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(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 616/1999

of 23 March 1999

imposing a provisional anti-dumping duty on imports of stainless steel wires with a diameter of less than 1 mm originating in the Republic of Korea

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 905/98 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 25 June 1998, the Commission announced, by a notice published in the *Official Journal of the European Communities* [3], the initiation of an anti-dumping proceeding with regard to imports into the Community of stainless steel wires with a diameter of less than 1 mm originating in the Republic of Korea (hereafter 'Korea'). A parallel anti-subsidy investigation was initiated on the same date.

(2) The proceeding was initiated as a result of a complaint lodged in May 1998 by the European Confederation of Iron and Steel Industries (Eurofer) on behalf of Community producers representing a major proportion of the Community production of stainless steel wires. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient, after consultation, to justify the initiation of a proceeding.

(3) The Commission officially advised the complainant Community producers, exporting producers, importers, suppliers and users known to be concerned as well as associations concerned and representatives of the exporting countries. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All parties who so requested were granted a hearing.

(4) The Commission sent questionnaires to all parties known to be concerned and received replies from a number of companies in the Community and the exporting countries.

(5) The Commission sought and verified all the information it deemed necessary for the purposes of a preliminary determination of dumping, injury and Community interest and carried out verification visits at the premises of the following companies:

(a) *Community producers*

— AB Sandvik Steel, Sandviken, Sweden

— Bekaert N.V., Zwevegem, Belgium

— Gusab Stainless, Mjolby, Sweden

— Sprint-Metal, Paris, France

— Sprint Metal Edelstahlzieherei GmbH, Hemer, Germany

— Rigby-Maryland Stainless Ltd., Liversedge, United Kingdom

— Rodacciai S.p.a and Rodasider S.r.l, Bosisio Parrini, Italy

— Societa Italiana Kanthal S.p.a, Cinisello Balsamo, Italy

(b) *Exporting producers in Korea*

— Dae Sung Rope MFG. Co. Ltd., Pusan

— Korea Sangsa Co. Ltd., Seoul/Pusan

— Korea Welding Electrode Co. Ltd., Seoul

[1] OJ L 56, 6. 3. 1996, p. 1.
[2] OJ L 128, 30. 4. 1998, p. 18.
[3] OJ C 199, 25. 6. 1998, p. 8.

— Kowel Special MFG Steel Wire Co. Ltd., Pusan

— Seah Metal Products Co. Ltd., Chang Won

— Shine Metal Co. Ltd., Pusan

(c) *Importers in the Community related to exporting producers*

— Kos Europe GmbH, Düsseldorf, Germany

(d) *Importers in the Community not related to exporting producers*

— Trio Handels GmbH, Eppstein, Germany

— Bodo Trading GmbH, Dreieich, Germany

(6) The dumping investigation covered the period from 1 April 1997 to 31 March 1998 (hereafter referred to as 'the investigation period' or 'IP').

The examination of injury covered the period from 1 January 1994 to 31 March 1998 (hereafter referred to as the 'period considered').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(7) The product under consideration is wire of stainless steel, containing by weight 2,5 % or more of nickel, other than containing by weight 28 % or more but no more than 31 % of nickel and 20 % or more but not more than 22 % of chromium, having a diameter of less than 1 mm (hereinafter 'SSW'). This product is currently classifiable with CN code ex 7223 00 19.

(8) This product is basically defined by its physical aspect as cold finished wire and its classification into a specific group of stainless steel grades. SSW is obtained by shaping wire rod by operations which reduce the cross-section of the wire rod. The final cross-section is generally round. Several processes are used to transform wire rod into SSW. Depending on customer requirements SSW will have specific mechanical or chemical characteristics (tensile strength, diameter, stainless steel grade) and surface aspects (bright, mat, coated), which result in a large number of product types, (hereinafter also referred to as references or models). Despite those differences, all types of SSW are to be considered as one product.

(9) SSW, i.e. stainless steel wire with a diameter of less than 1 mm, is manufactured by wet drawing and obtained by reducing the diameter through a machine equipped with multiple oil-lubricated dies. SSW production is substantially more costly than the manufacturing of bigger sizes (1 mm or more) because it involves several successive transformation stages to obtain the required product characteristics and is more labour-intensive.

(10) SSW is further transformed by users which manufacture, for example, ultra-fine filtration elements, weaving wire, springs, etc. These semi-finished products are then used in sectors such as the automotive, electro-mechanical, textile, medical applications, etc.

(11) During the investigation it has been provisionally found that there are differences in physical characteristics and uses between stainless steel wires with a diameter of 1 mm or more on the one hand and with a diameter of less than 1 mm on the other hand. These physical differences relate in particular to tensile strength, coating and ductability. In addition, the use of fine wires is largely concentrated in the field of ultra-fine applications such as medical and surgery equipment, fine filters etc., while large wires are mainly used for construction, bearings, in the automotive industry and certain mechanical and household applications. For these reasons it appears that there is very limited interchangeability between large and fine wires' applications. However, the question whether a clear dividing line can be drawn between these two products will be further investigated.

2. Like product

(12) The investigation established that the SSW produced in Korea and sold domestically or exported to the Community and the SSW produced and sold in the Community by the complainant Community producers had effectively identical physical characteristics and uses and were thus like products within the meaning of Article 1(4) of Council Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation').

C. DUMPING

1. Normal value

(13) In order to establish normal value, it was first determined for the co-operating exporting producers of the countries involved in the proceeding whether the total volume of the domestic sales of the product concerned were representative in accordance with Article 2(2) of the Basic Regulation, i.e. whether these sales represented more than 5 % of the sales volume of the product concerned exported to the Community.

It was then examined for each exporting producer whether total domestic sales of each product type constituted 5 % or more of the sales volume of the same type exported to the Community.

For those product types meeting the 5 % test, it was established whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2(4) of the Basic Regulation.

Where, per product type, the volume of domestic sales above unit cost represented at least 80 % of sales, normal value was established on the basis of the weighted average prices actually paid for all domestic sales. Where, per product type, the volume of profitable transactions was lower than 80 %, but not lower than 10 % of sales, normal value was established on the basis of the weighted average prices actually paid for the remaining profitable domestic sales.

For those product types where the volume of domestic sales was lower than 5 % of the volume exported to the Community, or where the volume of profitable domestic sales was less than 10 %, domestic sales of those product types were considered insufficient within the meaning of Article 2(4) of the Basic Regulation and were therefore disregarded. In these cases, normal value was based on the weighted average of the prices charged by other producers in the country concerned for representative domestic sales of the corresponding product type made in the ordinary course of trade in accordance with Article 2(1) of the Basic Regulation.

Where, per product type, there were insufficient sales or no representative domestic sales by other producers in the country concerned, normal value was constructed on the basis of the costs of manufacturing incurred by the exporting producer concerned for the exported product type in question plus a reasonable amount for SG&A costs and profits in accordance with Article 2(3) and (6) of the Basic Regulation. The SG&A were based on representative domestic sales and the profit margin based on representative domestic sales made in the ordinary course of trade.

2. **Export price**

(14) Where export sales to the Community were made directly to independent importers export prices were established on the basis of the prices actually paid or payable by these importers in accordance with Article 2(8) of the Basic Regulation.

(15) Where export sales were made to importers in the Community which were related to the exporting producer, the export prices were constructed on the basis of the prices at which the imported products were first resold to independent buyers in the Community, in accordance with Article 2(9) of the Basic Regulation. Adjustments were made for all costs incurred between importation and resale, including a reasonable margin for SG&A plus profit. The level of profit was determined on the basis of information on profits achieved by the co-operating unrelated importers of the product concerned in the Community.

(16) In this connection, one related Korean importer in the Community requested to decrease its SG&A expenses by the amount of commissions received from the parent company in Korea. It was established that the commissions paid from Korea to this related importer in the Community were in fact based on sales made directly by the parent company to independent customers in the Community and that no services were rendered by the related importer in connection with these sales. Consequently these commissions were not taken into consideration for the establishment of the constructed export price.

3. **Comparison**

(17) For the purposes of a fair comparison due allowance, in the form of adjustments, was made for differences claimed under Article 2(10) of the Basic Regulation and demonstrated to affect price comparability. On this basis, adjustments were made with regard to indirect taxes, import taxes, charges for transport, insurance, handling, loading, ancillary costs, packing, credit, aftersales costs and commissions.

(18) Six companies claimed an allowance for import charges. Pursuant to Article 2(10)(b) of the Basic Regulation the request was fully rejected for one company since it was not able to prove that raw materials had been imported with payment of duties and had been physically incorporated in the product concerned sold on the domestic market. For the other five companies the allowance was partially granted to the extent that it was proved that the materials on which import duties were payable had been physically incorporated into the

products concerned sold on the domestic market and that the import duties had not been collected or refunded in respect of the product exported to the Community.

(19) One company requested an adjustment for differences in the level of trade on the grounds that on the domestic market all its sales were made directly to customers whereas on the Community market part of its sales were made through a related importer. It was argued that since all expenses incurred by the related importer would be deducted from the export price for the comparison, the indirect selling expenses incurred for the domestic sales should be deducted from the domestic price as well.

This claim could provisionally not be accepted because the exporting producer concerned was not able to demonstrate that the constructed export price was at a different level of trade than the normal value and that this difference affected price comparability as required by Article 2(10)(d) of the Basic Regulation.

4. **Dumping margins**

(20) In accordance with Article 2(10) and (11) of the Basic Regulation, the weighted average normal value was compared with the weighted average export prices. For exporting producers involved in the proceeding who did not reply to the Commission's questionnaire or did not make themselves known, the dumping margin was determined on the basis of the facts available in accordance with the provisions of Article 18(1) of the Basic Regulation.

A comparison of Eurostat figures with the data on the volume of exports to the Community supplied by the co-operating exporting producers was made in order to establish the level of co-operation in the current investigation. As a result, it was found that the overall level of co-operation was high. The Commission therefore considered it appropriate to set the dumping margin for the non co-operating companies at the level of the highest individual dumping margin established for a co-operating exporting producer, since there was no reason to believe that a non co-operating exporting producer had dumped at a level lower than the highest level found.

The above approach was also considered necessary in order to avoid creating a bonus for non-cooperation and an opportunity for circumvention.

(21) The dumping margins, expressed as a percentage of the CIF price at Community frontier level, are:

— Dae Sung Rope MFG Co. Ltd:	0,0 %,
— Korea Sangsa Co. Ltd:	0,6 %,
— Korea Welding Electrode:	0,0 %,
— Korea Special MFG Steel Wire Co. Ltd:	17,0 %,
— Seah Metal Products Co. Ltd:	0,0 %,
— Shine Metal Co. Ltd:	2,7 %.

D. **INJURY**

1. **Definition of the Community industry**

Community Producers

(22) The Community production, within the meaning of Article 4(1)(a) of the Basic Regulation, is constituted by:

— producers on behalf of which the complaint was lodged and which co-operated in the investigation ('the co-operating complainants'),

— producers on behalf of which the complaint was lodged and which did not co-operate in the investigation ('the non co-operating complainants'), and

— other Community producers which are not complainants and did not co-operate in the proceeding but did not oppose to it.

Community industry

(23) The co-operating complainants fulfil the requirements of representativeness within the meaning of Article 5(4) of the Basic Regulation, since they account for more than 75 % of the total Community production of the product concerned and are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the same Regulation.

2. **Preliminary remark: competition aspects**

(24) In the course of the three parallel anti-dumping and anti-subsidy investigations concerning stainless steel wire, i.e. those with a diameter of 1 mm or more and also concerning the product concerned, i.e. those with a diameter of less than 1 mm (AS-385), some interested parties have argued that all data submitted by the Community industry within the framework of the current proceeding would be unreliable as a result of the uniform application of the 'alloy surcharge' system and it would, therefore, not be possible to conduct any accurate injury analysis.

These parties based their allegations on the findings set out in a Commission Decision (IV/35.814, 'Alloy Surcharge') [1] which stated that the Community producers of stainless steel — flat products — have modified 'in a concerted fashion the reference values used to calculate the alloy surcharge, a practice having the object and effect of restricting and distorting competition within the common market'.

They acknowledged the fact that the above Decision related to flat products (as opposed to long products, such as stainless steel wires), but they argued that, firstly a concerted practice also existed for stainless steel wires and, secondly, that even if such a practice would not be established for them, the existing illegal practice for flat products would have a synergy or downstream effect on stainless steel wires.

Given the possible relevance of these arguments in the current proceeding, the Commission examined any possible effects on the reliability of the data collected.

As SSW are not produced, for technical reasons, from flat products, any downstream effect of the concerted practice found for flat products on SSW is doubtful. Moreover, no evidence has been found either that the above concerted practice would have been applied by suppliers of raw material for SSW. Futhermore, the producers of flat products and of SSW are, to a large extent, not identical and the number of SSW producers is significantly higher than that of flat steel producers.

In this respect, while the exporting producers concerned have filed a complaint (IV/E-1/37.271) with DG IV on 5 October 1998, there has been no investigation opened by DG IV concerning the alleged infringement of Article 85 of the EC Treaty with respect to the product concerned. Indeed, this complaint is in fact an extension of the complaint concerning stainless steel bright bars (likewise belonging to the category of long products) files with DG IV on 3 February 1998 (IV/E-1/36.930) for which, pursuant to Article 6 of Commission (EC) Regulation 99/63, a letter of rejection of complaint has been sent to the complainants on 28 October 1998, although a final decision has not yet been adopted.

In accordance with the above-mentioned Decision, the application of an alloy surcharge system could only be illegal if it were applied in a concerted manner. However, the current investigation has shown that there is no uniform application of the alloy surcharge by the Community industry: some companies apply it for all their customers or only the some of them, others do not apply it at all.

Furthermore, it was noted that — when comparing the sales prices of the members of the Community industry among themselves — the sales prices for identical references varied. Finally, even where it is applied, the alloy surcharge constitutes only a small percentage in the total price of the product concerned.

The Commission therefore concludes that there is no evidence that the injury data collected be unreliable as a result of the application of the 'alloy surcharge'.

3. **Community consumption**

(25) For the purpose of the assessment of the apparent Community consumption of the product concerned, the Commission relied on data concerning the sales volume of the product concerned in the Community provided by the co-operating Community industry and EUROFER. These data have been added to import figures established on the basis of the data submitted by the co-operating exporting producers from the country concerned as well as on Eurostat.

(26) During the period 1994 to the investigation period, the apparent Community consumption of SSW expressed in tonnes amounted to 17 171 in 1994, 20 045 in 1995, 17 857 in 1996, 20 088 in 1997 and 21 810 during the investigation period. Thus, Community consumption of the product concerned increased by 27 % between 1994 and the investigation period.

4. **Volume and market shares of the imports concerned**

(27) The dumped imports in tonnes developed as follows: 1 158 in 1994, 1 875 in 1995, 2 847 in 1996, 3 977 in 1997 and 4 415 during the investigation period, which corresponds to an overall increase of 281 %, representing in the investigation period nearly 4 times the volume of imports in 1994.

(28) The market shares of imports from Korea have also significantly and steadily increased as follows: 7 % in 1994, 9 % in 1995, 16 % in 1996, 20 % in 1997 and 20 % in the investigation period, which corresponds to an overall increase of 185 %, over the period 1994 to the investigation period.

It should be noted that, despite the fact that only two Korean companies were found to be selling at dumped prices, the country-wide weighted average

[1] Commission Decision 98/247/ECSC (OJ L 100, 1. 4. 1998).

dumping margin was above the *de minimis* level, and their market share was above the level required under Article 5(7) of the Basic Regulation.

5. **Prices of the imports concerned**

(a) *Price evolution*

(29) The average prices of the exporting producers in ECU per kg have evolved as follows: 4,35 in 1994, increasing up to 5,02 in 1995, and steadily decreasing from that time onwards to 4,83 in 1996, 4,66 in 1997 and 4,67 in the investigation period.

(b) *Price undercutting*

Methodology

(30) For the investigation period, sales prices of matching models, both for the Community industry and the exporting producers, established on a customer-delivered basis, have been compared. The export price at a customer-delivered level has been obtained by adding to the export CIF values a reasonable percentage covering insurance and freight costs from the Community border to the final customer.

(31) The exporting country-wide undercutting margin has been calculated on the basis of a weighted average of the undercutting margins found for the co-operating exporting producers.

Undercutting margin

(32) The weighted average undercutting margin which has been established for Korea is 12,1 % (with individual undercutting margins ranging between 10,6 % and 31,1 %)

6. **Situation of the Community industry**

(a) *Production*

(33) Total production in tonnes of the Community industry evolved as follows: 12 664 in 1994, 14 289 in 1995, 11 651 in 1996, 12 915 in 1997 and 14 138 in the investigation period, with an overall increase of 11 %. Thus, it followed the evolution of the market, reflecting the exceptional market situation in 1995, the ensuing decrease and the upward trend of the market during the investigation period.

(b) *Capacity utilisation*

(34) The capacity utilisation rate of the Community industry reached its peak in 1995 (89,1 %) and has significantly decreased in 1996 (69,9 %). Although it has started to recover towards the IP (80,5 %), it did not reach the previous levels.

(c) *Sales volume*

(35) The development of sales of the Community industry remained relatively stable between 1994 and the IP (slightly increasing from 11 312 to 11 884 tonnes), although it reflects to a certain extent the above mentioned exceptional market situation in 1995 (12 511 tonnes) and during the IP (11 884 tonnes). However, sales did not follow the expansion of the apparent Community consumption, which increased by 27 % between 1994 and the investigation period, whilst sales of the Community industry only went up by 5 % during the same period of time.

(d) *Market shares*

(36) The steady decrease of the market share of the Community industry by 12 percentage points between 1994 and the investigation period (from 66 % to 54 %) shows that the Community industry did not benefit in terms of market shares from the expansion of the Community consumption or from the exceptional situation of the market in 1995 (with a decreasing market share in 1995 of 62 % and 58 % in 1996) and during the IP, strongly suffering from the increase of dumped imports and not being able to recover its earlier market position.

(e) *Prices*

(37) The average sales prices per kg of the Community industry increased between 1994 (ECU 5,04), 1995 (ECU 5,78) and 1996 (ECU 5,86). Low-priced imports originating in Korea substantially increased as from 1996 and the majority of the members of the Communty industry maintained their prices whilst other followed the low prices of dumped imports and reduced them. As from 1996 and until the IP, average prices of the Community industry have substantially decreased (5,21 in 1997 and 5,19 in the investigation period), which indicates that the Community industry has suffered from price depression. In addition, the Community industry, as a reaction to the increase of low-priced imports, had no choice but to stop production and sales of certain standard product models, privileging some market niches where prices (but also costs of production) were higher and direct competition from Korean imports was less pronounced. Therefore, it can be assumed that the price decrease would have been even more accentuated if the Community industry had kept on manufacturing all product references.

(f) *Employment*

(38) The Community industry's workforce has steadily decreased as from 1995, when the market situation led to a significant increase of the workforce directly linked to the product concerned within the Community. Indeed, it increased from 499 in 1994 to 566 in 1995 and went down since then to 521 in the investigation period.

(g) *Investments*

(39) Investments, which had come to a peak in 1995 (4 592 KECU), significantly decreased in 1996 (1 498 KECU). Although they increased again in 1997 (2 532 KECU and 2 481 KECU during the investigation period), they did not however reach the earlier levels.

(h) *Profitability*

(40) The profitability of the Community industry went down between 1994 (3,6 %) and the investigation period (−0,6 %) even though its development reflected likewise the positive situation of 1995 (8,5 %). The Community industry is suffering losses in spite of the above-mentioned improvement in the market situation at the end of 1997 (−0,8 %) and during the investigation period. It can be assumed that the trend would have been even worse if the Community industry had kept on producing and selling those models subject to the most aggressive pricing policy from Korean exports.

7. **Conclusion on injury**

(41) Between 1994 and the investigation period, the sales of the Community industry remained relatively stable. Even if they reflected to a certain extent the market developments in 1995 and slightly increased towards the investigation period, following a strong decrease in 1996, they did not follow the expansion of the Community consumption which substantially increased, i.e. by 27 %, from 17 171 tonnes to 21 810 tonnes during the same period of time. This resulted in a continuous drop of the Community industry's market share.

(42) Despite a certain increase of the production of the Community industry and its relatively stable sales volume and prices, its profitability went down to losses between 1994 and the investigation period, not benefiting from the expanding market situation during that time.

(43) It is therefore provisionally concluded that the Community industry has suffered material injury.

E. **CAUSATION**

1. **Effect of the dumped imports**

(44) The significant increase of the volume (+281 %) and of the market shares (from 7 % to 20 %) of the dumped imports between 1994 and the investigation period as well as the substantial undercutting found (12,1 % on weighted average and ranging between 10,6 % and 31,1 %) coincided with the deterioration of the situation of the Community industry in terms of loss of market shares, price depression as well as deteriorating profitability.

(45) The market for SSW within the Community expanded by 27 % between 1994 and the end of the investigation period. Nevertheless, the sales volume of the Community industry, even though reflecting to a certain extent the evolution of the market, only increased by 5 %, not following that expansion. By contrast, the imports from Korea considerably increased (+281 %) over the same period, and its market share considerably increased by 122 % between 1995 and 1997. This coincided with the downward trend of the situation of the Community industry, which lost market shares and had to lower both its investments and its prices as from 1996, resulting in financial losses in 1997.

(46) When faced with low-priced imports originating in Korea, in 1996, the majority of the Community producers tried to maintain their sales prices, whereas a few others reduced them. Both strategies resulted in a negative impact on profitability either directly (lower prices) or indirectly (high prices led to lower sales volume resulting in higher production costs per ton). As from 1996, all Community producers substantially lowered their sales prices, which had a further negative impact on their profitability, even though they tried to concentrate on certain market niches to avoid being affected even more strongly by the effects of the dumped imports. This clearly shows the price sensitivity of the market and the important impact of the price undercutting practised by the Korean producers.

2. **Effect of other factors**

(47) In accordance with Article 3(7) of the Basic Regulation, the Commission has examined whether factors other than the dumped imports might have

had an effect on the situation of the Community industry, with particular regard to the role of other Community producers not co-operating in the investigation and of imports from other countries.

(a) *Other Community producers*

(48) The exporting producers stated that in view of the sales volumes and market shares of the other non-complaining Community producers, these producers might have contributed to the injury suffered by the Community industry. However, in this respect, it was noted that the sales volume of these other Community producers remained more or less stable between 1994 and the investigation period (and actually decreased from 1995 to the investigation period by 21 %). In addition, their market share substantially decreased, i.e. from 23 % to 16 % from 1994 to the investigation period. This clearly shows that they did not benefit from the expansion of the Community market either. As to their sales prices, no information is available as to the existence of any price undercutting of the Community industry's sales prices, although taking into account the transparency of the market for SSW, it is concluded that the non-co-operating Community producers are likely to have followed a similar trend than the Community industry. The argument should therefore be rejected.

(b) *Third countries' imports*

(49) The exporting producers also alleged that imports from third countries, in particular Switzerland, might have contributed to the injury suffered by the Community industry.

(50) Imports from Switzerland remained stable in volume and their market share was also stable between 1994 and the investigation period, accounting for 3 % of the total Community consumption during that period, whereas Korean imports went up from 7 % to 20 % during the same period. As to prices, no indication of any price undercutting of the Community industry's sales prices was found in the course of the investigation. As far as other third countries are concerned, for individual countries, sales volumes and small market shares either remained stable during the same period of time or slightly increased and there is no indication of price undercutting of the Community industry's sales prices either. The argument should therefore be rejected.

(c) *Other*

(51) The Commission also examined whether other factors than the above-mentioned might have contributed to the injury suffered by the Community industry, in particular, a contraction in demand or the changes in the patterns of consumption, developments in technology and the export performance and productivity of the Community industry.

(52) As to the development of demand and the changes in the pattern of consumption, it has been previously established that the market for SSW has expanded between 1994 and the investigation period and that the Community industry did not benefit from this expansion, whilst the exporting producers substantially increased their sales volume and market share.

(53) In relation to the developments in technology and the productivity of the Community industry, it has been established that the Community industry has tried to maintain its production and investment levels between 1994 and the investigation period in order not to lose competitiveness. Its level of exports has been stable over the period considered and the Community industry's sales have proved to be more profitable in export markets than on the Community market.

(54) Thus, it can be concluded that other factors than dumped imports were not such as to break the causal link between the dumped imports and the material injury suffered by the Community industry therefrom.

3. **Conclusion on causation**

(55) In view of the above, it is provisionally concluded that dumped imports from Korea have caused material injury to the Community industry.

(56) This does not prejudge the conclusions of the Commission in the parallel anti-subsidy proceeding against imports of stainless steel wire with a diameter of less than 1 mm originating in India and Korea.

F. COMMUNITY INTEREST

1. **General comment**

(57) For the investigation of Community interest, the Commission examined two scenarios, i.e. the most likely effects in the event that anti-dumping measures were imposed, and the most likely effects in the event that such measures were not imposed. In

this context, particular consideration was given to the effect that anti-dumping measures, if any, would have on the Community industry, on suppliers of the raw material and on users of the product concerned.

2. **Community industry and other Community producers**

(a) *General*

(58) The Community industry has proven to be a structurally viable industry, able to adapt its product range to the changing competitive conditions on the market and to concentrate on market niches where there was less competition from dumped imports.

(59) Despite this structurally viable background, it can however not be excluded that this industry would reduce its manufacturing activities for the product concerned in the Community if no measures against dumping were taken. This conclusion is justified in view of the duration of the deteriorating profitability situation suffered due to dumped imports. Indeed, without measures, the price-depressive effect of the dumped imports will continue to frustrate all efforts of the Community industry to regain a satisfactory margin of profitability.

(b) *Employment*

(60) The situation of the Community industry has steadily deteriorated since 1995. Should this trend continue, the Community industry might be forced to stop production in the Community, and around 500 jobs directly linked to the product concerned would be endangered in the Community. On the other hand, the imposition of measures would enable this industry to maintain and further develop its activities in the Community.

(c) *R&D*

(61) The product concerned requires continuous investments in R&D, mainly related to the production process, i.e. to the development of environmentally friendly and energy-saving manufacturing technologies. In this respect, the Community industry had to reduce substantially its investments and this negative trend will continue if no measures are taken.

3. **Unrelated importers**

(62) Limited co-operation was obtained from unrelated importers of the product concerned in the Community. For the co-operating companies, neither employment nor significant investment were directly related to the product concerned.

(63) This justifies the provisional conclusion that anti-dumping measures, if any, will most likely not have a decisive impact on the unrelated importers.

4. **Suppliers**

(64) The following 6 suppliers co-operated in the investigation and the data they submitted were verified by the Commission:

— Acciaierie Valbruna s.r.l, Vicenza, Italy

— Acciaierie Bolzano s.r.l, Bolzano, Italy

— Cogne Acciai Speciali, Aosta, Italy

— Fagersta Stainless AB, Fagersta, Sweden

— Roldan SA, Madrid, Spain

— Ugine Savoie Imphy, Ugine, France

(65) Two other replies were received from suppliers of the Community industry, Avesta Sheffield Ltd (Sheffield, United Kingdom) and Krupp Edelstahl-profile (Siegen, Germany). These suppliers raised the argument that they suffered both from direct competition from third countries' imports of wire rod, which had substantially increased during the last years, and from the upstream effect of the dumped imports of the product concerned. Indeed, since competition for stainless steel wires was fierce, the Community industry had tried to find cheaper suppliers for the raw material, sourcing as a consequence in countries outside the Community, i.e. Korea, India and Taiwan and had exerted price pressure on its suppliers in order to secure low raw material prices.

(66) Anti-dumping duties on the product concerned would help the Community suppliers of stainless steel wire rod to improve their deteriorating economic situation and to regain profitability, which would enable them to carry out the necessary investments.

5. **Users**

(67) Users are wires processors whose semi-finished products are used afterwards in ultra-fine applications, filters, certain domstic appliances, for medical purposes, etc. Out of the 60 questionnaires sent, only four replies were received:

— Bever GmbH, Kirchhunden, Germany

— Tucai SA, Barcelona, Spain

— Tubiflex, Orbassano, Italy

— Max Rhodius GmbH, Weissenburg, Germany

(68) The limited co-operation justifies the provisional conclusion that anti-dumping duties, if any, will most likely not have a decisive impact on the user industry, either because this raw material is not a significant cost factor for them or because their production of downstream products relating to SSW only accounts for a small proportion of their total production. Furthermore, it is expected that, given the relatively moderate duty rates proposed for the exporting producers concerned, the high number of competing producers located in the Community, and the existence of imports from other third countries, the measures are not likely to lead to an overall major price increase for SSW in the Community.

6. **Competition and trade distorting effects**

(69) As to trade effects of possible anti-dumping duties. although the product concerned is being exported by the Community industry to other third countries, they are not exported to the country concerned due, amongst others, to the high import duties existing for SSW. Furthermore, due to the current international situation, the Community market is one of the few open markets where demand for steel remains strong.

(70) With respect to the effects of possible measures on competition in the Community, some interested parties have argued that duties would lead to the disappearance of the exporting producers concerned from the Community market, thus considerably weakening competition, and to an increase of the prices for SSW.

(71) In view of the above-mentioned market position of the exporting producers, the relatively low duties proposed, the large number of producers in the Community as well as the transparency of the market, it can be concluded that Community producers will continue to have a considerable number of strong competitors on the Community market. Thus, users will also in future benefit from the choice of different suppliers of the product concerned.

(72) Finally, certain interested parties have argued that it could not be in the interest of the Community to impose measures taking into account the aforementioned alleged practices in the calculation of the alloy surcharge. In this respect reference is made to the comments made above under recitals (24) et subseq.

7. **Conclusion on Community interest**

(73) Given the above reasons, it is provisionally considered that there are no compelling reasons against the imposition of anti-dumping duties.

G. **PROVISIONAL ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(74) On the basis of the conclusions on dumping, injury, causal link and Community interest, the Commission considers it necessary to adopt provisional anti-dumping duties to prevent further injury being caused to the Community by the dumped imports.

(75) For the purpose of determining the level of these duties, the Commission took account of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry. The necessary price increase was determined on the basis of a comparison of the weighted average import price used to establish price undercutting, as outlined in recital (30) et subseq. with the non-injurious price of different references or models by the Community industry on the Community market. The non-injurious price has been obtained by adding to the sales price of the Community industry its average actual loss and by further adding a profit margin of 5 %. This profit margin corresponds to what has been found as a minimum necessary in earlier cases for this type of industry. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.

2. **Provisional measures**

(76) In the light of the foregoing, it is considered that the provisional anti-dumping duty should be imposed at the level of the dumping margins found but should not be higher than the injury margins, in accordance with Aricle 7(2) of the Basic Regulation.

(77) As far as the parallel anti-subsidy proceeding is concerned it should be noted that, in accordance with Article 12(1) of Council Regulation (EC) No 2026/97, the countervailing duty rate should correspond to the amount of subsidy unless the injury margin is lower.

(78) In accordance with Article 24(1) of the above Regulation (EC) No 2026/97 and Article 14(1) of the Basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for

the purposes of dealing with one and the same situation arising from dumping or from export subsidization. As anti-dumping duties should be imposed on imports of the product in question it is necessary to determine whether, and to what extent, the subsidy and the dumping margins arise from the same situation.

(79) In the case in question several of the subsidy schemes investigated have been found to constitute export subsidies within the meaning of Article 3(4)(a) of the above Regulation (EC) No 2026/97. As such, the subsidies can only affect the export prices of the Korean exporting producers, thus leading to increased margins of dumping. In other words, the dumping margins established are wholly or partly due to the existence of export subsidies. In these circumstances it is not considered appropriate to impose both countervailing and anti-dumping duties to the full extent of the relevant subsidy and dumping margins established. Therefore, the anti-dumping duties need to be adjusted to reflect the actual dumping margins remaining after the imposition of the countervailing duties offsetting the effect of the export subsidies.

(80) On the basis of the above, the proposed provisional duty rates, expressed as a percentage of the CIF Community border price, customs duty unpaid, taking into account the results of the anti-subsidy proceeding, are as follows:

Company	AD duty %
Dae Sung Rope Mfg Co Ltd	0
Korea Sangsa Co Ltd/Myung Jin Co Ltd	0
Korea Welding Electrode	0
Kowel Special Steel Wire Co	17,0
SeAH Metal Products Co Ltd	0
Shine Metal Products	0

As far as any non-cooperating exporting producer is concerned, in view of the high level of co-operation found, the highest company specific anti-dumping duty found should be applied. This was found to be 17,0 %.

H. FINAL PROVISION

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of wire of stainless steel with a diameter of less than 1 mm, containing by weight 2,5 % or more of nickel, excluding wire containing by weight 28 % or more but no more than 31 % of nickel and 20 % or more but not more than 22 % of chromium, falling within CN code 7223 00 19 (TARIC code 7223 00 1910) and originating in Korea.

2. This anti-dumping duty has been adjusted to reflect the actual dumping margins remaining after the imposition of the countervailing duties as provisionally determined in Commission Regulation (EC) No 619/1999 [1].

3. The rate of duty applicable to the net free-at-Community-frontier price, before duty, shall be as follows:

Manufacturers	Rate of duty (%)	Taric additional code
Dae Sung Rope Mfg Co. Ltd, Pusan	0	A015
Korea Sangsa Co. Ltd, Seoul/Pusan	0	A016
Korea Welding Electrode Co. Ltd, Seoul	0	A013
Kowel Special Steel Wire Co.	17,0	A018
SeAH Metal Products Co. Ltd, Chang Won	0	A019
Shine Metal Co. Ltd, Pusan i.	0	A014
All other Korean companies	17,0	A999

[1] See page 60 of this Official Journal.

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

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

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, the interested parties may make known their views in writing and apply to be heard orally by the Commission within 15 days of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

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

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

Done at Brussels, 23 March 1999.

For the Commission

Leon BRITTAN

Vice-President