COMMISSION REGULATION (EC) No 617/1999

of 23 March 1999

imposing a provisional anti-dumping duty on imports of stainless steel wires with a diameter of 1 mm or more originating in India

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 1 mm or more originating in India and the Republic of Korea (hereafter 'Korea'). A parallel anti-subsidy investigation regarding India and Korea 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

— Bridon Wire Special Steel Division, Sheffield, United Kingdom

— Fagersta Stainless AB, Fagersta, Sweden

— Gusab Stainless, Mjolby, Sweden

— Hemmings Ltd., Sheffield, United Kingdom

— Sprint-Metal, Paris, France

— Sprint Metal Edelstahlzieherei GmbH, Hemer, Germany

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

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

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

— Trafilerie Bedini S.r.l, Peschiera Borromeo, Italy

— Winterbottom Wire, Sheffield, United Kingdom

(b) *Exporting producers in the countries concerned*

India

— Bhansali Bright Bars Pvt. Ltd., Mumbai

— Devidayal India Ltd., Mumbai

— Hindustan Stainless Steel Wire Co. Pvt. Ltd., Mumbai

— Indore Wire Co. Ltd., Indore

— Isibars Ltd/Isinox Steels Ltd., Mumbai

— Kei Industries Ltd., New Delhi

— Macro Bars & Wires Pvt. Ltd., Mumbai

— Mukand Ltd., Mumbai

[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.

— Triveni Shinton International Ltd., Indore
— Raajratna Metal Industries Ltd., Ahmedabad
— Venus Wire Industries Ltd., Mumbai

Korea

— Dae Sung Rope MFG. Co. Ltd., Pusan
— Korea Sangsa Co. Ltd., Seoul/Pusan
— Korea Welding Electrode Co Ltd., Seoul
— 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*

India

— Isibars Europe GmbH, Düsseldorf, Germany
— Mukand International Ltd, London, United Kingdom

Korea

— 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 concerned 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 1 mm or more (hereinafter 'SSW'). This product is currently classifiable within CN code ex 7223 00 19.

(8) This product is basically defined by its physical aspect and the grade of stainless steel. SSW is obtained by shaping wire rod by operations which reduce the cross-section of the wire rod. The final cross-section of the SSW is generally round but may also be square, triangular or rectangular. Several processes are used to transform wire rod into SSW. Depending on customer requirements SSW will have specific mechanical characteristics (diameter, tensile, strength, 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).

(9) Despite those differences, all types of SSW are to be considered as one product. SSW is further transformed by users which manufacture for example filtration elements, reinforcing elements, anti-vibration pads, springs, cables and wire ropes. These semi-finished products are then used in sectors such as the automotive, electro-mechanical, fibre, textile, building industry, etc.

(10) 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 (i. e. fine wires) on the other hand. These physical differences relate in particular to tensile strength, coating and ductility. 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

(11) The investigation established that the SSW produced in India and 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

(a) *General method*

(12) In order to establish normal value, it was first determined for the cooperating 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.

(b) *Use of available information (India)*

(13) One Indian exporting producer was unable to provide comprehensive information on normal value, in particular certain information about cost of production was not available for reasons outside the company's control. Consequently, the normal value of this company was established partially on the basis of available and verified data provided by the company and partially, pursuant to Article 18 of the Basic Regulation, on data from other co-operating Indian producers.

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 Communmity 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 submitted by the cooperating unrelated importers of the product concerned in the Community where such information was considered both reliable and representative.

(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 comparibility. 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) Nine companies in India and six in Korea claimed an allowance for import charges. Pursuant to Article 2(10)(b) of the Basic Regulation the requests were fully rejected for six companies in India and one in Korea since these companies were 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 companies the requested adjustment 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 Korean 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 dumping margins were established on the basis of a comparison between the weighted average normal value per product type and the weighted average export price at ex-factory level for the same product type and at the same level of trade.

(21) 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 cooperating exporting producers was made in order to establish the level of cooperation in the current investigation. As a result, for all countries subject to investigation it was found that the overall level of cooperation 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 cooperating exporting producer in the country concerned, since there was no reason to believe that a non cooperating 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.

(22) One Indian company failed to cooperate to the satisfaction of the Commission. In these circumstances, pursuant to Article 18(1) of the Basic Regulation, it was decided to give this company the dumping margin established for non-cooperating exporting producers.

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

(a) *India:*

— Bhansali Bright Bars Pvt Ltd: 1,2 %,
— Devidayal India Ltd: 27,5 %,
— Hindustan Stainless Steel Wire Co. Pvt Ltd: 76,2 %,
— Indore Wire Co. Ltd: 44,6 %,
— Isibars Ltd/Isinox Steels Ltd: 11,6 %,
— Kei Industries Ltd: 76,2 %,
— Macro Bars & Wires Pvt Ltd: 21,9 %,
— Mukand Ltd: 23,3 %,

— Raajratna Metal Industries Ltd: 16,0 %,
— Triveni Shinton International Ltd: 68,2 %,
— Venus Wire Industries Ltd: 7,4 %.

(b) *Korea*

The dumping margins found were *de minimis* or very close to *de minimis* level.

D. INJURY

1. Definition of the Community industry

Community producers

(24) 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 cooperated in the investigation ('the cooperating complainants'),

— producers on behalf of which the complaint was lodged and which did not cooperate in the investigation (the non cooperating complainants),

and

— other Community producers which are not complainants, which did not cooperate to the proceeding and which did not oppose to it.

Community industry

(25) The cooperating complainants fulfil the requirements of representativeness within the meaning of Article 5(4) of the Basic Regulation, since they account for more than 65 % of the total Community production of the product concerned. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the same Regulation.

2. Scope of the investigation

(26) Having regard to the above findings on dumping of the Korean imports and the proposals pertaining thereto, it was not considered appropriate at this stage to assess specifically the effects of these Korean imports. The following analysis thus focusses exclusively on the effects of the dumped imports from India.

3. Preliminary remarks: competition aspects

(27) In the course of the investigation, certain exporting producers 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 that it would, therefore, not be possible to conduct any accurate injury analysis within the framework of the anti-dumping proceeding.

These exporting producers 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 competiton within the common market'.

The exporting producers 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 the product concerned and, secondly, that even if such a practice would not be established for the product concerned, the existing illegal practice for flat products would have a synergy or downstream effect on the product concerned.

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 materials for SSW. Furthermore, 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 filed a complaint (IV/E-1/37.271) with DG IV on 5 October 1998, no investigation was 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) filed with DG IV on 3 February 1998 (IV/E-1/36.930) for which, pursuant to Article 6 of Commission Regulation (EC) No 99/63, a letter of rejection of complaint was sent to the complainants on 28 October 1998, although a final decision has not yet been adopted.

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

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 for some of them, others do not apply it at all.

Furthermore, it was noted that — when comparing the sales pries 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'.

4. **Community consumption**

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

(29) During the period 1994 to the investigation period, the apparent Community consumption of SSW expressed in tonnes amounted to 69 212 in 1994, 80 539 in 1995, 70 489 in 1996, 78 576 in 1997, and 82 772 during the investigation period. It thus increased by 20 % between 1994 and the investigation period.

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

(30) The Indian imports in tonnes developed as follows: 952 tonnes in 1994, 4 513 in 1995, 6 951 in 1996, 8 719 in 1997 and 9 166 during the investigation period. They have therefore increased steadily and considerably over the period under consideration, i. e. by 862 %.

(31) Indian imports' market share increased constantly from 1,4 % in 1994 to 5,6 % in 1995, 9,9 % in 1996, to 11,1 % in 1997, remaining stable at 11,1 % during the investigation period.

6. **Prices of the imports concerned**

(a) *Price evolution*

(32) Average sales prices per kg (in ECU) of the Indian imports increased between 1994 and 1995 (from 1,88 to 2,44), but steadily decreased from that year onwards (2,32 in 1996, 2,10 in 1997 and 2,05 during the investigation period).

(b) *Price undercutting*

Methodology

(33) 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 prices at a customer-delivered level have 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.

(34) The exporting country's countrywide undercutting margin has been calculated on the basis of weighted average of the undercutting margins found for the cooperating exporting producers.

Undercutting margins

(35) For India a 22 % weighted average undercutting margin has been found (ranging between 13 % and 36 %).

7. **Situation of the Community industry**

(a) *Production*

(36) Since producers do not hold significant stocks, the trend reflected for production is similar to the one of sales volume shown below. The total production of the product concerned followed until 1996 the evolution of the market, increasing from 54 380 tonnes in 1994 to 59 052 tonnes in 1995, and then decreasing to 48 196 tonnes in 1996. As from 1997, it remained more or less stable (54 316 tonnes in 1997, 55 539 tonnes during the investigation period), while the total market size increased, showing that the Community industry did not benefit form the upward trend of the market.

(b) *Capacity utilisation*

(37) The capacity utilisation, while reaching a peak in 1995 (86 %), decreased significantly in 1996 (65 %). While slowly picking up towards the investigation period (75 %), it did not reach earlier levels.

(c) *Investment*

(38) Investment has slightly increased between 1994 and the investigation period, from 3 098 KECU in 1994 to 3 591 KECU during the investigation period.

(d) *Employment*

(39) As regards employment, the Community industry's workforce has decreased steadily as from 1995 (798 in 1995, 727 during the investigation period).

(e) *Sales volume*

(40) The sales volume of the Community industry, while decreasing between 1995 (46 278 tonnes) and 1996 (37 997 tonnes), has slightly increased since then, reaching 45 766 tonnes during the investigation period.

(f) *Market shares*

(41) The Community industry's market share decreased significantly from 1994 to 1996 (from 63 % to 53,9 %), and from that year onwards, it first recovered slightly (56,2 % in 1997), and then decreased again (55,3 % during the investigation period).

(g) *Prices*

(42) Average sales prices of the Community industry reached a peak in 1995 (3,71 ECU/kg), and strongly decreased from that year onwards (3,61 in 1996, 3,19 in 1997 and 3,19 during the investigation period). In addition to this price depression, the Community industry has suffered price suppression. Indeed, as a reaction to increasing imports at low prices, the Community industry 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 with the dumped 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 the same product mix throughout the period under consideration.

(h) *Profitability*

(43) Profitability of the Community industry deteriorated between 1994 and the investigation period (from 6,4 % in 1994 to 1,1 % 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 by the exporting producers.

8. **Conclusion on injury**

(44) Until 1996, the sales volume and market share of the Community industry followed the same evolution as the market. From that year onwards, however, the Community industry did not benefit anymore from the growing trend of the market. Indeed, it managed to keep its sales volume stable but at the expense of its profitability which, in a context of depressed sales prices, strongly deteriorated. In addition, its market share did not recover to previous levels.

(45) For these reasons, it is provisionally concluded that the Community industry has suffered material injury in terms of loss of market shares, price depression and price suppression as well as strongly deteriorating profitability and decreasing employment.

E. **CAUSATION**

1. **Effect of the dumped imports**

(46) The significant increase of the sales volume (+ 862 %) and of the market shares of the dumped imports (from 1,4 % to 11,1 %) between 1994 and the investigation period as well as the substantial undercutting found 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.

(47) In the context of the general fall of the market in 1996, which followed the strong growth of the year 1995, the Community industry was negatively affected by the continuous rise of the dumped imports. Indeed, the Indian imports were those which strikingly grew during that year.

(48) As from 1997, the growing trend of the market mainly benefited the dumped imports. Sales volumes of the Community industry did not follow the upward trend of the market, and sales prices did not reach their previous levels. On the contrary, the Community industry suffered price suppression and strong price depression, as shown by the undercutting found. This situation is reflected in a deteriorating profitability situation and decreasing employment.

2. **Effect of other factors**

(49) 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 third countries.

(a) *Other Community producers*

(50) It has been alleged by some interested parties that other Community producers, in view of their significant market share, might have contributed to the injury suffered by the Community industry. In this respect, it has to be outlined that the sales volume of these other Community producers has remained relatively stable between 1994 and the investigation period, and also their market share decreased sharply as from 1996 (from 27,2 % to 23,1 % during the investigation period). Overall, the situation of these other Community producers is not any different from that of the Community industry. As to sales prices of these other Community producers, no indication of any price undercutting of the Community industry's sales prices was found during the investigation. The argument should therefore be rejected.

(b) *Third countries' imports*

(51) The same interested parties have underlined the role allegedly played by other third countries' imports, and mostly by Switzerland, regarding the injury suffered by the Community industry.

(52) Concerning first imports from Switzerland, their volume increased by 25 % between 1994 and the investigation period but their market share remained more or less stable all over the period under consideration (6,6 % in 1994, 6,9 % during the investigation period), indicating therefore that Swiss imports within the Community did just follow the upward trend of the market. When comparing their situation with the one of the dumped imports between 1994 and the investigation period, they remain overall below the level reached by the dumped imports both in terms of volume and market shares. As to prices, no indication of any price undercutting of the Community industry's sales prices was found in the course of the investigation. The argument should therefore be rejected.

(53) Secondly, as to other third countries' imports, for individual countries they are of much smaller quantities and while their market share increased between 1994 and the investigation period (from 1,8 % to 3,7 %), they remained overall at a low level. As to prices, no indication of any price undercutting of the sales prices of the Community industry was found in the course of the investigation [1]. The argument should therefore be rejected.

(c) *Other*

(54) The Commission also examined whether factors other than those mentioned above 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.

(55) 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. At the same time, it has been established that the Community industry did not benefit from this expansion of the market whilst the exporting producers substantially increased their sales volume and market share.

(56) In relation to the developments in technology and productivity of the Community industry, it has been established that between 1994 and the investigation period the Community industry has maintained its production and investments levels in order not to lose competitiveness. Furthermore, its level of exports has been stable over the period taken into consideration, and the Community industry's sales have proved to be more profitable in export markets than on the Community market.

(57) 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**

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

(59) This does not prejudge the conclusions of the Community in the parallel antisubsidy proceeding against imports of stainless steel wire with a diameter of 1 mm or more originating in India and in Korea.

[1] As to Korea, given the provisional findings with respect to the dumping margins and the proposals pertaining thereto, it is considered at this stage that the causal link between Korean imports and the injury suffered by the Community industry need not be analysed in detail.

F. COMMUNITY INTEREST

1. General comment

(60) 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 taken, and the most likely effects in the event that no such measures were taken. In this context, particular consideration was given to the effect that antidumping 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*

(61) 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.

(62) 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*

(63) 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 700 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.

(64) With the adoption of anti-dumping measures, overall employment in the Community in relation to the product concerned would thus be secured and can even be expected to rise.

(c) *R&D*

(65) 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, it cannot be excluded that the Community industry will have to reduce substantially its investments if measures are not imposed.

3. Unrelated importers

(66) Limited cooperation was obtained from unrelated importers of the product concerned in the Community. For cooperating companies, neither employment nor significant investment was directly related to the product concerned.

(67) 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

(68) The following six suppliers cooperated in the investigation and the data they submitted were verified by the Commission:

— Acciaieri Valbruna s.r.l, Vicenza, Italy
— Acciaierie Bolzano s.r.l, Bolzano, Italy
— Cogne Acciai Speciali, Aosta, Italy
— Fagersta Stainless AB, Fagersta, Sweden
— Roldán SA, Madrid, Spain
— Ugine Savoie Imphy, Ugine, France

(69) 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.

(70) Anti-dumping measures 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

(71) Users are wires processors whose semi-finished products are used afterwards in construction, in the automotive industry, for domestic 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

(72) The limited cooperation justifies the provisional conclusion that anti-dumping measures, 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 exporters 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**

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

(74) 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.

(75) In view of the above-mentioned market position of the exporting producers concerned, 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 continue to have a considerable number of strong competitors on the Community market. Thus, users will also in the future benefit from the choice of different suppliers of the product concerned.

(76) 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 under recital (27) above.

7. **Conclusion on Community interest**

(77) 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**

(78) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be taken in order to prevent further injury being caused to the Community industry by the dumped imports.

(79) For establishing the level of duty, account has been taken of the dumping margins found and of the amount of the 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, as established for the undercutting calculations, with the non-injurious price of the different references (or models) sold by the Community industry on the Community market. The non-injurious price has been obtained by deducting from the sales price of the Community industry its average actual profit margin and by adding a profit margin of 5 %. This profit margin corresponds to what has been found as the 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**

(a) *India*

(80) In the light of the foregoing, it is considered that a 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 Article 7(2) of the Basic Regulation.

(81) 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.

(82) 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 subsidisation. 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.

(83) In the case in question all 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 Indian 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.

(84) On the basis of the above, the 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:

Country/Company	Proposed AD duty %
India	
— Bhansali	0
— Devidayal	2,4
— Indore Wire	25,3
— Isibars	0
— Isinox	0
— Kei Industries	32,2
— Macro Bars	0
— Mukand	10,1
— Raajratna	0
— Triveni	55,6
— Venus Wire	0

As far as other exporting producers are concerned, in view of the high level of cooperation found, the highest company-specific anti-dumping duty found should be applied. This was found to be 55,6 % for India.

(b) *Korea*

(85) As the dumping margins found were *de minimis* or very close to *de minimis,* no provisional anti-dumping duties are imposed.

H. FINAL PROVISION

(86) In the interests of sound administration, a period should be fixed within which the interested parties may make their views know 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 1 mm or more, containing by weight 2,5 % or more of nickel and 20 % or more but not more than 22 % of chromium, falling within CN code 7223 00 19 (TARIC code 7223 00 19.90) and originating in India.

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 618/1999 [1].

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

[1] See page 25 of this Official Journal.

Manufacturers	Rate of duty (%)	TARIC additional code
Bhansali Bright Bars Pvt Ltd, Mumbai	0	A009
Devidayal Industries Ltd, Mumbai	2,4	A010
Indore Wire Company Ltd, Indore	25,3	A004
Isibars Ltd, Mumbai	0	A011
Isinox Steels Ltd, Mumbai	0	A002
Kei Industries	32,2	A020
Macro Bars and Wires Pvt Ltd, Mumbai	0	A008
Mukand Ltd, Mumbai	10,1	A003
Raajratna Metal Industries Ltd, Ahmedabad	0	A005
Venus Wire Industries Ltd, Mumbai	0	A006
All other Indian companies	55,6	A999

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