COMMISSION

COMMISSION DECISION

of 21 February 2001

terminating the anti-dumping proceeding concerning imports of ferro-silicon originating in Brazil, the People's Republic of China, Kazakhstan, Russia, Ukraine and Venezuela

(notified under document number C(2001) 414)

(2001/230/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 2238/2000 [2], and in particular Articles 9 and 11(2) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Previous investigations

(1) Anti-dumping measures on imports of ferro-silicon (FeSi) originating in Venezuela have been in force since 1983 and on imports originating in Brazil, Kazakhstan, Russia and the Ukraine since 1987. These measures were added to and extended by the imposition of definitive anti-dumping measures against imports originating in Kazakhstan, Russia, Ukraine, Norway, Iceland, Sweden, Brazil and Venezuela by Council Regulation (EC) No 3359/93 of 2 December 1993 imposing amended anti-dumping measures on imports of ferro-silicon originating in Russia, Kazakhstan, Ukraine, Iceland, Norway, Sweden, Venezuela and Brazil [3]. Measures on imports from Iceland, Norway and Sweden were suspended by the application of Council Regulation (EC) No 5/94 of 22 December 1993 on the suspension of anti-dumping measures against EFTA countries from 1 January 1994 [4]. Measures on imports from Brazil were partially reviewed and, by Council Regulation (EC) No 351/98 [5], the duty on two Brazilian exporting producers was reduced to 0 % because of a finding of no dumping.

(2) Definitive anti-dumping measures were also imposed against imports from the People's Republic of China (China) and South Africa by Council Regulation (EC) No 621/94 in March 1994 [6].

(3) Definitive anti-dumping duties concerning imports of FeSi originating in Egypt and Poland were imposed by Council Regulation (EEC) No 3642/92 [7]. These duties lapsed as a result of Commission Decision 1999/426/EC [8], whereby it was concluded that the expiry of these measures was not likely to lead to a recurrence of injury.

2. Request for review

(4) Following the publication of the notice of impending expiry [9] of the anti-dumping measures, the complainant in the original investigation, the Liaison Committee of the Ferro-Alloy Industry (Euroalliages, hereinafter 'the applicant'), requested an expiry review of the measures concerning Brazil, China, Kazakhstan, Russia, Ukraine and Venezuela pursuant to Article 11(2) of Regulation (EC) No 384/96 (the basic Regulation).

(5) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission published a notice of initiation in the *Official Journal of the European Communities* [10] and commenced the investigation. The investigation lasted more than two years due to difficulties met in gathering certain information (in relation to the large number of countries involved and to the changes of country structure of the Community in 1995) and to the time given to the parties to present their views in relation to the complexity of the analysis of the Community interest.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 257, 11.10.2000, p. 2.
[3] OJ L 302, 9.12.1993, p. 1.
[4] OJ L 3, 5.1.1994, p. 1.
[5] OJ L 42, 14.2.1998, p. 1.
[6] OJ L 77, 19.3.1994, p. 48.
[7] OJ L 369, 18.12.1992, p. 1.
[8] OJ L 166, 1.7.1999, p. 91.
[9] OJ C 177, 10.6.1998, p. 4.
[10] OJ C 382, 9.12.1998, p. 9.

(6) No request was received to review the measures concerning South Africa and these measures, therefore, expired on 20 March 1999.

3. **Investigation**

(7) The investigation of dumping covered the period from 1 October 1997 to 30 September 1998 (hereinafter the 'investigation period' or 'IP'). The examination of injury covered the period from 1994 up to the end of the IP ('analysis period').

(8) The Commission officially advised the applicant Community producers, exporting producers and importers known to be concerned, representatives of the exporting countries concerned, as well as the applicant, of the initiation of the review investigation, and gave interested parties the opportunity to make their views known and to request a hearing within the time limit set in the notice of initiation.

The Commission sent questionnaires to all parties known to be concerned and received replies from Community producers and importers, as well as from exporting producers in the countries concerned.

A number of exporting producers in the countries concerned, as well as Community producers, Community users and one importer made their views known in writing. All parties who so requested within the above time limit, and indicated that there were particular reasons why they should be heard, were granted hearings.

(9) The Commission sought and verified all the information deemed necessary for its investigation, and carried out verifications at the premises of the following companies:

(a) Community producers:

Ferroatlántica SL, Spain,

Pechiney Electrometallurgie, France,

Vargön Alloys AB, Sweden;

(b) importers:

Considar Europe SA, Belgium;

(c) exporting producers:

Brazil

Cia. Ferroligas Minas Gerais (Minasligas),

Cia. de Ferro Ligas da Bahia (Ferbasa) SA,

Italmagnesio Nordeste SA,

Nova Era Silicon SA,

Rima Industrial SA:

Venezuela

Ferroatlántica de Venezuela SA (Ferroven).

(10) All the parties concerned were informed of the essential facts and considerations on the basis of which the conclusions of this review were based. They were also granted a period within which to make representations subsequent to this disclosure. The representations received, within the deadlines, were carefully considered and where deemed appropriate, taken into account for the findings.

B. **PRODUCT UNDER CONSIDERATION**

1. **Product under consideration**

(11) The product under consideration by this investigation is the same as that concerned by the original investigation, i.e. FeSi, excluding products containing more than 4 % of magnesium. Production of FeSi takes place in electric arc furnaces by means of reducing quartz using carbon-bearing products. The product is used as a deoxidiser and as an alloying component in the iron and steel industry. FeSi is sold in the form of lumps, grains or powder and exists in various qualities depending on the silicon and the impurity content (i.e. aluminium, carbon, etc.). FeSi with a silicon content of 70 % and higher was considered as high purity, with a silicon content of more than 55 % and less than 70 % as medium purity, and with a silicon content of less than 55 % as low purity FeSi.

(12) It was found that all different forms and qualities of FeSi exported from the countries concerned had the same basic physical and chemical characteristics and essentially the same end-uses. They were therefore considered to form a single product. The product under consideration currently falls within CN codes 7202 21 10, 7202 21 90 and 7202 29 90.

2. **Like product**

(13) The vast majority of FeSi produced in the Community is high purity, i.e. FeSi with a purity of 75 % or more (FeSi 75). It was established that the FeSi produced and sold in the Brazilian and Venezuelan markets was alike within the meaning of Article 1(4) of the basic Regulation to the FeSi exported from Brazil and Venezuela to the Community as they were identical, or closely similar, in terms of physical and chemical characteristics and end uses. Furthermore, it was found that there were no basic differences in the physical and chemical characteristics and the end-uses of FeSi exported from China, Kazakhstan, Russia and Ukraine to the Community and the product produced and sold in the domestic market of the analogue country referred to in recital 24. Also, there were no differences between FeSi exported from the countries concerned and the product produced and sold by the applicant Community producers in the Community market.

C. **CONTINUATION OR RECURRENCE OF DUMPING**

1. **Methodology**

(14) This section explains the general methodology used to establish whether the expiry of the measures currently in force would be likely to lead to a continuation or recurrence of dumping.

General

(15) In the case of the likely continuation of dumping, the Commission investigated the existence of dumping on exports from the countries concerned to the Community during the IP on the grounds that if dumping was taking place, then it was reasonable to consider, in the absence of indications to the contrary, that it would be likely to continue in the future should measures be repealed. These dumping calculations were made irrespective of the fact that for most of the countries under investigation the volume of exports to the Community was small. Nevertheless, it was considered appropriate to examine the general level of dumping on such volumes as this could be used as one indicator of the likelihood of the existence of dumping on larger volumes should the current measures be repealed (see recital 16).

(16) As to the examination of the likely recurrence of dumping, i.e. the likelihood of increased exports at dumped prices should the current measures be repealed, which was necessary where the volumes from the countries concerned were relatively small, the Commission investigated (a) whether future dumping was likely and (b) whether any such dumping would take place in significant quantities. The likelihood of future dumping was assessed in relation to exports from the countries concerned to non-member countries and the question of increased volumes was addressed by examining all relevant market developments, both domestic and export, such as evolution of capacities, production, stocks and prices on the various markets.

(17) As the purpose of this type of review is to assess the likelihood of future dumping should measures be removed, it was not considered necessary or appropriate to calculate dumping margins or allowances with the precision that would be necessary in an anti-dumping investigation carried out under Article 5 of the basic Regulation. Moreover, the detailed investigation was restricted to a sample three-month period within the investigation period, normally the last quarter, unless otherwise specified.

(18) For Venezuela, findings based on dumping calculations were not considered determinant, due to the privatisation and takeover of the sole known Venezuelan exporting producer by a cooperating Community producer shortly after the IP as discussed in recitals 80 to 84.

(19) The Commission has taken note that the US administration repealed their existing anti-dumping measures against imports of FeSi originating in the same countries as those subject to this proceeding in August 1999. This meant that one more market was now available to which these countries could redirect some sales.

Normal value

(20) For Brazil, the Commission considered that the domestic sales in Brazil were sufficiently representative to permit their use for a normal value calculation.

(21) The Commission then examined the position with regard to whether the domestic sales of each company were made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers, of each exported product type, not sold at a loss on the domestic market during the investigation period.

(a) For those product types where more than 80 % by volume, of sales on the domestic market were not below unit costs, and where the weighted average sales price was equal to or higher than the weighted average production cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question.

(b) For those product types where at least 10 %, but no more than 80 %, by volume, of sales on the domestic market, were not below unit costs, normal value, by product type, was calculated as the weighted average of domestic sales prices which were made at prices equal to or above unit costs only, of the type in question.

(c) For those product types where less than 10 %, by volume, was sold on the domestic market, at a price not below unit costs, it was considered that the product type concerned was not sold in the ordinary course of trade and therefore, normal value was constructed.

(22) Normal values were constructed in accordance with Article 2(6) of the basic Regulation on the basis of the manufacturing cost of the type concerned to which was added an amount for selling, general and administrative expenses (SG & A) and profit. The amount for SG & A was that incurred by the producer concerned for the like product and the amount for profit equated to the weighted average profit realised by the producers concerned on sales of the like product in the ordinary course of trade.

(23) Since China, Kazakhstan, Russia and the Ukraine are considered to be non-market economy countries, it was necessary to establish a normal value by reference to a market economy non-member country, in accordance with Article 2(7) of the basic Regulation. Brazil was suggested by the applicant and mentioned in the notice of initiation. Within the time limit specified in that notice, no exporting producer expressed disagreement with this proposal, while one exporting producer in the Ukraine expressed agreement.

(24) Brazil was considered to be a reasonable choice of analogue country as it has significant production, capacity and domestic consumption. There are several domestic producers leading to strong internal competition and Brazilian domestic sales of the product concerned are significant. Furthermore, as Brazil was a party to the present investigation it was likely that Brazilian producers would cooperate in the investigation. An alternative analogue country was neither proposed nor found. In these circumstances, Brazil was chosen as the analogue country and normal values were established on the basis of the weighted average normal values established for the individual Brazilian companies by category of silicon content.

Export price

(25) The export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of export prices actually paid or payable by independent customers in the Community.

(26) Where no information was provided by the exporting producers of a specific country, or where the information provided by the exporting producers of a specific country was considered incomplete, the Commission established, pursuant to Article 18(1) of the basic Regulation, an average export price for the country on the basis of the Eurostat statistics or other facts available.

(27) In order to assess the likelihood of a recurrence of dumping, the Commission also established the export prices to customers in non-member ccountries.

Fair comparison

(28) For the purpose of ensuring a fair comparison between the normal value and the export price as required by Article 2(10) of the basic Regulation, the Commission took account of any differences which affected price comparability.

(29) Accordingly, allowances for differences in transport costs, ocean freight and insurance costs, handling, loading and ancillary costs, import charges and indirect taxes, packing costs, credit costs, after-sales costs, commissions, discounts and rebates, were taken into account as justified. Comparison was usually carried out on an ex-works basis. For those countries where a fob basis has been used it would have made no difference to the outcome of the investigation if the comparison had been carried out on an ex-factory basis.

Dumping margins

(30) For assessing the existence of dumping margins a comparison was made between the weighted average normal value and the weighted average export price, by type, on an ex-factory basis in the case of the market economy countries and normally on a fob-exporting country border basis for the non-market economy countries.

2. **Brazil**

Likelihood of continuation of dumping

(31) Normal value was based on both domestic prices and constructed values.

(32) For one exporting producer, who had no exports during the last three months of the investigation period, normal value was determined for the preceding three months during which exports occurred, in order to allow a comparison with the prices of exports made during that period.

(33) The export price was based on the prices actually paid or payable by independent customers in the Community.

(34) Of six cooperating exporting producers, only two had sales to the Community during the investigation period, and these two were subject to a zero margin of duty.

(35) To ensure a fair comparison, both the normal values and the export prices were adjusted to an ex-factory basis.

(36) A comparison of the normal values in Brazil with export prices to the Community from that country shows little or no dumping overall. In any event, the dumping was on a very low volume of exports and there are indications that this low margin of dumping was temporary and did not continue after the investigation period.

Likelihood of recurrence of dumping

(37) This calculation of dumping entailed a comparison of normal values in Brazil with export prices to non-member countries other than the Community. Normal values were established on the basis of actual prices in Brazil and export prices were established on the basis of the prices actually paid or payable by independent customers in these non-member countries. To ensure a fair comparison these prices were adjusted to an ex-factory basis. A comparison of normal values with export prices to non-member countries showed some dumping although the information collected during the verification visits, in particular, regarding the devaluation of the Brazilian currency, showed that such dumping may not have persisted.

(38) Account was also taken of the fact that some Brazilian exporters have been subject to a zero dumping margin for some time, i.e. one since 1994 and two more since the beginning of 1998, and this had not led to any significant increase in the level of exports to the Community.

(39) The capacity utilisation rate of Brazilian exporting producers was high during the investigation period and the verification of the activities of the cooperating Brazilian exporting producers showed no evidence that there was any intention of significantly altering the current level and pattern of domestic sales in the foreseeable future.

(40) With regard to sales to non-member countries, most Brazilian cooperating producers indicated that they would like to expand sales to the Far East. In fact, although the investigation showed that it would be difficult for the Brazilian producers to further develop this market owing to strong competition from Chinese suppliers and weak demand in Japan, there was no indication that Brazilian exporters would not maintain their existing market share.

Conclusion

(41) The examination with regard to the continuation of dumping showed a very low level of dumping overall on exports to the Community. Moreover, the volumes involved were also very small. Also, there were other indicators, including a devaluation of the Brazilian currency, which make it unlikely that there will be any continuation of significant dumping in the foreseeable future.

(42) Moreover, there was no indication that Brazilian exporters would revert to their former levels of exports to the Community. The pattern of sales domestically and for export appeared settled and was considered unlikely to change significantly in the foreseeable future.

(43) In this respect, account was taken of the fact that some Brazilian exporters have been subject to a zero dumping margin for several years and this had not led to any significant increase in the level of exports to the Community.

(44) Overall, therefore, it is fair to conclude that there is little likelihood that the repeal of measures would lead to renewed dumping in significant quantities from Brazil.

3. **People's Republic of China**

(45) Although questionnaires were sent to 37 exporters in China, no replies were received. As a result, the findings have been made on the basis of the facts available in accordance with Article 18(1) of the basic Regulation.

Likelihood of continuation of dumping

(46) The normal value for China was established on the basis of the normal value in the analogue country Brazil.

(47) The export price was determined on the basis of the facts available by reference to Eurostat, i.e. the weighted average value of a low import volume from China on a cif Community frontier basis, for all grades of FeSi during the investigation period.

(48) The normal values and export prices were put on a comparable level by adjusting both the normal value and the export price to a fob-exporting country border basis.

(49) The analysis of normal values and export prices showed that exports from China to the Community were dumped to a significant level during the investigation period.

Likelihood of a recurrence of dumping

(50) As no Chinese exporting producers cooperated in the investigation the likelihood of recurrence of dumping was determined on the facts available in accordance with Article 18(1) of the basic Regulation. In this case, the best information was considered to be the findings made in relation to the likelihood of continuation of dumping. On this basis, it was considered that there was a likelihood of a significant recurrence of dumping from China should measures lapse.

(51) With no cooperation forthcoming from Chinese exporting producers the findings on whether any dumping would take place in significant volumes were based on facts available, in accordance with Article 18(1) of the basic Regulation. In this respect, the Commission obtained information from industry publications and press articles and these indicated that production in China exceeded domestic and export demand by about 250 000 tonnes per annum with the result that significant capacity and stock would be available for a resumption of significant exports to the Community should measures lapse.

Conclusion

(52) The facts available clearly indicate the existence of significant capacities which could be directed to the Community should the current measures lapse. Moreover, the existing evidence on dumping clearly indicates that a resumption of a significant level of imports from China would be at dumped prices.

4. **Kazakhstan**

Likelihood of continuation of dumping

(53) The normal value for exporting producers in Kazakhstan was established on the basis of the normal value of the analogue country Brazil.

(54) The cooperating Brazilian exporting producers did not produce FeSi with a medium silicon content, a product type that was exported from Kazakhstan. A normal value for this type was therefore calculated on the basis of the simple average of the normal values of FeSi with a high silicon content and FeSi with low silicon content as established in Brazil.

(55) Export sales from the only known exporting producer in Kazakhstan were made to independent traders in Kazakhstan and, therefore, the Kazakh exporting producer was not certain of the ultimate destination of the FeSi sold for export. Consequently, export prices were derived from both exports purportedly declared by the Kazakh customs authorities as destined for the Community and also, on imports recorded in Eurostat. Both sets of data showed only low volumes.

(56) To ensure a fair comparison, the normal value and the export prices were compared on an ex-factory or equivalent basis.

(57) An analysis of the normal values and export prices showed the existence of dumping at substantial levels during the investigation period.

Likelihood of a recurrence of dumping

(58) The normal value for Kazakhstan was established on the basis of the normal value of the analogue country, Brazil and the export price was based on exports to non-member countries. To ensure a fair comparison, the normal value and the export prices were compared on an ex-factory or equivalent basis. This analysis showed the existence of significant dumping.

(59) The only cooperating Kazakh exporting producer known to the Commission did not indicate any change in its pattern of trade in the foreseeable future.

(60) The total FeSi production of this Kazakh exporting producer decreased by about 75 % in the period from 1995 to the investigation period. In the same period his declared capacity for FeSi production decreased by about 86 %. There were indications that the reduction in declared capacity was at least partly due to the transfer of the original capacity to the production of other products but these could be reversed. Moreover, there was other substantial unused production capacity which could be devoted to the production of FeSi in the future.

(61) In addition, although the producer indicated in his questionnaire response that the furnaces currently dedicated to FeSi production would be operating at significantly higher levels of capacity utilisation in 1999 and 2000 than during the investigation period, no conclusive evidence was provided to substantiate this assertion.

Conclusion

(62) The facts available indicate the existence of significant capacities which could be directed to the Community should the current measures lapse. Moreover, the existing evidence on dumping clearly indicates that any resumption of significant exports from Kazakhstan to the Community would be at dumped prices.

5. **Russia**

Likelihood of continuation of dumping

(63) Although the cooperating exporting producer initially declared that he did not export to the Community during the investigation period, some transactions to independent buyers with a freight destination in the Community were identified. The company was not certain, and it could not be established on the basis of the documents provided, if these goods remained in the Community or had their final destination outside the Community. It was therefore assumed that these specific transactions were sales to independent customers in the Community. On this basis, an examination of the likelihood of continuation of dumping was carried out. Given the fact that not all the exporters of FeSi to the Community in Russia had cooperated, a second examination of the likelihood of continuation of dumping was performed on the basis of the Eurostat import statistics.

(64) The normal value for Russia was established on the basis of the normal value of the analogue country, Brazil. As the cooperating Brazilian exporting producers did not produce FeSi with a medium silicon content as exported by Russia, a normal value for this type had to be calculated on the basis of the simple average of the normal values of FeSi with a high silicon content and FeSi with a low silicon content established in Brazil.

(65) The only cooperating Russian producer exported his goods either directly to unrelated buyers or via a related trader in a non-member country. The sales via the related trader were not included in the examination as the relationship could have affected the level of prices charged. The export price was therefore determined on the basis of the prices actually paid or payable for the product sold to independent buyers in the Community.

(66) In view of the fact that these transactions accounted for less than half of the total imports of FeSi originating in Russia, as reported in the Eurostat statistics, average export prices were additionally established on the basis of the Eurostat statistics for the last three months of the investigation period.

(67) To ensure a fair comparison, the normal value and export prices were in some cases adjusted to a fob-exporting country basis and in other cases to an ex-factory basis.

(68) A comparison of the normal values and export prices showed the existence of significant dumping during the investigation period.

Likelihood of recurrence of dumping

(69) The normal value for Russia was established on the basis of the normal value of the analogue country Brazil and the export price was based on all exports to non-member countries because the Russian exporting producer could not identify the specific destinations of its FeSi sold for export. To ensure a fair comparison the normal value and the export price were adjusted to an ex-factory level. This analysis showed the existence of significant dumping.

(70) The exporting producer alleged that any increase in its sales would only be destined for its domestic market, Asia or the Middle East rather than the Community. However, no evidence was produced to support this claim. In any event, even if sales were increased to some of these markets the amount of unused capacity would remain very significant, i.e. in volume terms higher than the exports from Russia to the Community before the imposition of anti-dumping measures. In these circumstances, it is reasonable to assume that Russian exporters would be likely to resume exports to the Community in significant volumes should measures lapse.

Conclusion

(71) Given that only one Russian exporting producer responded to the questionnaire, and that according to Eurostat this exporting producer represented less than half of Russian exports to the Community, the information available to the Commission was limited. The examination has shown that Russian exports were significantly dumped both to the Community and non-member countries. This dumping, together with the availability of substantial unused capacities, indicates that it is likely that the repeal of the current anti-dumping measures against imports of the product concerned originating in Russia would lead to dumping in significant volumes in the foreseeable future.

6. **Ukraine**

Likelihood of continuation of dumping

(72) The cooperating Brazilian exporting producers did not produce FeSi with a medium silicon content, a product type that is exported by Ukraine. A normal value for this type had to be calculated on the basis of the simple average of the normal values of FeSi with a high silicon content and FeSi with a low silicon content established in Brazil.

(73) As the cooperating Ukrainian exporting producers did not report any exports during the investigation period, no export price to the Community could be established on the basis of the information provided by the companies.

(74) However, a small volume of imports of the product concerned originating in Ukraine were recorded in Eurostat. The export prices were therefore established on the basis of the Eurostat prices of the last three months of the investigation period.

(75) To ensure a fair comparison both the normal value and export price were adjusted to a fob-exporting country or equivalent basis.

(76) A comparison of the normal values and export prices showed the existence of significant dumping.

Likelihood of a recurrence of dumping

(77) The normal value for Ukraine was established on the basis of the normal value of the analogue country Brazil. The export prices were determined on the basis of the prices actually paid or payable for the product sold to independent customers in non-member markets. For one exporting producer the export prices were based on export transactions in March to May 1998, as exports for a later period were not reported. Transactions which involved 'tolling' were not taken into account. To ensure a fair comparison both normal values and export prices were adjusted to a fob-exporting country border basis. This showed the existence of significant dumping to these non-member country markets during the investigation period.

(78) Although some evidence was produced by exporting producers that both domestic and export sales would increase somewhat and that their capacities would fall, a significant amount of the remaining nominal technical capacity would still remain available for use. While it was accepted that power and raw-material shortages may decrease the available capacity, it was still concluded that it would remain substantial and higher than the exports from Ukraine to the Community before the imposition of anti-dumping measures.

Conclusion

(79) The examination of dumping with regard to the sales to the Community during the investigation period as well as sales to non-member country markets showed significant dumping. This factor, as well as the level of unused capacities, indicates that there is a likelihood that the repeal of the current anti-dumping measures against imports of the product concerned from Ukraine would lead to a continuation of dumping and a recurrence of dumping in additional significant volumes.

7. **Venezuela**

Likelihood of a continuation or recurrence of dumping

(80) The only known Venezuelan exporting producer in the IP (Fesilven) cooperated with the investigation. Some dumping was observed during the IP.

(81) However, Fesilven was privatised by the Venezuelan Government on 4 December 1998, i.e. after the end of the IP. As a result, the company came under the direct control of one of the cooperating Community producers, Ferroatlántica SL, and was renamed Ferroven.

(82) The new management of Ferroven claimed that there was no likelihood of a recurrence of injurious dumping from the new company, because fundamental changes had resulted from the takeover of the assets of the old company: these were, *inter alia*:

— a change from a State-owned and subsidised company to one operating on a market economy basis and driven by the need to make profits,

— the sales policy would be managed by Ferroatlántica SL in Spain whereby the logistical advantages of selling in the Americas would be exploited rather than selling at dumped prices on other markets, such as the Community,

— sales on the Community market would only occur where demand could not be met by Ferroatlántica SL's own production, and prices would be the same as those of the Spanish company in order to maintain the parent company's position on the Community market.

(83) This claim was examined by the Commission by first looking at the takeover contract between the Community producer and the Venezuelan Government which clearly stated that the new company shall operate under the key principles of 'free enterprise' and 'free competition'. At the verification visit, the Commission noted that four directors from Ferroatlántica had been installed within Ferroven in order to implement parent company procedures in respect of commercial policy, accounting, product quality and production efficiency. In addition, raw material and energy costs were now being sourced and paid for according to normal market conditions.

(84) The Commission further examined whether Ferroven had sufficient spare capacity, after privatisation, to supply large volumes of exports to the Community. It was concluded that significant spare capacity would still be available. However, it is clear that the Venezuelan exporting producer has genuine logistical advantages over most other world producers in terms of sales to the American markets. In this respect, it has been established that the producer concerned sold most of its total turnover of FeSi on its domestic market and in the Americas. None of these sales was directed to the large US market (with a volume of around 490 000 tonnes per annum) for which, as explained in recital 19, anti-dumping duties expired in August 1999.

Conclusion

(85) Although some dumping was observed during the IP, a proper assessment of the future Venezuelan export volumes and prices to the Community cannot be carried out without taking into account the situation of Ferroven's parent company, i.e. Ferroatlántica SL. This was examined in the context of the likelihood of a continuation or recurrence of injury and it was found that the situation as found in the IP had changed substantially to an extent that any dumping findings for the IP may not prove representative for the future. In view of the injury findings it was not considered necessary to draw any final conclusions as to a likelihood of a continuation or recurrence of dumping.

D. **SITUATION IN THE COMMUNITY MARKET FOR FESI**

1. **Preliminary remarks**

(86) In order to ensure that comparable information was used over the analysis period, Austria, Finland and Sweden were considered as being part of the Community market in 1994.

(87) The applicant pointed out that Eurostat data did not cover imports into these countries for the year 1994 and suggested that national statistics should be used for these countries. However, on the basis of the export/import statistics of the Community and the three new Member States, the trade flows between the Community and these three countries could not be reconciled. Figures on Community imports to these three countries for the year 1994 were, therefore, disregarded. Consumption for 1994 in these three countries was established as outlined in recital 88.

2. **Community consumption**

(88) For 1995 and the subsequent period, consumption was established on the basis of complete Eurostat import statistics for the 15 Member States as well as information on sales of the Community industry and other producers. For 1994, owing to the lack of reliable information on imports into Austria, Finland and Sweden, consumption in these countries was estimated on the basis of their steel production. Consumption in the other 12 Member States was established on the basis of verified data of sales provided by the Community industry, information on production of other Community producers as shown in the complaint and import volumes obtained using Eurostat data.

(89) Consumption increased by 26 % over the analysis period, from around 505 000 tonnes in 1994 to slightly less than 639 000 tonnes in the IP.

	1994	1995	1996	1997	IP
Community consumption (tonnes)	505 261	573 564	572 717	625 193	638 790
Index	100	114	113	124	126

3. **Imports concerned**

Preliminary remark

(90) Bearing in mind the above findings of no likelihood of continuation or recurrence of dumping for Brazil, the examination of a likelihood of continuation or recurrence of injury, relating to imports originating in Brazil, is not pursued.

Volumes and market shares

(91) Based on information from Eurostat, imports during the analysis period from China, Ukraine and Kazakhstan were very low, imports from Russia and Venezuela varied across years but remained small in relation to consumption (respectively 0,4 % and 1,6 % in the IP). In total, imports from the countries concerned had a market share of 2,1 % in the IP.

(in tonnes)

Import volumes	IP
Venezuela	10 381
China	172
Russia	2 681
Ukraine	146
Kazakhstan	206
Total countries concerned	13 586

Prices

(92) On the basis of Eurostat information, cif prices of imports (duties unpaid) in EUR/tonne, were the following during the IP: Venezuela 434, China 471, Russia 447, Ukraine 421 and Kazakhstan 413. These prices were well below the average price of total imports (EUR 629/t).

(93) As import volumes from the countries concerned were very low and there was a lack of information on prices of the exporting producers concerned due to a substantial non cooperation in this investigation, it was not possible to carry out meaningful undercutting calculations.

4. **Imports from other non-member countries**

(94) Imports from Norway accounted for 52 % of the Community market in the IP. In the same period, other imports had a share of 29,8 %. Poland, the Slovak Republic, the Former Yugoslavian Republic of Macedonia and Egypt were the most important other exporting countries. Brazil had a market share of 0,9 %.

Origin of FeSi	Volume in tonnes in the IP	cif prices in the IP (in EUR/t)
Norway	329 824	666
Egypt	22 993	574
Poland	36 650	560
Slovak Republic	35 316	552
Former Yugoslav Republic of Macedonia	30 875	552
Brazil	5 759	676
Other imports	125 269	581

(95) The investigation has shown that imports from Norway dominate the Community market owing to the very large volume involved. The price of these imports has been comparable with those of the Community industry. Imports from Poland, the Slovak Republic, Former Yugoslav Republic of Macedonia and Egypt are also at significant levels, with lower prices. Imports from Brazil are fairly low in volume, although they were made at higher prices than those of the Community industry.

5. **Situation of the Community industry**

Preliminary remarks

(96) The examination of the impact of the concerned imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry. However, certain factors, mentioned in Article 3(5) of the basic Regulation, are not dealt with in detail below because they were found not to be relevant for the situation of the Community industry in the course of this investigation. It should finally be noted that none of these factors necessarily gives decisive guidance.

Definition of the Community industry

(97) In 1993/1994, i.e. at the completion of the previous investigations covering the countries concerned, the applicant Community industry consisted of three producers: Pechiney Electrometallurgie, France; SKW Trostberg AG, Germany, and Carburos Metálicos (now Ferroatlántica SL), Spain. A fourth Community company was also producing at that time: Industria Elettrica Indel SpA, Italy. At least three further producers existed at the beginning of the analysis periods (1987/1988) concerning these previous investigations: Ferrolegierungswerk Lippendorf GmbH, Germany, Officine Elettrochimiche Trentine, Italy and Utilizzazzioni Elettro Industriali (UEI), Italy.

(98) After the imposition of the measures under review, the structure of the Community industry changed. Firstly, on Sweden's accession to the EC in 1995, Vargön Alloys AB, Sweden became a Community producer (having produced FeSi for many years). Secondly, several companies ceased production or merged with others, resulting in there being only three Community producers of FeSi in the IP. The present expiry review was requested on behalf of these three producers representing total Community production of the product concerned. The three applicant Community producers (Ferroatlántica in Spain, Pechiney Electrometallurgie in France and Vargön Alloys AB in Sweden,) cooperated in the investigation and responded to the Commission's questionnaire. These companies constitute the Community industry.

Sales volume, market share and growth

(99) While the sales volume of the Community industry increased by 21 % over the analysis period, its market share fell by 5 %, it is, therefore, clear that this industry's growth was less than the increase in consumption.

	1994	1995	1996	1997	IP
Sales in the Community (tonnes)	87 454	100 390	98 098	105 939	105 470
Index	100	115	112	121	121
Market share	17,3 %	17,5 %	17,1 %	16,9 %	16,5 %
Index of market share	100	101	99	98	95

Production, capacity and capacity utilisation

(100) As can be seen from the table below, both the production and the capacity of the Community industry rose over the analysis period and capacity utilisation increased by 6 %.

	1994	1995	1996	1997	IP
Production (tonnes)	93 188	100 757	96 004	107 081	102 644
Production capacity (tonnes)	141 700	141 200	144 800	142 100	147 300
Capacity utilisation	66 %	71 %	66 %	75 %	70 %
Index of capacity utilisation	100	108	100	114	106

Cost of production

(101) FeSi 75 was chosen for cost analysis in order to establish a reliable trend, given the fact that the product mix for other FeSi qualities evolved across time. As can be seen from the table below, unit costs per tonne of FeSi 75 (which accounts for the vast majority of the product concerned) increased by 4 % over the analysis period.

	1994	1995	1996	1997	IP
Cost of production of FeSi 75 (ECU/EUR)	60 013	65 291	65 955	61 517	62 001
Production of FeSi 75 (tonnes)	93 188	100 757	96 004	95 111	92 763
Cost of production per tonne (ECU/EUR)	644	648	687	647	668
Index of cost of production per tonne	100	101	107	100	104

Employment

(102) The table below shows that from 1994 to the end of the IP, the Community industry shed 9 % of its labour force in terms of employees directly involved in the FeSi industry. Around 15 % of the Community industry's employees are directly employed in the production of FeSi.

	1994	1995	1996	1997	IP
Total company employees	2 646	2 813	2 691	2 286	2 265
Index	100	106	102	86	86
Employees directly related to FeSi	368	358	345	339	336
Index	100	97	94	92	91

Productivity

(103) As can be seen from the table below, production per employee (labour productivity) increased by 21 % over the analysis period owing both to the increase in production and a reduction in employment.

	1994	1995	1996	1997	IP
Production in tonnes per employee	253	281	278	316	305
Index of productivity per employee	100	111	110	125	121

Price development

(104) An analysis of average sales prices of the Community industry was made by reference to the total value and volume of sales of FeSi 75 to unrelated customers (in order to have trends on a consistent indicator as explained for costs above). Sales prices increased by 6 % during the analysis period. It is to be noted that prices rose by 21 % between 1994 and 1996 and then fell by 12 % between 1996 and the IP.

	1994	1995	1996	1997	IP
Prices (ECU/tonne)	622	699	753	701	659
Index	100	113	121	113	106

Profits

(105) As shown below, profitability rose from 1994 to 1996 but, for the remainder of the analysis period, fell mainly owing to a fall in prices.

	1994	1995	1996	1997	IP
Ratio of net return on sales to net turnover	8,1 %	10,1 %	11,2 %	7,6 %	4,1 %

Other economic indicators

(106) Community industry investments were for repairs etc. rather than major programmes of new installations of furnaces. No injury trend could be identified from the fluctuating investment figures. In addition stocks and wages were reasonably stable over the analysis period and they did not show injurious trends. The impact on the Community industry of the magnitude of the actual margin of dumping, was not considered relevant given the low volume of imports.

(107) No detailed analysis was carried out on cash flow, ability to raise capital (or investments), investment and return on investments because such an analysis would relate to the situation of the companies as a whole. As, on average, other business lines represent more than 50 % of Community industry turnover an overall analysis would not necessarily be representative for the product under consideration.

6. **Conclusion**

(108) The Community industry has benefited from a rise in its unit prices of FeSi from 1994 to 1996 but, at the end of the analysis period, a fall in prices and a rise in the cost of production significantly reduced its profit margins. Although demand in the Community increased over the analysis period, due to developments in the steel industry, the Community industry's market share decreased by 5 %.

(109) It is to be noted that imports from the countries concerned remained at a market share of around 2 % over the analysis period. In contrast, imports originating in Norway reached a market share of more than 50 % in the IP and imports from other non-member countries had a market share of approximately 30 %.

(110) It was, therefore, considered that the situation of the Community industry was weaker in the IP compared to the beginning of the analysis period.

E. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF INJURY

1. Preliminary remark

(111) For confidentiality reasons some of the production capacities, sales volumes and prices of the cooperating exporting producers have been approximated or summarised.

2. Analysis of the situation of the exporting producers from the countries concerned

Venezuela

(112) As mentioned in recital 81, Fesilven was privatised by the Venezuelan Government on 4 December 1998, i.e. after the IP.

(113) The investigation has shown that Fesilven continued to sell on the Community market during the IP at prices which, even taking into account the anti-dumping duties applicable, were below those of the Community industry.

(114) However, the new management of Ferroven and its parent company Ferroatlántica also claimed that they did not intend to sell FeSi produced in Venezuela at low prices on the Community market. It was claimed that it was intended to use FeSi produced in Venezuela to supply the Americas, and maintain Spanish production to supply the Community market. These claims were considered perfectly acceptable as the Community producer demonstrated that its investments in production facilities had been maintained and it would be unlikely to sell at low prices on its own market to jeopardise this investment. It would indeed, be considered normal economic behaviour that a Community producer would act to maintain prices on its own market, whilst maximising margins on sales of FeSi produced in Venezuela.

(115) Furthermore, as mentioned in recital 84, from August 1999, the large US market has been a new outlet for Ferroven.

Conclusion

(116) Although it could not be discounted that imports from Venezuela to the Community would take place, it was not likely that such exports would be at prices and volumes which would cause material injury. It is, therefore, concluded that a recurrence of injury involving imports of FeSi produced by Ferroven is not likely.

China, Kazakhstan, Russia and Ukraine

Likely export prices

(117) Despite the fact that volumes traded during the IP were in too small quantities to carry significant undercutting calculations, the cif prices of these imports were significantly lower than the Community industry prices. Prices of exports originating in these countries to other non-member countries, converted to a constructed cif Community border price were also significantly lower than the Community industry prices. Furthermore, it was concluded on recitals 52, 62, 71 and 79 that there is a likelihood of recurrence of dumping from these countries should measures be allowed to lapse. It can therefore be concluded that prices of exports from these countries to the Community market are likely to be dumped and to undercut significantly Community industry prices should measures lapse.

Likely export volumes

(118) The Commission examined the availability of stocks and capacities for each of the countries concerned.

(119) As concluded in recital 51, based on facts available, significant capacity and stocks would be available in China for a resumption of significant exports to the Community should measures lapse.

(120) As indicated in recitals 60 to 62, the sole known Kazakh exporting producer had significant potential and actual spare capacity which could be used to produce FeSi for export to the Community.

(121) In recital 70, it was noted that there were substantial unused capacities in Russia which could be directed to the Community should the measures expire.

(122) As mentioned in recital 78, substantial spare capacity exists in Ukraine which could be used to produce additional FeSi for export to the Community.

(123) It was further noted that a part of the production capacity available in Kazakhstan and Russia may be converted to produce other ferro alloys such as ferrochrome, especially in view of the fact that anti-dumping measures applicable to imports into the Community of ferrochrome originating in these countries expired on 25 March 2000 [1]. However, it was considered that there would still be substantial capacity which could be directed to FeSi production for export from these countries.

(124) As mentioned in recital 19, imports originating in China, Kazakhstan, Russia and Ukraine were no longer subject to anti-dumping measures when entering the US market from August 1999. Given the size of the US market and the price level prevailing thereon, there appears to be some scope for an increase in imports originating in those countries into the US, particularly bearing in mind the very low level of imports prevailing until the decision of the US authorities to repeal the measures. Nevertheless, this would still leave important capacities available for exports to the Community market.

Conclusion

(125) In view of the findings of continuation and recurrence of dumping, of the large existing capacities in China, Kazakhstan, Russia and Ukraine, and despite the different factors that may reduce the capacities available for export to the Community as described above, the Commission concluded that imports at dumped prices originating in these countries into the Community market may significantly increase should measures expire.

3. **Conclusion on the likelihood of recurrence of injury for the Community industry**

(126) The Community market for FeSi is predicted to remain relatively stable in the medium term, reflecting the fact that the demand is almost completely linked to the production of steel. The Community industry accounted for 16,5 % of the market during the IP, and its total capacity would have allowed it a maximum share of 23 %.

(127) The current market share of the Community industry could be eroded in case of a repeal of the measures owing to increased import volumes. However, it is difficult to estimate the extent to which this would happen.

[1] OJ L 76, 25.3.2000, p. 23.

Firstly, because of quality and security of supply considerations, the user industry has claimed that it would continue to source some FeSi from the Community industry, even in the event of a repeal of the measures. Although no firm conclusion could be reached with respect to this claim, the fact that three significant Brazilian exporting producers did not increase exports to the Community when they became subject to a 0 % dumping duty would appear to support this claim by the user industry.

Secondly, as mentioned above, the main player on the Community market is Norway. The reaction by Norwegian exporting producers to an increased import volume from the countries concerned will be determinant for the respective positions of all players on the Community market.

(128) As a relatively minor operator on the Community market, the main problem for the Community industry would be the development of sales prices, which, in turn, would have an immediate effect on profitability. Whereas it is clear that, if measures were allowed to lapse, the price pressure exercised by imports from the countries concerned would increase, the effects on the Community industry of such developments are unclear. This is owing to the fact that, as mentioned above, the user industry could still continue to source FeSi from the Community industry.

(129) In the light of the findings of a likelihood of continuation and recurrence of dumping, and of the findings that dumped imports originating in China, Kazakhstan, Russia and Ukraine may significantly increase should measures be allowed to lapse, it is concluded that the situation of the Community industry would deteriorate. Even though the extent of this deterioration is difficult to evaluate, taking into account the declining trends in prices and profitability of this industry, it is none the less likely that injury will recur. In respect of Venezuela, should measures be allowed to lapse, there is unlikely to be any material injurious effect.

F. **COMMUNITY INTEREST**

1. **General considerations**

(130) The Commission examined whether the maintenance of the anti-dumping measures would be in the overall interest of the Community.

(131) It is recalled that the anti-dumping measures have been in force on imports of FeSi originating in Venezuela since 1983, Brazil, Kazakhstan, Russia and the Ukraine since 1987 and China since 1993.

(132) The situation of the Community industry since 1994 is described in full in recitals 96 to 110. However, an analysis of the period 1987 to the IP was made in order to assess whether the Community interest called for a continuation of measures or not and in particular what would be the effect of one or the other possibility on the situation of the Community industry in the future. The purpose of this assessment was to show the effects of the anti-dumping measures on the overall development of the Community industry over the period in which measures have been in place.

(133) The applicant questioned this approach, pointing out that it was not until 1993/1994 that all six of the countries concerned were subject to measures. Furthermore, the applicant noted that, before 1993/1994, as stated in Regulation (EC) No 3359/93, the measures in place were not fully effective in protecting the Community industry from dumped imports.

(134) In this respect, it is clear to the Commission that the situation of the Community industry in 1993/1994 had deteriorated compared to previous years. In the present investigation, however, the Commission analysed whether the added protection had enabled the industry to reverse the earlier unfavourable trends and an examination of this earlier period was, therefore, justified.

2. **The Community industry**

Change in the situation of the Community industry

(135) As noted in recital 97 the Community industry was comprised of at least eight companies in 1987. It is also necessary to take into account the production of FeSi in the former Democratic Republic of Germany before German reunification in 1990, and in Sweden before its accession to the Community in 1995. Taking into account the different information published in relation to previous proceedings as well as data supplied by the applicant, the Commission estimated that in 1987 the 'reconstructed' Community production (i.e. taking into account all producers located in the Community of 15 Member States) was at least 200 000 tonnes. As production levels fell to 103 000 tonnes in the IP, this would indicate a decrease of approximately 50 % since 1987 (and an even more important loss of market share, as the market size is estimated to have grown by at least 20 % since then).

(136) This loss in production and market share (on the basis of the reconstructed figures as described above) can be explained, among other factors, by the fact that, by the end of the IP, only three companies remained active. Despite the fact that the production of these three companies slightly increased from 1994 to the IP, as described in recital 100, it should be noted that their market share and employment figures showed that the downward trends experienced between 1987 and 1994 continued during the analysis period. In this respect it should be noted that taking into account the two Community producers, which still existed in 1994 but not in the IP, would show even more negative trends. In contrast, it should be noted, that imports originating in Norway have gained around 20 percentage points market share from 1987 to the IP.

Impact of the continuation of the measures

(137) The reduction in the number of Community producers of FeSi resulted from companies ceasing production and from mergers/acquisitions. Despite these changes, the Community industry was in a weaker situation during the IP compared to 1987 and to 1994.

(138) Furthermore, this continued decline occurred during a long period when anti-dumping duties applied. In this respect, the Commission found that the further relief given by Regulation (EC) No 3359/93 in 1993 for a period of five years, together with the relief afforded by Regulation (EC) No 621/94 in 1994, did not have the expected remedial effects on the Community industry. Indeed, among other effects analysed in these Regulations, measures were supposed to enable the Community industry to compete on a level playing field with the dumped imports so as to prevent further injury in terms of closure of companies, the decrease in personnel employed and a further loss in market share, etc. It is clear that the downsizing of the industry continued despite the measures.

(139) The applicant mentioned several indicators which showed that, since 1994, the Community industry had benefited from the measures, especially as regards capacity utilisation, productivity and profits. The Commission noted that this improvement has to be seen mostly in relation to the restructuring and downsizing of the Community industry. Indeed, despite the fact that imports from the countries concerned were in small quantities, the investigation showed that there had been the closure of two companies, a reduction of 9 % of employment in the remaining three companies, a reduction in market share, and a deterioration of profits by the end of the analysis period. It was, therefore, concluded that the expected remedial effects were not obtained.

(140) In this light, the Commission concluded that the Community industry was not able to benefit from measures that were obviously efficient, at least from 1994 onwards. That the Community industry would benefit from the continuation of measures for a further period of five years was therefore unwarranted.

Impact of the expiry of the measures

(141) In recitals 126 to 130, the Commission analysed the impact on the Community industry should measures for the countries concerned expire. It was concluded that, in such a case, the most important impact on the situation of the Community industry would arise from a general downward pressure on prices that would be exerted by dumped imports. In such circumstances, the Community industry would face a decreasing profitability that might lead to decisions to reduce production of FeSi in the Community. However, the extent to which the situation of the Community industry could deteriorate was difficult to evaluate precisely; notably in view of the need expressed by users to keep secure sources of supply in the Community.

3. **Impact on importers**

(142) The Commission considered the interests of importers of FeSi from the countries concerned in the Community and received a valid questionnaire response from one company. The investigation showed that there was a considerable potential for increase in the turnover of this company should the measures lapse.

(143) On the basis of the above, and in the absence of any arguments to the contrary, the Commission concluded that the expiry of measures would have a positive impact on the importing companies concerned because of the potential for significant positive developments in turnover. However, the paucity of responding importers meant that this information was not considered decisive in the Community interest analysis.

4. **Impact on users**

(144) On the Community market, FeSi is used almost entirely for the production of steel and cast iron. It is used either to introduce silicon as an alloying element in the manufacture of high quality steel products, or as a deoxidising agent.

(145) The Commission received information from five users and from one user association. On the basis of their questionnaire responses, it was found that, in 1998, FeSi inputs represented 0,86 % of the manufacturing costs of these companies. The Commission cross-checked this information with publicly available statistics and considered it reasonable to estimate that FeSi costs represented, on average, 0,8 % of the manufacturing costs for the user industries during the IP. This estimate was slightly lower than the estimate provided by the applicant.

(146) The user association claimed that it was important, from the point of view of competition on the Community market, that the measures should expire. This was because the measures had almost eliminated FeSi imports originating in China, Ukraine, Russia and Kazakhstan and had reduced imported volumes from Brazil and Venezuela to very low levels. The users explained that the current measures significantly limited the user industry's sources of supply and kept prices at an artificially high level on the Community market. Furthermore, they explained that Community steel producers were currently at a competitive disadvantage when compared to steel producers outside the Community, which were able to procure FeSi free of anti-dumping duties.

(147) In examining these claims, the Commission considered the following:

— the expiry of measures would lead to an increased number of suppliers on the Community market, which would clearly be to the advantage of the Community steel producers which would benefit from lower costs,

— it has been found that prices of FeSi on the US market dropped by 15 % after the removal of anti-dumping measures in 1999. If the repeal of anti-dumping measures in the Community has the same effect on FeSi prices as in the US market, the Community steel industry could save up to 15 % of its FeSi costs, i.e. around EUR 60 million (15 % of a Community FeSi market of EUR 406 million during the IP).

(148) The applicant claimed that the Commission deviated from its current practice in assessing costs incurred by the FeSi users resulting from the imposition of measures, especially since, in its opinion, costs of an equivalent level have been considered negligible in the context of certain other anti-dumping investigations. The applicant also alleged that, in the current FeSi investigation, these costs were not disproportionate in comparison to the benefit of the measures as expected for the Community industry.

(149) The Commission considered that, by definition, reviews, such as the present one, require an assessment of the effect of measures in place. The fact that measures have been in force, for the majority of the countries concerned, for more than a five-year period cannot be ignored (for instance measures involving Venezuela have been in place since 1983). In the present case, the length of the period during which measures have been in place, has led the Commission to take into account that users have had to bear additional costs linked to measures for many years. In this respect, it was reasonable, to add as an element in the examination of the various interests involved, the assessment of the impact of the measures on the users over the period during which they have been in place.

(150) The Commission also noted that, although there were several indicators showing that the proportion of FeSi in costs of the user industries has increased between 1994 and 1998, these costs remained fairly limited as described in recital 146. Although it is clear that, on an annual basis, anti-dumping measures increased these costs only marginally, since users have had to bear this increase in costs for many years, there is a material cumulative effect of the measures which should be taken into account.

5. **Conclusion on Community interest**

(151) From the foregoing, it is clear that the Community industry has not been capable of benefiting sufficiently from the measures in place since 1987. This is evidenced by its failure to strengthen, or even maintain, its position on the Community market even though, following the adoption of anti-dumping measures, imports from the countries concerned almost disappeared from the Community market. The Community industry was also unable to benefit in terms of taking market share from the demise of former Community producers. In this context, it is noteworthy that the loss in the Community market share, over this period, is reflected by the gain in the share of the Norwegian exporting producers that offer qualities, prices and security of supply of FeSi similar to those of the Community industry.

(152) It has also to be borne in mind that throughout this long period of anti-dumping measures, Community steel producers have had to bear negative effects, in the form of additional costs brought by the measures in particular when cumulated over the time period of validity of the anti-dumping measures under review.

(153) Thus, while the precise impact of the expiry of measures on the Community industry is uncertain and while past experience shows that it is not guaranteed that maintaining measures will provide sizeable benefits to the Community industry; it is clear that the steel industry has experienced long-term cumulated negative effects which would be unduly prolonged if measures were maintained.

(154) Therefore, after an appreciation of the impact of the continuation or expiry of the measures on the various interests involved, as required by Article 21 of the basic Regulation, the Commission could clearly conclude that maintaining the existing measures would be contrary to the interests of the Community. The measures should, therefore, be allowed to expire.

G. **TERMINATION OF THE PROCEEDING**

(155) It is concluded, therefore, that this proceeding should be terminated and that the anti-dumping measures adopted on 9 December 1993 by Regulation (EC) No 3359/93 and 19 March 1994 by Regulation (EC) No 621/94 should be allowed to expire,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of ferro-silicon falling within CN codes 7202 21 10, 7202 21 90 and 7202 29 90 originating in Brazil, the People's Republic of China, Kazakhstan, Russia, Ukraine and Venezuela is hereby terminated.

Done at Brussels, 21 February 2001.

For the Commission

Pascal LAMY

Member of the Commission