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COUNCIL REGULATION (EC) No 1796/1999

of 12 August 1999

imposing a definitive anti-dumping duty, and collecting definitively the provisional duty imposed, on imports of steel ropes and cables originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine and terminating the anti-dumping proceeding in respect of imports originating in the Republic of Korea

(OJ L 217, 17.8.1999, p. 1)

Amended by:

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NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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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]), and in particular Articles 9 and 10(2) thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) By Regulation (EC) No 362/1999 ([2]) (hereinafter referred to as the 'provisional Regulation') the Commission imposed a provisional anti-dumping duty on imports into the Community of steel ropes and cables originating in the People's Republic of China (PRC), India, Mexico, South Africa and the Ukraine and accepted undertakings offered by certain exporters in Hungary and Poland.

B. SUBSEQUENT PROCEDURE

(2) Following the imposition of provisional anti-dumping duties, the interested parties which so requested were granted an opportunity to be heard. Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection, at the level of these duties, of amounts secured by way of provisional duties. They were also granted a period within which to make representations subsequent to this disclosure.

(3) The oral and written comments submitted by the interested parties were considered and, where deemed appropriate, the definitive findings have been changed accordingly.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(4) It is to be recalled that recital 7 of the provisional Regulation described the product concerned as steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm (hereinafter, using industry terminology, referred to as steel wire ropes or 'SWR').

(5) It has been alleged that SWR should be divided into two separate products according to what has been described as two distinct areas of application or use, i.e. general purpose ropes for general applications and special purpose ropes for use in specific industries.

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

([2]) OJ L 45, 19.2.1999, p. 1.

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(6) Contrary to the allegation of the existence of two different separate products, i.e. general purpose ropes and special purpose ropes, it was found that SWR were produced in a wide range of different types by the exporting producers and that all SWR had the same basic physical characteristics (i.e. the steel wires that form strands, the strands that are wrapped around the core that form the rope and the core itselfJ. All SWR were also found to have the same basic technical characteristics (all have a number of wires in a strand, a number of strands in a rope, a certain diameter and a certain construction).

(7) The various types of SWR can be classified into a number of product groups reflecting their physical and technical characteristics. While SWR in groups in the top end and in the bottom end of the range are clearly not interchangeable, SWR in adjoining groups have been found to be interchangeable. It was concluded that a certain degree of overlapping and competition existed between SWR in different groups. Given this overlap between the groups, no clear dividing line could be established at any point in the range of SWR. This conclusion is in line with the jurisprudence of the Court of Justice of the European Communities ([1]).

(8) In conclusion, given that all SWR were found to have the same basic physical and technical characteristics and use, even if differences existed between SWR in the top end and bottom end of a range, since competition exists between SWR in adjacent groups, it was concluded that all products in the range formed one single product and therefore all SWR were considered to be one product.

2. **Like product**

(9) It is to be recalled that in recital 8 of the provisional Regulation, the Commission found that the imported SWR from the countries concerned and the SWR produced and sold in the Community by the Community industry were alike in their basic physical and technical characteristics. Both the Community-produced and imported SWR were also found to have essentially the same use and to be competing with each other.

(10) It has been alleged that SWR produced and sold by the Community producers were not alike to those imported from the countries concerned. In particular it was argued that the product produced in the exporting countries was mainly commodity SWR whereas the product produced in the Community was specialised SWR. It was further argued that the Community producers had included more so-called specialised product types in their range of SWR over the period examined as could be seen from the increase in their unit prices.

(11) The following was concluded:

— the Community producers were found to be engaged in the production of the whole range of SWR, as were the exporting producers, i.e. the production of the more specialised SWR as well as the more commodity type of SWR,

— the overlap between the products produced by the Community producers and the exporting producers is evidenced by volume of sales where matching SWR models were found (75 % of the exporting producers' volume of sales and 51 % of the Community industry's volume of sales). This overlap can also be seen from the fact that Community-produced SWR and those imported cover all CN codes concerned.

(12) The provisional findings that Community-produced and imported SWR are like products within the meaning of Article 1(4) of

([1]) Case C-175/87 Matsushita Electric Industrial Co. Ltd v. Council, [1992] ECR I, p. 1409.

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Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation') are therefore confirmed.

D. DUMPING

1. Normal Value

1.1. *Determination of the normal value*

(13) One Indian exporting producer claimed that the costs of production for the investigation period (1 January 1997 to 31 March 1998, hereinafter referred to as the 'IP'), should be established on the basis of data relating to the period preceding the IP. However, pursuant to Article 6(1) of the basic Regulation, for the purpose of a representative finding concerning dumping, an IP is selected and the information analysed is normally limited to the IP. No reasons have been forwarded which would make it more appropriate to use the cost of production relating to a period prior to the IP. In particular, it should be noted that the exporting producer continued to produce and to sell the product types in question also during the IP. Thus the findings based on information relating to the IP were considered representative and the request was not, therefore, accepted.

(14) The South African exporting producer and one Indian exporting producer objected to the method used to determine the constructed normal value of the product concerned.

(15) The South African exporting producer claimed that the calculation of the profit margin on domestic sales was inappropriate since it was based on all domestic transactions including domestic sales of mining SWR. Due to the specific properties of the mining SWR not exported to the Community, which constitutes a specific product requiring sophisticated equipment and which is sold with a substantial profit margin, it claimed that the profit margin made on domestic sales of mining SWR should not be taken into consideration in the calculation of the constructed normal value of the other types of ropes.

(16) The Indian exporting producer requested that the domestic sales of certain high-value product types be excluded from the constructed normal value calculations on the grounds that these products were not exported, or only rarely, during the IP and that the domestic sales of these product types yielded abnormally high profits that distorted the determination of the average profit of the product concerned.

(17) It was found that the South African mining SWR and Indian high value product types were 'like products' to the product under consideration within the meaning of Article 1(4) of the basic Regulation. The profit margin used in constructing the normal value was therefore correctly determined in accordance with Article 2(3), (4) and (6) of the basic Regulation, i.e. on the basis of all domestic market sales of the like product made in the ordinary course of trade. In this context, it should be noted that for the determination of the profit margin pursuant to Article 2(6) of the basic Regulation it is irrelevant whether the product types in question were also exported to the Community, as long as they constitute a like product within the meaning of the basic Regulation.

(18) These claims were therefore rejected.

(19) As an alternative to the above, it was requested by the Indian company that the average profit be calculated on the basis of all domestic sales, i.e. sales of both profitable and unprofitable product types, and not on the basis only of domestic sales of profitable product types. In this respect it should be noted that, pursuant to Article 2(6) of the basic Regulation, the amount for profits has to be based on data pertaining to production and sales, in the ordinary course of trade, of the like product in the domestic market of the exporting country. In this context, sales

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below cost of a particular product type can only be taken into account for the determination of the profit margin if the volume of non-profitable sales of such type is not higher than 20 % of all sales of this type in question or if the weighted average selling price is not below the weighted average unit cost. This rule was respected when determining the profit margin and consequently the alternative requested could not be accepted either.

(20) Since no other comments concerning normal value were presented, the findings set out in recitals 9) to 13) of the provisional Regulation are confirmed.

1.2. *Choice of analogue country for non-market economy countries*

(21) Chinese and Ukrainian exporting producers contested the choice of India as analogue country and asked that the provisional choice of analogue country be reviewed. The Ukrainian exporting producer proposed the selection of the Republic of Korea (hereinafter referred to as 'South Korea') because it had an open market.

(22) The arguments put forward against the choice of India as analogue country were carefully analysed, and for the reasons set out below it was decided to abandon India as analogue country. In the absence of any cooperating market economy third countries not subject to the current investigation, it was considered that Poland represented the most reasonable choice of analogue country for the calculation of normal value for China and the Ukraine.

(23) Further to provisional disclosure, the Chinese and Ukrainian exporting producers also questioned the choice of Poland as analogue country; it was claimed that South Korea would be more appropriate in terms of level of import duty, size of domestic market and the existence of competition on the domestic market. Poland was, however, considered to be appropriate given its low level of import duty, the openness and size of its domestic market, the existence of competition between local producers, and the fact that Polish SWR provided, overall, the most representative comparison in terms of matching models with those of China and the Ukraine.

(24) As far as South Korea is concerned, it was noted that although this country also had a low level of import duty, it had a much lower percentage of domestic sales which were comparable to the imports into the Community from the PRC.

(25) It was therefore considered that Poland was the most reasonable choice of analogue country both for the Ukraine and for the PRC.

2. **Export price**

(26) Since no comments concerning export price were presented, the findings set out in recitals 14) to 17) of the provisional Regulation are confirmed.

3. **Comparison**

(27) One Polish exporting producer reiterated its claim for adjustments to the normal value for differences in inventory financing and warehousing between the domestic and the export sales. However, in the absence of any new evidence on the effect of the above factors on price comparability as required by Article 2(10)(k) of the basic Regulation, the claim was not accepted.

(28) The same Polish exporting producer and one Hungarian exporting producer reiterated their request for adjustments to the normal value for differences in level of trade. In view of the new evidence submitted, the claims were reconsidered and accepted as it was proved that the export price and the normal

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value were at a different level of trade and this difference affected price comparability.

(29) One Indian exporting producer submitted a request for an adjustment for differences in the level of trade on the grounds that export sales were made exclusively at wholesaler level, while domestic sales were made at both wholesaler and end-user levels. An adjustment was granted to the extent that the request was merited.

(30) One Polish exporting producer contested the use of monthly average exchange rates to convert the export price into domestic currency for the determination of provisional findings. This exporting producer claimed that the exchange rates effectively applied should have been used. In this respect, it should be noted that it is normal practice to use monthly average exchange rates. Moreover, both approaches were tested and it was found that the differences were only marginal and that any positive differences were balanced out by negative differences, i.e. none of the two approaches resulted in consistently higher or lower exchange rates and the impact of this issue on the final dumping margin was not material. It was consequently decided to apply the normal practice of monthly average exchange rates.

(31) The South African exporting producer claimed an allowance for currency conversion on export prices on the grounds that a comparison between the lowest exchange rate of the currency and the ecu during the IP, and that of the highest exchange rate in 1999 showed an important devaluation of the ecu.

(32) In accordance with Article 2(10)(j) of the basic Regulation, this claim was rejected since the fluctuations in exchange rates did not show a sustained movement during the IP that would have justified an adjustment. Moreover, it should be noted that the average devaluation of the ecu versus the South African rand was very small during the IP.

(33) Since no other comments concerning the comparison were presented the findings set out in recitals 17) to 19) and 21) to 23) of the provisional Regulation are confirmed.

4. **Dumping margins**

4.1. *Methodology*

(34) At the provisional stage, export sales of SWR by an Indian exporting producer which were made to its related importer in the Community and which were subsequently transformed by the related importer were excluded from the determination of dumping.

(35) Following disclosure of the provisional findings, the Indian exporting producer contested this approach. It was requested that the dumping found for the export transactions examined should be expressed as a percentage of the total cif price, i.e. including those export transactions relating to products which had been subsequently transformed as described above. In support of this request, the exporting producer pointed out that any anti-dumping measures would be applied to all imports of the product concerned.

(36) This request could not be accepted. First, it would have been difficult to construct a reliable export price for those imported products which had subsequently been resold in a transformed state. Secondly, the export sales taken into consideration for the determination of a dumping margin accounted for 80 % of all export resales to the Community made by the exporting producer during the IP. This was considered largely sufficient as a basis for representative findings. Third, since the export sales relating to products which had subsequently been transformed could not be used for the calculation of dumping, they could not be taken into consideration for the calculation of the dumping margin

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since this would have distorted the findings by artificially lowering the dumping margin.

(37) Therefore, the methodology used for the establishment of the provisional findings, including the residual margins, as set out in recitals 24) to 26), is confirmed.

4.2. *Level of dumping margins*

(38) The weighted average normal value per product type was compared with the weighted average export price on an ex-works basis and at the same level of trade in accordance with Article 2(11) of the basic Regulation.

(39) After revision of the calculations, in particular due to the fact that for the PRC and the Ukraine the normal values have been based on the domestic market sales of the Polish producers, the dumping margins definitively established, expressed as a percentage of the CIF price at Community frontier level, are as follows:

— THE PEOPLE'S REPUBLIC OF CHINA:	60,4 %
— HUNGARY:	
Drótáru és Drötkotél Ipari és Kereskedelmi Rt	28,1 %
All producers/exporters:	28,l %
— INDIA:	
Usha Martin Industries & Usha Beltron Ltd	23,8 %
Mohatta & Heckel	30,8 %
All producers/exporters:	30,8 %
— REPUBLIC OF KOREA:	
Kiswire Ltd	1,2 %
Manho Rope & Wire Ltd	0,1 %
Chung Woo Rope Co. Ltd	0,2 %
Chun Kee Steel and Wire Rope Co. Ltd	0,4 %
— MEXICO:	
Aceros Camesa SA de CV	95,6 %
All producers/exporters:	95,6 %
— POLAND:	
Drumet SA	27,9 %
Slaskie Zaklady Lin i Drutu ‘Linodrut’ Spólka Akeyjna	
Fabryka Lin i Drutów ‘Linodrut’ Zabrze Spólka z organiczona odpowiedzialnoscia	
Fabryka Lin i Drutów ‘Falind’ Spólka z organiczona odpowiedzialnoscia	
Górnoslaska Fabryka Lin i Drutu ‘Linodrut’ Bytom Spólka organiczona odpowiedzialnoscia	
Dolnoslaska Fabryka Lin i Drutu ‘Linodrut Linmet’ Spólka z organiczona odpowiedzialnoscia	48,3%
All producers/exporters:	48,3 %
— SOUTH AFRICA:	
Haggie Rand Ltd (the company has changed name and is now called Haggie)	132 %

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All producers/exporters:	132 %
— UKRAINE:	51,8 %

E. COMMUNITY INDUSTRY

1. Community production

(40) In the absence of any new information, the provisional findings as described in recitals 34 to 36 of the provisional Regulation are therefore confirmed.

2. Community industry

(41) Following comments received by interested parties the Community industry is as follows.

(42) The following 16 complainant Community producers and four Community producers supporting the complaint and which cooperated in the investigation, made up the 'Community industry' in the meaning of Article 4 of the basic Regulation, i.e.:

— Bremer Drahtseilerei Lüling GmbH (Germany),

— Bridon International Limited (UK),

— BTS Drahtseile GmbH (Germany),

— Cables Y Alambres Especiales SA (Spain),

— Casar Drahtseilwerk Saar GmbH (Germany),

— Cordoaria Oliveira SA (Portugal),

— Drahtseilerei Gustav Kocks GmbH (Germany),

— Holding FICADI (France),

— Iscar Funi Metalliche (Italy),

— D. Koronakis SA (Greece),

— Metalcalvi Wire Ropes (Italy),

— Midland Wire Cordage Co. Ltd (UK),

— Randers Rebslaareri (Denmark),

— Redaelli Tecnacordati SpA (Italy),

— Trefileurope (France),

— Trenzas Y Cables SL (Spain),

— Vereinigte Drahtseilwerke GmbH (Germany),

— Voest-Alpine Austria Draht GmbH (Austria),

— Vornbäumen-Stahlseile GmbH (Germany),

— Wadra GmbH (Germany).

3. Imports made by the Community industry

(43) Certain interested parties have questioned the calculation of the level of imports made by the Community industry.

(44) It is to be noted that the information on imports has been based on data supplied by the exporters in their export sales listings and duly verified. Imports made by the Community industry has in this manner been established as representing 4,4 % of consumption in the investigation period.

(45) The analysis in the provisional Regulation that the principal activity of the Community industry remained the production of SWR given the low level of its imports is confirmed. Furthermore, this low level was not such as to shield the Community producers from the injurious effects of the dumping, nor did it allow them to unduly benefit from the imports concerned.

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F. **INJURY**

1. **Preliminary remark — the investigation period**

(46) It has been argued that the inclusion of 1994 distorts the injury analysis, given that the largest part of the imports took place between 1994 and 1995 and that thereafter the level of the imports from the countries concerned remained stable. It has also been argued that the situation of the Community industry has remained stable from 1995 to the IP. As a result, it was requested to start the injury investigation period in 1995.

(47) The purpose of the investigation is to evaluate the effect of the dumped imports on the economic situation of the Community industry during the IP. In order to make such an analysis, trends are established for a number of indicators on the basis of information relating to a number of years preceding the IP. It is therefore irrelevant whether 1994 or 1995 has been taken as a starting point for the purpose of establishing trends.

(48) In any event it is to be noted that:

— although the biggest part of the imports from the countries concerned took place between 1994 and 1995, contrary to what has been alleged, these imports have continued to increase after 1995 (+ 12 % between 1995 and the IP),

— prices of these imports remained significantly below those of the Community industry throughout the whole period,

— the impact of these imports on the situation of the Community industry resulted in a significant decrease in profitability between 1994 and 1995 (from 1,3 % to − 0,3 %), coinciding with a loss of market share (− 10 percentage points). As explained in the provisional Regulation, the Community industry attempted to regain market share by decreasing prices between 1995 and 1996, only to incur further losses (−0,3 % to − 0,7 %). In order to reduce these losses, the Community industry again increased its prices between 1996 and 1997. However, this was at the expense of market share, which suffered a further decline,

— this deterioration in the situation of the Community industry was therefore the result of pressure from both the volume of imports from the countries concerned and the low level of the prices of these imports.

(49) On the basis of the above, the allegation concerning the starting point of the analyses of the trend is therefore rejected.

(50) Therefore the period during which the economic situation of the Community industry was analysed has allowed a proper assessment of its situation and accurately reflects the evolution of the market of SWR in the Community.

2. **Cumulation**

2.1. *Imports from Hungary*

(51) One exporting producer repeated its claim that the imports from Hungary should be decumulated from imports from the other countries concerned. However, no new arguments were presented supporting the decumulation of imports from Hungary. Therefore the grounds for cumulation as set out in recital 47 of the provisional Regulation are confirmed.

2.2. *Imports from Mexico*

(52) One exporting producer has argued that imports from Mexico should be decumulated from imports from the other countries concerned on the basis that these Mexican imports should be considered to be *de minimis*. In this respect it was claimed that most of the imports from Mexico were made by an importer related to a Community producer and that these imports should

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not be taken into account when establishing the level of imports from Mexico. Consequently, the remaining Mexican imports would be *de minimis* and therefore imports from Mexico should be decumulated from the other imports concerned for the purposes of the injury analysis.

(53) It is to be noted that in assessing whether imports from a country concerned are considered to be *de minimis* in accordance with Article 9(3) of the basic Regulation, the total volume of imports originating in the country concerned is calculated.

(54) The level of the imports described in recitals 45 and 48 of the provisional Regulation is therefore confirmed, i.e. 3 % of consumption in the IP, and also the allegation that Mexican imports are *de minimis* is rejected.

3. **Prices of the dumped imports**

3.1. *Comparison between Community prices and those of the dumped imports*

(55) It has been alleged that the elements used in the categorisation of SWR for the undercutting calculations do not allow a meaningful and proper price comparison. In particular, it has been argued that the elements not included in the undercutting calculations (i.e. galvanisation, tensile strength, core and cover), and additional elements not foreseen in the questionnaire (i.e. tolerated diameter variance, elongation factor and breaking load) have a significant influence on prices. It has also been alleged that the same product categorisation should be used for both dumping and injury calculations.

(56) The following has been concluded:

— for the undercutting calculations SWR were grouped according to the number of wires and the number of strands in a rope, the construction type of the rope and its diameter. These elements were found to be the main price drivers of SWR. Other elements not included in the undercutting analysis (i.e. galvanisation, tensile strength, core and cover), were found to have only a secondary impact on prices in the Community market.

The undercutting calculations grouping SWR as described above, resulted in a reasonable volume of sales being covered for both the exporting producers and the Community industry and were therefore considered to provide a meaningful and representative result,

— the inclusion of additional elements not foreseen in the questionnaire (i.e. tolerated diameter variance, elongation factor and breaking load), was considered to be unnecessary given that these elements were largely the result of a combination of the main elements of SWR already included in the product categorisation. Their inclusion was not considered to provide a more accurate pricing comparison and therefore their request would have been unduly burdensome on all interested parties,

— the product categorisation for the calculation of the dumping margin was not considered to serve as a good model in calculating undercutting given that the dumping categorisation was, for the most part, a comparison of one company's product range, i.e. the same or similar products produced by one and the same producer and sold on two different markets. The undercutting calculation however, was a comparison made between a larger number of SWR sold by a larger number of parties. It was therefore considered that the methodology already used in the provisional Regulation provided a more reasonable basis for the analyses of price undercutting: while taking into account the main price drivers, this approach covered the largest volume of sales,

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— finally no significant price differentials were found to exist for the various types of SWR within one group.

(57) In conclusion, the arguments concerning the product categorisation for the undercutting calculations are rejected.

3.2. *Level of trade*

(58) Certain interested parties have argued that an adjustment should be made to sales prices to reflect an alleged difference in levels of trade on the basis that sales made by the Community industry were to end users whereas the imported products were generally sold to wholesalers/distributors.

(59) The Community industry's sales were found to have been made through various sales channels including both wholesalers/distributors and end users. Furthermore no consistent and/or significant price differentials were found to exist according to the different sales channels.

(60) The request for a level of trade adjustment was therefore rejected.

4. **Situation of the Community industry**

(61) Certain exporting producers have alleged that the Community industry had not suffered material injury in the sense of Article 3 of the basic Regulation, on the basis that the Community industry's production, capacity, prices, investments and productivity remained stable or improved between 1994 and the IP.

4.1. *Production*

(62) Production levels were found to have remained stable over the period examined (+ 1 %), this should be seen in conjunction with the increasing levels of stocks (+ 30 %) and the decrease in sales volume (− 9 %), as outlined in recitals 58 to 60 of the provisional Regulation. It is also recalled that consumption increased by 5 % over the period.

4.2. *Capacity and investments*

(63) The finding that the increase in capacity noted in the provisional Regulation (+ 11 %) resulted from investments made in higher performance replacement machinery, as outlined in recitals 59 and 65 of the provisional Regulation, is confirmed.

4.3. *Profitability*

(64) Certain exporting producers questioned the use of audited accounts to calculate profitability of the Community industry as set out in recital 64 of the provisional Regulation. It was argued that the audited accounts included sales of products not covered by the investigation and did not cover the full IP.

(65) It was found that although some companies were able to provide information specific to the product concerned, some others did not have a cost accounting system allowing the separate identification of the product investigated. In the absence of this information, it was considered that the audited accounts provided reliable information on the narrowest group of products, including the product concerned, for which the necessary information on profitability was available. For all six companies in the sample, the production of SWR represents its main activity. Other products manufactured by these companies (e.g. stainless steel wire ropes, SWR of less than 3 mm, steel wires, and prestressed strands) were broadly found to be related to this main activity and generally used the same raw material, machinery and personnel.

(66) The use of profitability relating to 1997 in place of the IP was considered to be reasonable given that 1997 largely covers the IP, which runs from January 1997 to March 1998.

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(67) In conclusion, for the reasons given above, it was considered that the audited accounts provided a representative and reliable picture of the profitability of the product concerned, in accordance with Article 3(8) of the basic Regulation.

(68) At the time of the provisional Regulation one Community producer, whose financial year ended in March, only had provisional profitability data available. Final information has since been received and the profitability for the Community industry has been recalculated to be − 0,3 % in 1997 which as mentioned above is representative of the IP. The profitability of the Community industry therefore went from + 1,3 % in 1994 to − 0,3 % in 1997.

4.4. *Conclusion on situation of the Community industry*

(69) Certain exporting producers argued that the Community industry had performed well in the period subsequent to 1995 and that therefore a finding of material injury was unjustified.

(70) It is to be recalled (see Section F.1 'Preliminary Remark'), that whether 1994 or 1995 is taken as a starting point for the injury analysis, the situation of the Community industry has deteriorated. Even if 1995 were to be taken as a starting point, production, sales volume, employment and investments decreased. Stocks increased. Market share remained stable (going from 65,26 % to 65,64 %) and profitability remained negative (− 0,3 %).

(71) In any event in accordance with Article 3(5) of the basic Regulation, the analysis of injury suffered by the Community industry relates to the overall assessment of these economic indicators and none of these indicators can in isolation give decisive guidance.

(72) This argument is therefore rejected.

4.5. *Conclusion on injury*

(73) The conclusion that the Community industry has suffered material injury as set out in recital 68 of the provisional Regulation is confirmed.

G. **CAUSATION**

(74) In the absence of any new information the provisional findings as described in recitals 69 to 85 of the provisional Regulation are confirmed.

H. **COMMUNITY INTEREST**

(75) Certain parties have raised queries concerning the assessment of the impact of anti-dumping measures on user industries.

(76) It is to be recalled that no replies were received to the Commission services' questionnaires from the user industries concerned by this proceeding (recital 87 of the provisional Regulation). Furthermore, no information has been received following the publication of the provisional Regulation. It is to be noted that the conclusions outlined in the provisional Regulation indicated that users would not be significantly affected by the imposition of measures. This conclusion has not been contested by users, therefore it is hereby confirmed.

(77) It has been argued by a number of interested parties that the Community producers do not produce small diameter SWR and that the effect of the anti-dumping measures would result in a shortage of these SWR on the Community market. It was also argued that this would have a negative impact on the employment situation of importers currently importing small diameter SWR in the Community.

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(78) It is to be recalled that the Community industry produces the full range of SWR including the small diameters. It is concluded that the imposition of measures would not lead to a price increase such as to cause a shortage of supply of small diameter SWR on the Community market. It is also confirmed that a number of alternative sources of supply of SWR exist that are not subject to anti-dumping measures (recital 105 of the provisional Regulation).

(79) Given the above, it is concluded that the imposition of definitive measures would not have a significant negative impact on the economic operators in the Community.

I. ANTI-DUMPING MEASURES

1. Termination of the proceeding in respect of South Korea

(80) In view of the conclusions set out in recitals 24 *et seqs/*. of the provisional Regulation that the dumping margin for South Korea is *de minimis* and that no new arguments have been presented against the termination of the proceeding for South Korea, the proceeding concerning imports originating in South Korea is hereby terminated without the imposition of measures.

2. Injury elimination level

(81) For the purposes of establishing the level of measures definitively to be imposed, it was considered that the prices of the dumped imports should be increased to a non-injurious level. For the purposes of calculating the necessary price increase, i.e. the injury margin, the prices of the dumped imports were compared with the selling prices of the Community industry plus the profit shortfall and a reasonable level of profit. It is to be noted that as the profitability of the Community industry has been recalculated to be − 3 % in 1997 (see Point 4.3 'Profitability' in Section F), the element for profit shortfall in the underselling calculation has been amended accordingly. Otherwise the methodology used for establishing the injury margin as described in recital 110 of the provisional Regulation is confirmed.

3. Undertakings

(82) At a late stage in the investigation several exporting producers in the PRC, Mexico and Ukraine offered undertakings. Furthermore in the case of India and South Africa the exporting producers submitted revised offers of price undertakings,

— as concerns the PRC, given that none of the companies in these countries were granted individual treatment and that no guarantees were contained in the offers on the part of the Chinese authorities to allow for adequate monitoring, the offers of undertakings were not considered to be acceptable,

— as concerns India (Usha Martin Industries & Usha Beltron Ltd), Mexico, South Africa and the Ukraine, the exporting producers concerned offered price undertakings which are considered acceptable.

(83) It will be recalled from recital 112 *et seg*. of the provisional Regulation that undertakings had been offered by the exporting producers in Hungary and Poland, and accepted by the Commission. These undertakings have been adjusted to reflect the definitive findings of the investigation with respect to the minimum prices provided therein.

4. Form and level of the definitive measures

(84) Definitive measures should take the form of *ad valorem* duties, the rates of which have been fixed individually for cooperating companies. As far as other exporting producers are concerned in view of the high level of cooperation found, the highest

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company-specific duty found for a cooperating exporter in the country concerned should be applied. For those companies which have offered acceptable price undertakings, the definitive measures take the form of undertakings.

(85) According to Article 9(4) of the basic Regulation, where the margins of dumping found in respect of a particular exporting producer were below the corresponding increases in import prices necessary to remove injury, as calculated above, the definitive duties have been limited to the dumping margin established.

(86) These duties, expressed as a percentage of the cif net, free-at-Community-frontier price, before duty amount to:

— THE PEOPLE'S REPUBLIC OF CHINA:	
All producers/exporters:	60,4 %
— HUNGARY:	
Drótarú és Drótkötél Ipari és Kereskedelmi Rt	28,1 %
All producers/exporters:	28,1 %
— INDIA:	
Usha Martin Industries & Usha Beltron Ltd	23,8 %
Mohatta & Heckel	30,8 %
All producers/exporters	30,8 %
— MEXICO:	
Aceros Camesa SA de CV	56,1 %
All producers/exporters:	56,1 %
— POLAND:	
Drumet SA	27,9 %
Slaskie Zaklady Lin i Drutu ‘Linodrut’ Spólka Akeyjna	
Fabryka Lin i Drutow ‘Linodrut’ Zabrze Spólka z organiczona odpowiedzialnoscia	
Fabryka Lin i Drutow ‘Falind’ Spólka z organiczona odpowiedzialnoscia	
Górnoslaska Fabryka Lin i Drutu ‘Linodrut’ Bytom Spólka organiczona odpowiedzialnoscia	
Dolnoslaska Fabryka Lin i Drutu ‘Linodrut Linmet’ Spólka z organiczona odpowiedzialnoscia	48,3%
All producers/exporters:	48,3 %
— SOUTH AFRICA:	
Haggie	38,6 %
All producers/exporters:	38,6 %
— UKRAINE:	
All producers/exporters:	51,8 %

(87) The individual duty rates specified in this Regulation were established on the basis of the findings of the present anti-dumping investigation. Therefore, they reflect the situation found during that investigation. These duty rates are thus exclusively applicable to imports of products originating in the countries concerned and produced by the specific legal entities mentioned. Products produced by any other company not specifically mentioned in the operative part of this Regulation, including

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related entities, cannot benefit from these rates and shall be subject to the residual duty.

(88) Any claim requesting the application of these individual duty rates (e.g. following a change in the name of the entity) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with that name change.

J. COLLECTION OF PROVISIONAL DUTIES

(89) In view of the magnitude of the dumping margins found for the exporting producers, and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties under the provisional Regulation should be definitively collected at the rate of the duty definitively imposed unless the provisional duty rates are lower, in which case the latter should prevail,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of steel ropes and cables, currently classifiable within CN codes ex 7312 10 82 (TARIC code 7312 10 82*10), ex 7312 10 84 (TARIC code 7312 10 84*10), ex 7312 10 86 (TARIC code 7312 10 86*10), ex 7312 10 88 (TARIC code 7312 10 88*10) and ex 7312 10 99 (TARIC code 7312 10 99*10) and originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa, Ukraine.

2. The rate of the definitive anti-dumping duty applicable to the cif net, free-at-Community-frontier price, before duty, of the products manufactured by the companies listed below shall be as follows:

Country	Company	Rate of duty (%)	TARIC additional code
The PRC	All companies	60,4	—
Hungary	All companies	28,1	8900
India	Usha Martin Industries & Usha Beltron Ltd Shakespeare Sarani Calcutta-700 071 India	23,8	8613
	All other companies	30,8	8900
Mexico	All companies	56,1	8900
Poland	Drumet SA 87-880 Wloclawek, ul. Polna 26/74 Polska	27,9	8614
	All other companies	48,3	8900
South Africa	All companies	38,6	8900
Ukraine	All companies	51,8	►M1 — ◄

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

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Article 2

1. Notwithstanding Article 1, the definitive duty shall not apply to imports of the product described in Article 1(1) above produced and directly exported and invoiced to an importing company in the Community by the companies listed in paragraph 3, from which price undertakings have been accepted by the Commission under Decision 1999/572/EC of 13 August 1999 accepting undertakings offered in connection with the anti-dumping proceedings concerning imports of steel ropes and cables originating in the People's Republic of China, Hungary, India, Republic of Korea, Mexico, Poland, South Africa and Ukraine ([1]).

2. When the request for release for free circulation pursuant to an undertaking is presented, exemption from the duty shall be conditional on presentation to the relevant Member State's customs services of a valid undertaking invoice, in the form set out in the Annex to the provisional Regulation, issued by one of the companies listed in paragraph 3. In the case of the company in the Ukraine, the undertaking invoice shall be accompanied by a valid export licence delivered by the Ukrainian authorities, in the form set out in the Annex.

3. Imports made within the context of the undertakings offered and accepted shall be declared under the following TARIC additional codes:

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Country	Company	TARIC additional code
Hungary	Drótáru és Drótkötél Ipari és Kereskedelmi Rt. Besenyöi utca 18, 3527 Miskolc, Hungary	8616
Poland	Slaskie Zaklady Lin i Drutu "Linodrut" Spólka Akeyjna Fabryka Lin i Drutów "Linodrut" Zabrze Spólka z organiczona odpowiedzialnoscia PL-41-800 Zabre, Sobieskiego Street No 1 Fabryka Lin i Drutów Falind Spólka z organiczona odpowiedzialnoscia PL-41-201 Sosnowiec, Niwecka Street 1 Górnoslaska Fabryka Lin i Drutu Linodrut Bytom Spólka organiczona odpowiedzialnoscia, 41-906 Bytom, Ks. Jerzago Popieluszki Street 1 Dolnoslaska fabryka Lin i Drutu "Linodrut Linmet" Spólka z organiczona odpowiedzialnoscia, 58-309 Walbrzych, Sluga Street 2	8619
Mexico	Aceros Camesa SA de CV Margarita Maza de Juárez No 154, Col Nueva Ind. Vallejo México D.F.C.P.07700 Mexico	A022
South Africa	Haggie Lower Germiston Road Jupiter PO Box 40072 Cleveland South Africa	A023
India	Usha Martin Industries & Usha Beltron Ltd Shakespeare Sanani, Calcutta, 700071 , India	A024

([1]) See page 63 of this Official Journal

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Article 3

As regards imports of the product described in Article 1(1) originating in the PRC, Hungary, India, Mexico, Poland, South Africa and Ukraine, the amounts secured by way of the provisional anti-dumping duty imposed by the provisional Regulation shall be collected at the rate of the duty definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 4

The proceeding concerning imports of the product described in Article 1(1) originating in the Republic of Korea is hereby terminated.

Article 5

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

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

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ANNEX

ELEMENTS TO BE INDICATED IN THE EXPORT LICENCE REFERRED TO IN ARTICLE 2(2)

1. The product reporting code number (as established in the undertaking offered by the producing exporter in question), including type, number of strands, number of wires per strand and CN code.
2. The exact description of the goods, including:
   - — the company product code (CPC),
   - — CN code,
   - — the TARIC additional code under which the goods on the invoice may be customs cleared at the Community borders,
   - — quantity (to be given in kilograms),
   - — minimum price applicable.
3. The invoice number.
4. The export licence number and issue date.
5. The name of the importer to whom the invoice is issued directly by the company.