I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1931/97

of 22 September 1997

imposing a definitive anti-dumping duty on imports of unwrought, unalloyed zinc originating in Poland and Russia and definitively collecting the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

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], hereafter referred to as the 'basic Regulation', and in particular Articles 8, 9 and 23 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) By means of Commission Regulation (EC) No 593/97 [2], hereinafter referred to as 'the provisional duty Regulation', a provisional anti-dumping duty was imposed on imports of unwrought, unalloyed zinc falling within CN codes 7901 11 00, 7901 12 10 and 7901 12 30, originating in Poland and Russia.

B. SUBSEQUENT PROCEDURE

(2) All interested parties cooperating in the investigation, the complainant and the Polish and Russian authorities, received disclosure in writing concerning the essential facts and considerations on the basis of which provisional measures were imposed.

(3) Within the time limits set in the provisional duty Regulation, the Polish Government, the two cooperating Polish producers/exporters listed in the said Regulation, hereinafter referred to as 'the exporters', as well as two importers, have submitted comments in writing.

(4) All parties which so requested were granted an opportunity to be heard by the Commission services.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(5) The Polish Government, the cooperating Polish exporters and an importer of zinc originating in Russia raised the question whether their product and the products of the European producers could be considered one like product, given certain differences in physical characteristics and the fact that they fall within three different CN codes.

(6) As laid down in recitals 9 to 15 of the provisional duty Regulation all grades of unwrought, unalloyed zinc closely resemble each other. The grades are alike as far as their technical and physical characteristics (minimum content of zinc for all grades: 98,5 %) and their main uses (e.g. brass industry) are concerned. In addition, prices for all grades are based on the London Metal Exchange (LME) quotations for Special High Grade (SHG) zinc which indicates that they are considered as one like product by the market.

(7) The existence of limited differences in the zinc content (Special High Grade (SHG), High Grade (HG), Good Ordinary Brand (GOB)) and in the impurities (in particular cadmium), between zinc produced by Community producers and Polish

[1] OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).
[2] OJ L 89, 4. 4. 1997, p. 6.

zinc, which was invoked by the exporters, does not invalidate this finding, as both HG and GOB zinc — which are manufactured by the exporters — and SHG zinc manufactured by the Community industry, compete directly in the market segment where they are used (hot-dip galvanizing, production of brass, production of alloys other than casting alloys). It should also be noted that a sizeable proportion of the zinc produced by the Community industry is GOB zinc and therefore competes directly with Polish GOB and HG zinc as well as with SHG zinc produced by the Community industry.

(8) The provisional findings laid down in recitals 9 to 15 of the provisional duty Regulation are therefore confirmed.

D. DUMPING

(a) POLAND

(9) Whereas while the methodology used to calculate the dumping margins was not challenged in general, the Polish cooperating companies did raise some specific questions concerning cost of production, the ordinary course of trade test and adjustments.

(i) Normal value

(a) *Cost of production*

(10) One Polish company requested some changes in the calculation of its production costs for the purpose of establishing normal value. The company claimed, in particular, that the costs and/or revenues relating to certain by-products were not excluded from the calculation of the production cost for zinc while this should allegedly have been done. This claim for correction could not be granted since the calculation of the production costs was based on the data provided by the company in the questionnaire response and duly verified during the on-the-spot verification. In addition and more generally, it should be noted that for the purpose of an anti-dumping proceeding the cost of production recorded in the company's ledgers will, normally, be the basis for the determinations in accordance with Article 2 (5) of the basic Regulation. Any proposals for a cost allocation methodology different from the one normally applied by the company concerned, has to be claimed within the time limits specified in the notice of initiation, in order to allow for a proper verification on the spot. This was, however, not done by the company concerned.

(11) The company furthermore claimed that the monthly cost of production figures were not representative since non-recurrent cost items were not spread out over the entire investigation period. In this respect, it should be noted that the Commission has based its calculation on data provided by the company. As the initial submissions of the company regarding its production costs did not reflect an appropriate allocation of (non-recurrent) costs, the company provided, at the request of the Commission, a revised version which was verified and used for the determinations. Consequently, there is no need to revise the calculations again.

(12) Finally, this company alleged that in a high inflation environment it would be more appropriate to calculate an average cost of production per tonne for the whole investigation period and to adjust the average cost level by monthly inflation rates to arrive at monthly costs of production. This claim could not be granted as it was found to be possible within the accountancy system of the company to establish reasonably the actual cost of production incurred on a monthly basis. These monthly costs, which were based on the questionnaire response and the information verified during the on-the-spot verification, were consequently used in the determinations.

(b) *Sales in the ordinary course of trade*

(13) One company raised some questions as regards the determination whether domestic sales were made in the ordinary course of trade. The company disputed, in particular, the exclusion of certain non-profitable transactions from the calculation of the normal values.

(14) In this respect, it should be recalled that the Commission established for the provisional duty Regulation whether domestic sales transactions of the company are in the ordinary course of trade, in accordance with Article 2 (4) of the basic Regulation. Since the inflation rate of Poland was significant during the investigation period, calculations were carried out on a monthly basis in order to allow for a comparison of sales transactions and production costs at — as nearly as possible — the same time (see. recitals 17 to 19 of the provisional duty Regulation).

(15) Whereas this approach was not contested in general, the company claimed that in a high inflation environment the monthly average production costs should not be compared with individual sales transactions, but with monthly average domestic selling prices. The company alleged that the approach applied by the Commission would almost automatically lead to a larger number of sales at the beginning of a period being at a loss which would lead to their unwarranted exclusion. This argument is contradicted by the findings of the investigation. An analysis carried out by the Commission showed that contrary to the allegation of the company no clear pattern of profitable sales transactions at the end of a month, or transactions at a loss at the beginning of the month, could be established.

(16) Furthermore, it was claimed that certain sales at a loss should not be excluded since the period for recovery of losses is at least six months, in accordance with Article 2 (4) of the basic Regulation. With regard to one exporter it was found, however, that during the whole investigation period (one year) more than 20 % of its sales were at a loss when comparing the monthly production costs with monthly sales transactions. Consequently, the exclusion of the sales at a loss is justified since the transactions were not in the ordinary course of trade. These sales at a loss were made in substantial quantities and a sufficient recovery from the losses as required by Article 2 (4) of the basic Regulation could not take place.

(17) For the other cooperating company, it was established that — on a yearly basis — less than 20 % of their sales during the investigation period were at a loss. It was, therefore, decided to include the sales at a loss in the calculation of the normal value which slightly reduced the normal value of this company.

(ii) **Export price**

(18) One of the Polish companies claimed that the total amount of its export turnover to the Community is higher than that applied by the Commission for its determination of the export prices. This argument was rejected as the calculation made by the company concerned was not based on the exchange rates attached to the questionnaire sent by the Commission.

(iii) **Comparison between normal value and export price**

(19) One company requested that their normal value should be established on the basis of domestic sales to customers buying more than 2 000 tonnes per year since customers on the export market (EC) would also buy more than 2 000 tonnes. This claim could not be accepted since it was not claimed in the questionnaire response and no additional verification visits could be carried out after the imposition of the provisional duty. Therefore, it could not be established whether the company really applied a consistent quantity-related discount policy on the domestic market.

(20) Both Polish exporters repeated their requests made prior to the imposition of provisional duties for an adjustment for differences in the level of trade. In this regard it was, however, noted that no new arguments were presented to substantiate this claim. Therefore the findings, as laid down in recital 24 of the provisional duty Regulation, are confirmed.

(iv) **Dumping margins**

(21) Taking into consideration the changes in the normal value for one company as indicated above, the other findings for Poland as laid down in recitals 17 to 28 of the provisional duty Regulation are confirmed and the recalculated dumping margins, expressed as a percentage of the free-at-Community-frontier prices, are as follows:

— Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie: 14,4 %;

— Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno: 5,2 %.

The dumping margin applicable to non-cooperating producers/exporters remains unchanged at the level of 14,4 %.

(b) RUSSIA

(i) **Normal value**

(22) Since Russia is considered to be a non-market economy country for the purpose of anti-dumping proceedings (see Article 2 (7) of the basic Regulation which refers to Regulation (EC) No 519/94 [1]), its normal value was established by reference to the normal value found in an analogue country (in this proceeding Poland, see recital 29 of the provisional duty Regulation). As the normal value for this country was revised, the normal value used for the calculation relating to Russia was revised accordingly.

[1] OJ L 67, 10. 3. 1994, p. 89.

(ii) **Export price**

(23) One importer of Russian zinc alleged that Eurostat statistics for Russia might be incorrect due to wrong origin declarations and requested that its export transactions should form the basis of the export prices. This claim could not be granted since the allegations were not sufficiently substantiated and could — at this stage of the proceeding — not be verified. The allegations would anyhow only invalidate a portion of Eurostat data.

(iii) **Comparison between normal value and export price**

(24) This company further claimed that Polish and Russian zinc are not of the same quality and, therefore, an adjustment for physical differences should be made. In this respect, it was noted, however, that the normal value was established on the basis of the company producing the same quality as the majority of the Russian zinc producers. Consequently, an additional adjustment was not warranted.

(iv) **Dumping margins**

(25) Taking into account the revised normal value established for the reference country and considering that the other findings for Russia as laid down in recitals 29 to 34 of the provisional duty Regulation are confirmed, the recalculated dumping margin, expressed as a percentage of the free-at-Community-frontier prices, amounts to:

Russia: 6,9 %.

E. INJURY

(a) **General injury factors**

(26) The comments made by the exporters in respect of the provisional findings regarding injury factors were limited to price undercutting. The Polish Government alleged, however, that there was little or no injury, arguing from the fact that Community producers were using almost full capacity. However, this argument does not invalidate the statement made in recital 51 of the provisional duty Regulation, i.e. that the investigation showed that, because of the special nature of the production process and the high fixed costs linked to the production of unalloyed, unwrought zinc, capacity must be as fully used as possible, even when this means that sales of the final products would afterwards be made at a loss. As stated in that recital, there are also high variable costs incurred (e.g. high energy consumption for start-up) if production is interrupted. It cannot therefore be accepted that the fact that, in the present case, the Community producers' capacity would have been almost fully used during the investigation period should lead to the conclusion that they were not suffering material injury.

(27) One of the importers referred to at recital 3 above submitted that an increase of stocks of GOB could not have been caused by imports of HG zinc originating in Russia and objected to the cumulative assessment made for Poland and Russia arguing that Russia only produced HG zinc. These arguments disregard, however, that GOB and HG zinc compete with each other in the market segment of hot-dip galvanizing and brass manufacturing where they are used. Moreover, the conditions of competition between zinc originating in Poland and zinc originating in Russia are similar as neither HG zinc nor GOB zinc are traded at the LME and both grades, as well as slightly more expensive SHG zinc, can be used in this market segment.

(28) The provisional findings pertaining to, in particular, consumption on the Community market, production, sales and profitability of the Community industry and employment in the Community industry, as laid down in recitals 37, 38, 40 to 45, and 50 to 60 of the provisional duty Regulation, are therefore confirmed.

(b) **Price undercutting**

(29) Further to the comments made by the exporters and one of the importers referred to at recital 3 above, the provisional findings concerning the Community producers' prices have been reconsidered. As regards the premium of 3 % on the LME price (recital 47 of the provisional duty Regulation), it was noted that the publications of the International Lead and Zinc Study Group confirm that during the investigation period zinc was being sold at a premium. The premium of 3 % or US $ 30 on an average LME price of US $ 1 000 per tonne paid during the investigation period, does not appear either excessive or unreasonable, taking into consideration, for instance, that loading costs at the LME warehouse (which are paid by the buyer but need not to be paid in case of direct sales outside the LME) amounted already to US $ 15 per tonne.

(30) This premium of 3 % reflects the facts that the price charged by Community producers in case of direct sales to industrial users is not identical to the LME price, but somewhat higher to cover selling costs and the costs of both currency and zinc hedging, and that buyers accept to pay a slightly higher price, e. g. if they are certain to obtain the specific brand of a given producer or if transport costs are lower than those from an LME-approved warehouse. The premium includes all costs associated with the marketing and technical service offered to the customer, which are incurred by the producer. For the buyer, direct sales have the advantage that the cost of the warrant, the cost of moving the metal from an LME warehouse to the truck and the broker's fee, which would have to be paid in case of sales through the LME, need not be paid.

(31) In this respect, it is worth noting that the cost of hedging included in this premium could not have been inflated, as this cost included administrative costs, the payment of broker's fees and finance charges only while profits or losses arising out of hedging were separated out of the calculations in order to allow for a fair comparison.

(32) The exporters and one of the importers referred to at recital 3 above objected to the Commission's assumption that the prices of the three grades of zinc were identical, claiming that the prices of HG and GOB zinc were lower than the price of SHG zinc which had been used for the calculation (as the LME price is a price for SHG zinc). According to the exporters, account should be taken of the difference in price between the three grades of zinc. As the prices published by the International Lead and Zinc Study Group show that, during the investigation period, there was indeed a very small differential between the prices of SHG, HG and GOB zinc, it is appropriate to take account of this difference in price. While HG zinc was found to have been sold at a rebate of maximum 0,3 % on the price of SHG zinc, the differential between GOB and SHG was just below 1 % of the price of SHG zinc.

(33) One of the exporters claimed that allowance should be made for the fact that its GOB zinc has a much higher cadmium content than Community produced GOB zinc and proposed that the market value of this difference, assessed on the basis of the cost of refining, should be added to its export prices in order to carry out the undercutting calculation on a fair basis.

(34) While the exporter concerned showed that Community producers' zinc did meet the CEN 1 179 standard and its (unrectified) GOB zinc did not, the documents submitted by this exporter did not enable the Commission services to make a precise assessment of the prices of non-Polish GOB zinc with the same cadmium content as the zinc exported by this exporter and sold in the Community market during the investigation period. The Community industry provided information on the costs of rectification (i. e. upgrading, by means of distillation, of GOB zinc not meeting the CEN 1 179 standard into both SHG and GOB zinc with a standard cadmium content) that could be allocated to the elimination of excessive cadmium, if this rectification took place immediately after the refining of zinc concentrates. However, the specific costs which should be allocated to the elimination of excessive cadmium in case of a rectification undertaken in another plant after completion of the process of refining zinc concentrates into unrectified GOB zinc (likely to be disproportionately high) could not be established precisely, as the exporter and the Community industry supplied contradictory information also relating to the question as to what extent it is, in this situation, economically realistic to carry out such a rectification with a view to removing excessive cadmium from unrectified GOB zinc.

(35) Nevertheless, since the high cadmium content (and the health hazards resulting therefrom) prevents certain users from using the zinc without rectification, although the investigation showed this is not the case for all users, the price differential between high cadmium GOB zinc and GOB zinc meeting the CEN 1 179 standard had to be assessed. To this end, on the one hand, it should be noted that it is not possible to conclude that the average market value of zinc having a lower, 'standard' cadmium content would coincide with the price of the exporter's zinc increased by the refining costs (as it is unlikely that these refining costs could always be entirely reflected in the price and thus fully passed on to any customer). On the other hand, the information submitted by the exporter (which showed that there was a differential between the price of its GOB zinc and the LME price exceeding the differential of 1 % between the prices of GOB and SHG zinc published by the International Lead and Zinc Study Group) and the Community industry demonstrates that a reasonable average price differential between GOB zinc with a high cadmium content and GOB zinc with a cadmium content not exceeding the limit of the CEN standard could be established, which is the basis for an adjustment of the export price of the Polish exporter concerned.

(36) In addition, the exporters claimed that a difference in level of trade should be taken into account as Polish export sales would have been made to traders only. As stated in recital 46 of the provisional duty Regulation, the undercutting calculation was made using the price in the Community market of zinc manufactured by Community producers, established taking into account the fact that considerable direct sales exist from zinc refiners to both industrial users and traders, which are not taking place through the LME. This means that both sales to industrial users and sales to traders were taken into account and that the calculated price charged by Community producers in the Community market, which was found to be somewhat higher than the LME price, constitutes an average price for both categories. It is therefore considered appropriate that the price undercutting calculation should be corrected on this point by adding a reasonable margin for the trader to the export prices used.

(37) The exports also claimed that an adjustment should be made for transport costs within the Community and one of them submitted that the export prices of the exporters should have been compared to the LME price of the month prior to the month in which the transaction took place. For the purpose of the price undercutting calculation, a comparison was made between the ex-works prices of Community producers and the export price of Polish zinc (cleared through customs, at the Community frontier) during each of the months of the investigation period. Therefore, it does not appear appropriate to make any further adjustment.

(c) **Conclusion on injury**

(38) Taking into account the small difference in price between the three grades of zinc, the difference in the level of trade, and, for one of the exporters, the higher cadmium content of GOB zinc originating in Poland, the price undercutting margins were recalculated as follows:

Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie: 14,0 %,

Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno: 6,6 %,

Other Polish producers/exporters: 14,0 %,

Russia: 5,2 %.

(39) Apart from these modifications, the provisional findings laid down in recitals 37 to 60 of the provisional duty Regulation are confirmed.

F. CAUSATION

(40) One of the importers referred to at recital 3 above made some comments on the Commission's findings essentially based on the assumption that HG and GOB zinc would not be competing with each other. As this assumption is incorrect, no sufficiently substantiated comments were made on the provisional findings concerning the causal link between dumping of zinc originating in Poland and Russia and injury to the Community producers referred to in recitals 61 to 70 of the provisional duty Regulation, which are herewith confirmed.

G. COMMUNITY INTEREST

(41) No representations concerning Community interest were submitted by industrial users or their representative associations. The exporters pointed out, however, that stocks in LME warehouses had decreased since the end of the investigation period and that prices might go up shortly, as supply would fall short of demand.

(42) In this regard it should be noted that a direct linkage exists between the price of zinc concentrates (i.e. the raw material used by zinc refiners) and the price of refined zinc. Therefore, any price increase of refined zinc at LME level automatically corresponds to an increase in the cost of raw material for Community producers. Accordingly, no remedial effect can be expected from an increase of the price of refined zinc at that level and no such price evolution can be such as to render measures unwarranted in the present case.

(43) One of the importers referred to at recital 3 above argued that the interests of final consumers had not been properly assessed. In this regard, it should be noted that the Commission has found that the effect of measures on user industries should be minimal. It may therefore be assumed that no major price increases for final consumers will occur.

(44) The same importer, which claimed that Russian smelters would produce zinc for it in accordance with a tolling agreement, also alleged that measures would be against the Community interest because some major Community producers had bought zinc originating in Russia. This allegation was however not sufficiently substantiated. In addition, it should be recalled in this respect that Article 4 (1) (a) does not provide for the automatic exclusion of producers which themselves import the dumped product.

(45) The provisional findings regarding the Community interest assessment (recitals 71 to 75 of the provisional duty Regulation) are confirmed.

H. DEFINITIVE MEASURES

(a) Undertakings

(46) Subsequent to the imposition of provisional anti-dumping duties and the submission of their comments on the Commission's provisional findings, the two cooperating Polish exporters offered an undertaking pursuant to Article 8 of the basic Regulation. By offering these undertakings, each of the exporters commits itself, *inter alia*, to respect minimum prices for the different grades of exported zinc, which prices are directly linked to the LME prices for SHG zinc, during a specified period of reference.

(47) The undertakings should eliminate the injurious effects of dumping as envisaged by Article 8 (1) of the basic Regulation and can be monitored effectively. The Commission consulted the Advisory Committee on the acceptance of these undertakings and no objections were raised. The undertakings offered were subsequently accepted by Commission Decision 97/644/EC [1]. The investigation should therefore be terminated in respect of these exporters.

(b) Definitive Duty

(48) A residual duty on imports of zinc originating in Poland should be imposed. This residual duty is deemed necessary in order to prevent non-cooperating parties from benefiting from their non-cooperation. Moreover, although in the present case the exporters have contested the figures concerning exports of zinc from Poland to the Community that were used by the Commission, they were not able to explain whether the discrepancy between these figures and their own exports represented indirect exports to the Community of their own products or exports of other zinc. The rate of duty should correspond to the injury margin, since that margin was found to be lower than the dumping margin.

(49) Russian producers/exporters did not cooperate in the investigation. It was therefore argued that the rate of duty for Russia should be at least as high as the rate of duty found for the non cooperating Polish companies. This claim could not be accepted as the rates of duty are normally calculated on the basis of data established for each of the respective countries. Consequently and since the findings for Russia were only revised in respect of the normal value established for the market economy reference country, it is necessary to impose a definitive anti-dumping duty on imports of zinc originating in Russia at the injury elimination level as the injury margin is lower than the revised dumping margin.

I. DEFINITIVE COLLECTION OF PROVISIONAL DUTY

(50) One of the importers referred to at recital 3 above, a company established after the publication of the notice of initiation, requested that its uncleared stocks held in bonded warehouse on 5 April 1997 be exempt from the definitive collection of the provisional anti-dumping duty, arguing that, in the light of its specific circumstances, it would have been its legitimate expectation that no duties would be imposed. However, since the imposition of provisional anti-dumping duties took place further to a duly announced investigation, importers are, in principle, not entitled to an exemption on this point. The specific circumstances invoked by the importer are not such that an exception to this rule would be justified.

(51) As the cooperating Polish producers/exporters undertook to respect the undertakings as from 20 June 1997, subject to their acceptance by the Commission, it is appropriate not to collect the provisional anti-dumping duties on zinc manufactured by these exporters which offered these undertakings, and released into free circulation on or after that date. As regards imports of zinc manufactured by these exporters, which took place before 20 June 1997, the provisional anti-dumping duties should, however, be collected at the rates that would have applied had the undertakings not been accepted (i.e. 5,2 % for Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, and 14,0 % for Huta Cynku 'Miastczko Slaskie', Miasteczko Slaskie).

(52) Regarding imports of zinc originating in Poland and manufactured by other producers than the two cooperating ones, and all imports of zinc originating in Russia, the provisional anti-dumping duties should be definitively be collected only up to the rate of the definitive anti-dumping duties, i.e. 14,0 and 5,2 %, respectively.

[1] See page 50 of this Official Journal.

J. FINAL PROVISIONS

(53) The Community industry concerned has been informed of the main facts and considerations on the basis of which it was intended to recommend the imposition of definitive measures including the acceptance of undertakings and did not object.

(54) The exporters have been informed of the main facts and considerations underlying the intended Commission proposal for definitive measures. They have not made any further comments.

(55) In accordance with the Europe Agreement establishing an Association between the European Communities and their Member States, on the one part, and the Republic of Poland, on the other part [1], the Association Council and the Polish Government have been supplied with all relevant information and have been informed in advance of the outcome of the investigation laid down in this Regulation and the Commission Decision accepting the undertakings offered by the exporters. The Polish Government explicitly expressed its satisfaction with the solution found for the two cooperating Polish exporters.

(56) In accordance with the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Russian Federation, of the other part [2], the Russian government has been supplied with all relevant information and has been informed in advance of the outcome of the investigation laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of unalloyed, unwrought zinc falling within CN codes 7901 11 00, 7901 12 10 and 7901 12 30 originating in Poland and Russia.

2. For the product referred to in paragraph 1 originating in Poland, the rate of the anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be 14,0 % (Taric additional code 8900) except for imports manufactured and sold for export to the Community by:

— Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno (Taric additional code 8965), or

— Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie (Taric additional code 8093),

which shall be exempt from the duty, provided these imports are accompanied by a certificate EUR. 1 issued after 19 June 1997, in which the name and address of either company are filled in under the heading 'exporter' and the Community or one of its Member States is filled in as country of destination, and which is certified by the Polish authorities and issued in accordance with the provisions of the Europe Agreement with Poland.

3. For the product referred to in paragraph 1 originating in the Russian Federation, the rate of the anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be 5,2 %.

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

Article 2

1. The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 593/97 shall be definitively collected at the rate of the duties definitively imposed on imports of unwrought, unalloyed zinc originating in Poland and Russia, respectively. However, without prejudice to paragraph 2, the provisional anti-dumping duty imposed on imports originating in Poland manufactured and exported by Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, shall be definitively collected at the rate of 5,2 %.

The amounts secured in excess of the definitive rate of anti-dumping duty shall be released.

2. Provided that it is demonstrated that zinc of Polish origin was manufactured by either Huta Cynku 'Miateczko Slaskie', Miastczko Slaskie, or by Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, and released into free circulation on or after 20 June 1997, the provisional duty shall not be definitively collected.

Article 3

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

[1] OJ L 348, 31. 12. 1993, p. 2.
[2] OJ L 247, 13. 10. 1995, p. 1.

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

Done at Brussels, 22 September 1997.

For the Council

The President

F. BODEN