- (147) Interested parties claimed that the fact that Georg Fischer (GF) has continued to be profitable despite their higher prices, while the other Union producers failed to perform satisfactorily, indicates that structural problems caused the injury suffered by the Union industry rather than dumped imports. However, also GF has been negatively affected, losing market share and some of its profit margin. Its employment fell as well as its output. Therefore, the argument that GF was not injured cannot be accepted.

- (148) Furthermore, all Union producers, including GF, were subject to the price pressure exerted by the dumped imports.

- (149) Similarly, interested parties claimed that since Berg Montana, the Bulgarian subsidiary of ATUSA group, has also continued to be profitable indicates that other reasons than dumped imports have caused the injury. However, also Berg Montana was negatively affected by Chinese imports: production and capacity utilisation decreased significantly as did the employment. As the majority of Berg Montana's sales are to related companies of the ATUSA group, an isolated look at the profitability of Berg Montana without also looking at the financial result of the total group is not appropriate, since Berg Montana's profitability is influenced by transfer pricing – and overall the ATUSA group is indeed loss-making. Therefore, the argument that Berg Montana was not injured cannot be accepted either.

- (150) One could claim that the 9 % drop in labour productivity between 2008 and the IP, as indicated in recital (127) above is a sign of a structural problem. However, this drop occurred in a period during which the Union industry reduced their overall workforce by 36 % and their output by 41 %. These reductions indicate that the Union producers were continuously forced to align their operations with the market pressure stemming from dumped imports and the temporarily weaker demand. In view of this bleak economic environment, the 9 % decrease in labour productivity can be considered rather moderate.

## 4. Conclusion on causation

- (151) In conclusion, the above analysis has demonstrated that imports from the two countries concerned have increased in terms of quantities and gained substantial market

share over the period considered. Moreover, these increased quantities which entered the Union market at dumped prices severely undercut the Union industry prices.

- (152) Other factors which could have caused injury to the Union industry have also been analysed. In this respect, it was found that imports from other third countries, the export performance of the Union industry and the development of Union consumption, do not appear to be such as to break the causal link established between the dumped imports and the injury suffered by the Union industry during the IP.
- (153) Based on the above analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports, it is provisionally concluded that the imports from the PRC and Thailand have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

## G. UNION INTEREST

### 1. Preliminary remark

- (154) In accordance with Article 21 of the basic Regulation, it was examined whether, despite the provisional conclusion on injurious dumping, compelling reasons existed for concluding that it was not in the Union interest to adopt provisional anti-dumping measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation the likely impact of possible measures on all parties involved as well as the likely consequences of not taking measures were considered on the basis of all evidence submitted.

### 2. Union Industry

- (155) All known Union producers support the imposition of anti-dumping measures. It is recalled that most injury indicators showed a negative trend and that in particular the injury indicators related to production and sales volumes and market share as well as the financial performance of the Union industry such as profitability and return on investment, were seriously affected.
- (156) If measures are imposed, it is expected that the price depression and loss of market share will be mitigated and that the sales prices of the Union industry will start to recover, resulting in a significant improvement of the Union industry's financial situation.
- (157) On the other hand, should anti-dumping measures not be imposed, it would be likely that the deterioration of the Union industry's market and financial situation would continue. In such a scenario, the Union industry would lose further market share, as it is not able to follow the market prices set by dumped imports from the two countries concerned. The likely effects would

entail further cuts in manufacturing and the closure of production facilities in the Union, resulting in substantial job losses.

- (158) Taking into account all the above factors, it is provisionally concluded that the imposition of anti-dumping measures would be in the interest of the Union industry.

### 3. Importers

- (159) As indicated in recital (31) above, 32 unrelated importers cooperated in the investigation, and their imports accounted for around 45 % of total imports from the two countries concerned. In general, importers oppose the imposition of anti-dumping measures. However, in most cases, the impact of the measures appear to be limited. In many cases, the product concerned accounts for a minor part of the importers' total business. Also, some importers already purchase threaded malleable fittings from other sources, and importers currently only purchasing from the two countries concerned can also change to other sources, including the Union industry. On that basis, it is provisionally concluded that the imposition of provisional measures will not have substantially negative effects on the interest of importers.

### 4. Users

- (160) As indicated in recital (18) above, threaded malleable fittings are mainly used in the gas, water and heating systems of residential and non-residential buildings. As such, the users of the threaded malleable fittings are the plumbers. No user or consumers' association cooperated in the investigation. Also, the value of the threaded malleable fittings only account for a minor part of the total cost of a gas, water or heating installation. On that basis, it is provisionally concluded that the imposition of provisional measures will not have substantially negative effects on the interest of the users.
- (161) All in all, when considering the overall impact of the anti-dumping measures, the positive effects on the Union industry appear to clearly outweigh the potential negative impacts on the other interest groups. Therefore, it is provisionally concluded that the anti-dumping duties are not against the Union interest.

### 5. Competition aspects

- (162) Interested parties have argued that in case anti-dumping measures are introduced, a duopoly may develop on the Union market which would be dominated by the two main complainants ATUSA and GF. In this respect, it should first be noted that the current market share of these two groups are comparably low, giving the alleged "duopoly" a rather moderate market share of around 30 %. This should be compared to the market share of the two countries concerned which amounts to 52,7 %, while imports from other third countries also represent a market share of 8,4 %. The other Union producers also hold a market share of 7,5 %.

(163) Furthermore, the purpose of anti-dumping duties is not to prohibit all imports, but to restore a level playing field. It is worth noting that the previous measures in force between 2000 and 2005 did not stop imports. To the contrary, the PRC exported higher quantities in 2002, 2003 and 2004 than before the imposition of measures of the 49,4 % anti-dumping duty. All in all, the presence of such a substantial number of players on the Union market indicates that the risk of an anti-competitive duopoly dominating the Union market is low.

## 6. Conclusion on Union interest

(164) In view of the above, it was provisionally concluded that overall, based on the information available concerning the Union interest, no compelling reasons exist against the imposition of provisional measures on imports of threaded malleable fittings originating in the PRC and Thailand.

## H. PROVISIONAL ANTI-DUMPING MEASURES

### 1. Injury elimination level

(165) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports from the two countries concerned.

(166) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Union producers.

(167) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union producers to cover their costs of production and to obtain a profit before tax that could be reasonably achieved by a producer of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Union.

(168) In the previous investigation concerning the same product, this reasonable profit was established at the level of 7 % <sup>(1)</sup>. Since the sampled Union producers were able to achieve similar profit at the beginning of the period considered, there are no indications that this profit margin is no longer reasonable.

(169) On this basis, a non-injurious price was calculated for the Union producers of the like product. The non-injurious price was obtained by adding the abovementioned profit margin of 7 % to the cost of production.

(170) The necessary price increase was then determined on the basis of a comparison of the weighted average import

price, with the weighted average non-injurious price of the like product sold by the Union industry on the Union market. Any difference resulting from this comparison was then expressed as a percentage of the weighted average import CIF value.

## 2. Provisional measures

(171) In the light of the foregoing, and in accordance with Article 7(2) of the basic Regulation, it is considered that provisional anti-dumping measures should be imposed on imports originating in the PRC and Thailand at the level of the lower of the dumping and the injury margins found, in accordance with the lesser duty rule.

(172) Given the high rate of cooperation of Chinese and Thai exporting producers, the all other companies duty for both countries was set at the level of the highest duty to be imposed on the companies, respectively, sampled or cooperating in the investigation from the given country. The all other companies duty will be applied to those companies which had not cooperated in the investigation.

(173) For the cooperating non-sampled Chinese companies listed in the Annex, the provisional duty rate is set at the weighted average of the rates of the sampled companies.

(174) The proposed rates of the provisional anti-dumping duties are as follows:

### People's Republic of China

Company	Dumping margin	Injury margin	Duty Rate
Hebei Jianzhi Casting Group Ltd.	67,8 %	136,5 %	67,8 %
Jinan Meide Casting Co., Ltd.	39,3 %	122,4 %	39,3 %
Qingdao Madison Industrial Co., Ltd.	32,1 %	128,4 %	32,1 %
Other cooperating companies	42,3 %	124,7 %	42,3 %
All other companies			67,8 %

### Thailand

Company	Dumping margin	Injury margin	Duty Rate
BIS Pipe Fitting Industry Co., Ltd	15,9 %	86,2 %	15,9 %
Siam Fittings Co., Ltd	50,7 %	39,7 %	39,7 %
All other companies			39,7 %

<sup>(1)</sup> OJ L 55, 29.2.2000, p. 3, rec. 188.



(175) The above anti-dumping measures are provisionally established in the form of *ad valorem* duties.

(176) 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 countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the the People's Republic of China and Thailand 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, 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'.

(177) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission <sup>(1)</sup> 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 accordingly be amended by updating the list of companies benefiting from individual duty rates.

(178) In order to ensure a proper enforcement of the anti-dumping duty, the all other companies duty level should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Union during the IP.

(179) However, in the case of Thailand, the latter companies are invited, when they fulfil the requirements of Article 11(4) of the basic Regulation, second paragraph, to present a request for a review pursuant to that Article in order to have their situation examined individually.

#### I. FINAL PROVISION

(180) In the interests of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the Regulation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of a duty made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of threaded tube or pipe cast fittings, of malleable cast iron, currently falling within CN code ex 7307 19 10 (TARIC code 7307 19 10 10) and originating in the People's Republic of China and Thailand.

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

Country	Company	Duty Rate	TARIC additional code
People's Republic of China	Hebei Jianzhi Casting Group Ltd. - Yutian County	67,8 %	B335
	Jinan Meide Casting Co., Ltd. - Jinan	39,3 %	B336
	Qingdao Madison Industrial Co., Ltd. - Qingdao	32,1 %	B337
	Hebei XinJia Casting Co., Ltd. - XuShui County	42,3 %	B338
	Shijiazhuang Donghuan Malleable Iron Castings Co., Ltd. - Xizhaotong Town	42,3 %	B339
	Linyi Oriental Pipe Fittings Co., Ltd. - Linyi City	42,3 %	B340
	China Shanxi Taigu County Jingu Cast Co., Ltd. - Taigu County	42,3 %	B341
	Yutian Yongli Casting Factory Co., Ltd. - Yutian County	42,3 %	B342
	Langfang Pannext Pipe Fitting Co., Ltd. - LangFang, Hebei	42,3 %	B343
	Tangshan Daocheng Casting Co., Ltd. - Hongqiao Town, Yutian County	42,3 %	B344
	Tangshan Fangyuan Malleable Steel Co., Ltd. - Tangshan	42,3 %	B345

<sup>(1)</sup> European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

Country	Company	Duty Rate	TARIC additional code
	Taigu Tongde Casting Co., Ltd. – Nanyang Village, Taigu	42,3 %	B346
	All other companies	67,8 %	B999
Thailand	BIS Pipe Fitting Industry Co., Ltd - Samutsakorn	15,9 %	B347
	Siam Fittings Co., Ltd - Samutsakorn	39,7 %	B348
	All other companies	39,7 %	B999

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

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

Done at Brussels, 14 November 2012.

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

#### *Article 2*

Without prejudice to Article 20 of Council Regulation (EC) No 1225/2009, interested parties may request disclosure of the details underlying the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

#### *Article 3*

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

Article 1 of this Regulation shall apply for a period of six months.

*For the Commission*

*The President*

José Manuel BARROSO