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COUNCIL REGULATION (EC) No 1601/2001

of 2 August 2001

imposing a definitive anti-dumping duty and definitively collecting the provisional anti-dumping duty imposed on imports of certain iron or steel ropes and cables originating in the Czech Republic, Russia, Thailand and Turkey

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imposing a definitive anti-dumping duty and definitively collecting the provisional anti-dumping duty imposed on imports of certain iron or steel ropes and cables originating in the Czech Republic, Russia, Thailand and Turkey

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 9 thereof,

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

Whereas:

A. PROCEDURE

1. Provisional measures

(1) By Regulation (EC) No 230/2001 [2] ('provisional Regulation'), the Commission imposed a provisional anti-dumping duty on imports of certain iron or steel ropes and cables ('SWR') originating in the Czech Republic, Russia, Thailand and Turkey and accepted undertakings offered by certain exporting producers in the Czech Republic and Turkey.

(2) No provisional measures were imposed on imports from the Republic of Korea ('Korea') and Malaysia in view of the *de minimis* dumping margins found.

2. Subsequent procedure

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several interested parties submitted comments in writing. The parties who so requested were granted an opportunity to be heard.

(4) The Commission continued to seek and verify all information deemed necessary for the establishment of definitive findings.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend:

(a) the imposition of a definitive anti-dumping duty on imports of SWR originating in the Czech Republic, Russia, Thailand and Turkey and the definitive collection of the amounts secured by way of the provisional duty;

(b) the termination of the proceeding concerning imports of SWR originating in Korea and Malaysia without the imposition of measures.

(6) They were also granted a period within which to make representations subsequent to this disclosure.

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

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

[2] OJ L 34, 3.2.2001, p. 4.

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B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(8) The provisional Regulation described the product concerned as ropes and cables, including locked coil ropes, of iron or steel but not stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, with attached fittings or not (referred to by the industry as steel wire ropes or 'SWR').

(9) Some interested parties repeated their claim that SWR should be divided in two groups: some of them distinguished between so-called general purpose SWR (GP) and high performance SWR (HP), while some others distinguished between Standard General Purpose Ropes and Special Purpose Ropes. It was alleged that they cannot be considered a single product if account is taken of their distinct physical and technical characteristics, distinct methods of production, absence of meaningful interchangeability, separate target markets and the lack of significant competition.

(10) In this respect, it should first be noted that, although SWR are produced in a wide range of different types with a certain degree of physical and technical differences, all of them have the same basic physical characteristics (i.e. the steel wires that form the strand, the strands that are wrapped around the core that form the ropes, and the core itself) and the same basic technical characteristics (all have a number of wires in a strand, a number of strands in a rope, a certain diameter and a certain construction). While products in the bottom end and in the top end of the range are not interchangeable, products in adjoining groups are. It was therefore concluded that a certain degree of overlapping and competition existed between SWR in different groups. Moreover, products in the same group may have different applications.

(11) Secondly, the distinction between GP and HP SWR is based on the uses of the SWR, i.e. a SWR suitable for various uses as opposed to a SWR that can only be used for specific applications. It should be noted that interested parties were not able to show that a clear dividing line existed between either of these two groups. Moreover, such differentiation does not take into account the fact that there are adjoining groups in which general purpose SWR compete directly with specific purpose SWR and are therefore interchangeable.

(12) Finally, the distinction between standard and special SWR refers to the fact that they are manufactured according to a standard (ISO, DIN, etc.) or do not follow the standard ('special SWR'; these special SWR are sometimes a modification of the standard), irrespective of the specific use of the SWR. It should be noted that the basic physical and technical characteristics are common to both, whether they are standard or special SWR. Furthermore, there are adjoining groups in which a standard SWR competes with a special SWR, since they can be used for the same purposes and are, therefore, interchangeable.

(13) In view of the above, the provisional findings as described in recitals 9 to 13 of the provisional Regulation are confirmed.

2. Like product

(14) In the provisional Regulation it was concluded that the SWR produced and sold by the Community industry on the Community market were alike to the SWR exported to the Community from the countries concerned and those produced and sold on the domestic markets of the countries concerned. Similarly, the SWR produced and sold on the domestic market in Korea were alike to the SWR originating in Russia and exported to the Community.

(15) Some interested parties argued that the SWR sold by the Community industry in the Community were not alike to those

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imported from the countries concerned. In particular it was argued that the SWR imported from the countries concerned were mainly GP SWR whereas those sold by the Community industry were mostly HP SWR; therefore the proceeding should be limited to GP SWR, if at all. It was also requested that project SWR be excluded from the scope of measures as the Community industry is virtually the exclusive supplier in the Community market.

(16) It should be noted that in anti-dumping proceedings the product concerned and the like product are defined by reference to the basic physical, technical and/or chemical characteristics and the basic use. Once the product concerned is defined, i.e. the product produced in the countries concerned and exported to the Community, it has to be examined whether the product produced and sold domestically in the countries concerned and the product produced and sold by the Community industry in the Community are alike to the product concerned. In this respect, the fact that a certain product type is not produced in the Community is irrelevant.

(17) Regarding, in particular, project SWR, which are designed according to customer requirements and are manufactured after the conclusion of contracts often awarded following a tender, it should be noted that they also share the same basic physical and technical characteristics as the other SWR. In any event, even if the Community industry has a clear advantage in terms of proximity, it should be noted that exporting producers are not prevented from participating in tenders.

(18) It was therefore concluded that the basic physical and technical characteristics and the basic use of the SWR imported from the countries concerned and those produced and sold by the Community industry in the Community are alike.

(19) In view of all the above, the findings in recitals 14 to 16 of the provisional Regulation are confirmed.

C. **DUMPING**

1. **General methodology**

(a) *Normal value*

(20) Some cooperating exporting producers contested the methodology used to establish the amounts for profit added to the cost of manufacturing and to the selling, general and administrative expenses (‘SG&A expenses’) in case of recourse to constructed normal values. For the Russian and Thai cooperating exporting producers, by determining the total net profits only on the basis of the sales made in the ordinary course of trade and not on the total turnover of all domestic sales of the product concerned, the Commission would unreasonably inflate the profit margin. For the Czech cooperating exporting producer, the Commission should have excluded domestic sales of SWR types whose volume represented less than 5 % of the volume of the same type exported to the Community. As prices of such sales are usually not considered for determining the normal value due to their lack of representativeness, they should also be disregarded for the determination of the profit margin.

(21) Pursuant to the chapeau of Article 2(6) of Regulation (EC) No 384/96 (the ‘basic Regulation’), the amount for profits has to be based on data pertaining to production and sales, in the ordinary course of trade, of the like product in the domestic market of the exporting country where such data is available. There is consequently no reason to express the reasonable profit margin on a set of data including sales which have to be disregarded for being outside the ordinary course of trade. It also follows that once it is established that the domestic sales of the like product are representative in accordance with Article 2(2) of the basic

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Regulation, it is proper to then consider all sales made in the ordinary course of trade. Furthermore, the profit used for the construction of the normal value is established at company and like product level. Domestic sales in the ordinary course of trade of a given model may yield erratic results when these sales were made in unrepresentative quantities vis-à-vis the exported volume. Prices of these sales are thus disregarded as not representative for the purpose of establishing the normal value for a comparable model exported. The influence of any potentially non-representative data is neutralised when the sales of all domestically sold models are aggregated at company level, provided that the total domestic sales in the ordinary course of trade exceed 5 % of the exports to the Community.

(22) In addition, the Thai cooperating exporting producer also questioned the reasonableness of the profit margin resulting from the application of the above methodology. The profit margin established resulted from a straight application of the appropriate methodology to the data submitted by the cooperating exporting producer.

(23) These claims were therefore rejected.

(24) In view of the above, the provisional findings as described in recitals 18 to 25 and 68 to 70 of the provisional Regulation are confirmed.

(b) *Export price and comparison*

(25) In the absence of any new information on the general methodology for determination of export price and comparison between the normal value and the export price, the provisional findings as described in recitals 26 to 28 of the provisional Regulation are confirmed.

(c) *Dumping margins for the companies investigated*

(26) The general methodology for establishing the dumping margins for the companies investigated as described in recital 29 of the provisional Regulation is confirmed.

(27) It should finally be noted that in cases where an exporting producer exported more than one product type to the Community, the weighted average overall dumping margin was determined by computing the dumping found on each type without zeroing negative differences between normal value and export price found on individual types.

(d) *Dumping margin for non-cooperating companies*

(28) In the absence of any new information on the general methodology for determination of the residual dumping margins, the provisional findings as described in recitals 30 to 34 of the provisional Regulation are confirmed.

2. **The Czech Republic**

(29) In the absence of any new information on the non-cooperation of one exporting producer in the Czech Republic, the provisional findings as described in recital 35 of the provisional Regulation are confirmed.

(a) *Normal value*

(30) After provisional measures were imposed, ŽDB a.s. submitted additional explanation on the allocation of SG&A expenses. The SG&A expenses were revised by deducting the items which were proven to the satisfaction of the Commission to have no relation with the production and sales of the product concerned.

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(b) *Export price*

(31) ŽDB a.s. claimed that exports to the Community via its related exporter should be disregarded for establishing its export price. This was based on the claim that this related exporter would no longer export SWR to the Community since ŽDB a.s. had dismantled one of its plants in September 2000 (after the end of the IP), which produced most of the SWR sold by the related exporter during the IP.

(32) This argument could not be accepted. Developments occurring after the IP can be taken into account exceptionally provided that the imposition of an anti-dumping duty based on the IP would be manifestly unsuitable. Indeed, these developments could only be used if their effects are manifest, undisputed, lasting, not open to manipulation and did not stem from a deliberate action by interested parties. The simple fact that one of the production plants has been closed does not prevent the related exporter from selling SWR produced in the other plant of ŽDB a.s. Indeed, it should also be noted that this related exporter occasionally sold SWR produced in that other plant during the IP. Therefore, it was concluded that conditions were not met for taking into account the alleged cessation in SWR exports by the related exporter for the determination of the export price of ŽDB a.s.

(33) In view of the above, the provisional findings as described in recital 38 of the provisional Regulation are confirmed.

(c) *Comparison*

(34) ŽDB a.s. contested the 5 % adjustment for the notional commission deducted from the prices charged by the related exporter to independent customers in the Community since this would not relate to an actual commission payment. It further claimed that the related exporter should have been treated as the export sale department of ŽDB a.s. Both companies being related and forming a single economic entity, deduction of a notional commission would not have been warranted.

(35) The investigation established that the related exporter does not replace the exporting department of ŽDB a.s. Indeed, the exporting department of ŽDB a.s also handles exports itself without the involvement of the related exporter. A fair comparison at ex-works level requires a deduction from the prices charged by the related exporter to independent customers in the Community based on a notional commission corresponding to the additional trading role of the related exporter which can be considered similar to the role of a trader acting on a commission basis. The 5 % adjustment was consequently upheld.

(36) ŽDB a.s. claimed an adjustment on constructed normal values for packing costs since these costs were included in the SG&A expenses and an adjustment for the cost of the reels had been made on the export price. The Commission established that the alleged differences in the packing costs included in the export price and the normal value at ex-works level did not exist. Indeed, the amounts reported for transport, insurance and packing costs in the SG&A expenses did not include any cost for packing since they were equal to the amounts claimed as adjustment for inland freight and insurance alone. Even assuming that ŽDB a.s. had omitted to break down transport, insurance and packing costs for claiming the adjustments on normal value, the claim was not justified since an adjustment was made in respect of the reported amount for inland freight and insurance. This claim was accordingly rejected.

(37) The adjustment for transport costs on one transaction was revised to use actual costs since at the provisional stage it had been, in the absence of other information, based on an estimation.

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(38) Therefore, and except where corrected as described above, the provisional findings as described in recitals 39 and 40 of the provisional Regulation are hereby confirmed.

(d) *Dumping margin*

(39) In accordance with Article 2(11) of the basic Regulation, weighted average normal value of each type of the product concerned was compared to the weighted average export price of each corresponding type.

(40) After revision of the calculations, the dumping margin definitively established, expressed as a percentage of the cif import price at the Community frontier customs duty unpaid, is for:

— ŽDB a.s.: 30,7 %

(41) In the absence of any new information in this respect, the methodology set out in recital 43 of the provisional Regulation to determine the residual dumping margin is confirmed. On this basis the definitive residual dumping margin is 47,1 %.

3. **The Republic of Korea**

(a) *Normal value*

(42) In the absence of any new information on the methodology for determination of normal value, the provisional findings as described in recitals 45 to 49 of the provisional Regulation are confirmed.

(b) *Export price*

(43) In the absence of any new information on the methodology for determination of export price, the provisional findings as described in recital 50 of the provisional Regulation are confirmed.

(c) *Comparison*

(44) In the absence of any new information on the methodology for comparison, the provisional findings as described in recitals 51 to 54 of the provisional Regulation are confirmed.

(d) *Dumping margin*

(45) In accordance with Article 2(11) of the basic Regulation, weighted average normal value of each type of the product concerned was compared to the weighted average export price of each corresponding type.

(46) After revision of the calculations, the dumping margins definitively established, expressed as a percentage of the cif import price at the Community frontier duty unpaid, are for:

— Kiswire Ltd: 0 %

— Chung Woo Rope Co.: 0 %

— DSR Wire Corp.: 0 %.

(47) Recital 57 of the provisional Regulation established that, when compared to data reported by Eurostat, the three cooperating exporting producers appeared to represent the entirety of the Korean exports to the Community of the product concerned. The complainant claimed that Korean producers which did not cooperate in the investigation had actually exported to the Community during the IP and therefore it claimed that a residual duty might have to be imposed. The Commission could subsequently confirm that indeed at least one non-cooperating producer had actually exported to the Community during the IP.

(48) Even though the level of cooperation was high, it was found that one producer had deliberately not cooperated, and therefore the residual dumping margin was determined at the level of the

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highest dumping margin established for representative transactions by cooperating exporting producers.

(49) Finally, a weighted average dumping margin for Korea was also recalculated. For this purpose, the proportion of exports to the Community from non-cooperating exporters had to be estimated pursuant to Article 18 of the basic Regulation. To that end data from a previous proceeding on the same product were used. The resulting dumping margin for Korea is less than 2 % expressed as a percentage of the cif import price at the Community frontier customs duty unpaid. Therefore, pursuant to Article 9(3) of the basic Regulation the investigation in respect of the Republic of Korea should be terminated.

4. **Malaysia**

(a) *Normal value*

(50) In the absence of any new information on the methodology for determination of normal value, the provisional findings as described in recitals 59 and 60 of the provisional Regulation are confirmed.

(b) *Export price*

(51) In the absence of any new information on the methodology for determination of export price, the provisional findings as described in recital 61 of the provisional Regulation are confirmed.

(c) *Comparison*

(52) In the absence of any new information on the methodology for comparison, the provisional findings as described in recitals 62 and 63 of the provisional Regulation are confirmed.

(d) *Dumping margin*

(53) In accordance with Article 2(11) of the basic Regulation, weighted average normal value of each type of the product concerned was compared to the weighted average export price of each corresponding type.

(54) After revision of the calculations, the dumping margin definitively established, expressed as a percentage of the cif import price at the Community frontier duty unpaid, is for:

— Kiswire Sdn. Bhd.: 0 %.

(55) The complainant claimed that Malaysian producers which did not cooperate in the investigation might have exported to the Community during the IP. Since no evidence was submitted to back this claim, the Commission could not confirm that exports by non-cooperating producers to the Community had actually taken place during the investigation period.

(56) The provisional findings set out in recital 66 of the provisional Regulation are thus confirmed. Therefore, pursuant to Article 9(3) of the basic Regulation the investigation in respect of Malaysia should be terminated.

5. **Thailand**

(a) *Normal value*

(57) In the absence of any new information on the methodology for determination of normal value, the provisional findings as described in recitals 68 and 70 of the provisional Regulation are confirmed.

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(b) *Export price*

(58) The cooperating exporting producer claimed that the Commission should have used data on profit margins obtained by its related importers when constructing export price in accordance with Article 2(9) of the basic Regulation. It submitted that the related importers also acted as unrelated importers for imports of the like product originating in third countries, and that the profit margins obtained in that trade should be used.

(59) However, Article 2(9) of the basic Regulation requires the profit margin used for the construction of export price to be reasonable. It is to be noted that one of the related importers concerned has no profit at all and that the profit level of the other related importer concerned only represents 0,8 % on turnover. These profit levels could not be considered as reasonable, particularly when compared with the profit margin obtained from cooperating unrelated importers in a previous proceeding concerning the same product.

(60) Moreover, it is questionable whether the profit margin obtained by a related importer in its alleged role as unrelated importer can be considered as reliable since it will in all likelihood be influenced by sales made at transfer prices between related parties.

(61) In view of the above, the provisional findings as described in recital 71 of the provisional Regulation are confirmed.

(c) *Comparison*

(62) The cooperating producer claimed that the methodology utilised by the Commission in adjusting the normal value of types suggested by the exporting producer as closely resembling in order to bring them to a comparable level with the export price is not correct, since it incorporates, in addition to the difference in manufacturing cost, an amount for SG&A and for profits which should not be included.

(63) In accordance with Article 2(10)(a) of the basic Regulation: the amount of the adjustment for differences in 'physical characteristics' corresponds to a reasonable estimate of the market value of the difference. Consequently, the reasonable estimate cannot be limited to differences in manufacturing costs, and it has to incorporate a reasonable amount for selling, general and administrative costs and for profits as well.

(64) In view of the above, the provisional findings as described in recitals 72 and 73 of the provisional Regulation are confirmed.

(d) *Dumping margin*

(65) In accordance with Article 2(11) of the basic Regulation, weighted average normal value of each type of the product concerned was compared to the weighted average export price of each corresponding type.

(66) After revision of the calculations, the dumping margin definitively established, expressed as a percentage of the cif import price at the Community frontier duty unpaid, is for:

— Usha Siam Steel Industries Public Company Limited: 28,9 %.

(67) In the absence of any new information on the methodology used to determine the residual dumping margin, the provisional findings as described in recital 76 of the provisional Regulation are thus confirmed and on this basis the definitive residual dumping margin is 42,8 %.

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6. **Turkey**

(a) *Normal value and export price*

(68) In the absence of any new information on the normal value and the export price, the provisional findings as described in recitals 78 to 80 of the provisional Regulation are confirmed.

(b) *Comparison*

(69) New evidence was submitted in respect of the adjustment to the normal value claimed by one exporting producer for a 3 % tax paid on imported raw materials purchased on delayed payment terms and which would not be collected in respect of raw materials to be used in the manufacture of SWR to be eventually exported. It was proved to the satisfaction of the Commission that the 3 % tax was borne by the raw materials incorporated in SWR sold domestically while it had not been collected in respect of the raw materials incorporated in SWR when exported to the Community. The claim was consequently accepted.

(70) One exporting producer reiterated its request for adjustments to the normal value for differences in level of trade on the ground that all exports to the Community were to retailers whereas domestic sales were to retailers and end-users. New explanations and evidence were submitted which sought to establish that this exporting producer performed different functions in these two distribution channels. The aforementioned information was submitted at a very advanced stage of the investigation and had never been mentioned before even though questions on the differences in functions performed in respect of domestic end-users and retailers had been asked after reviewing the reply to the questionnaire and again on-the-spot. The questionnaire reply, the answer to the request for additional information and explanations received on-the-spot justified the price difference exclusively on the fact that retailers had to resell the product and thus were not in a position to accept prices at user level. Furthermore, the Commission re-checked whether there was a consistent difference in prices by comparing the prices charged to end-users and retailers for the same type of SWR and in the same month given the high inflation in Turkey during the IP. This comparison showed large variation of prices within the same category of domestic customers and did not establish that prices to end-users were consistently higher. Under these circumstances, the claim is rejected and the provisional findings, as described in recital 83 of the provisional Regulation, are confirmed.

(71) Therefore, and except where corrected as described above, the provisional findings as described in recitals 81 and 83 to 88 of the provisional Regulation are hereby confirmed.

(c) *Dumping margin*

(72) In accordance with Article 2(11) of the basic Regulation, weighted average normal value of each type of the product concerned was compared to the weighted average export price of each corresponding type.

(73) After revision of the calculations, the dumping margins definitively established, expressed as a percentage of the cif import price at the Community frontier customs duty unpaid, are for:

— Celik Halat ve Tel Sanayii A.S: 55,2 %

— Has Celik ve Halat San Tic A.S: 17,8 %.

(74) In the absence of any new information in this respect, the methodology set out in recital 91 of the provisional Regulation to determine the residual dumping margin is confirmed. On this basis the definitive residual dumping margin was set at the same level as the highest margin established for the cooperating companies, i.e. 55,2 %.

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7. **Russia**

(a) *General aspects*

(i) Analysis of Market Economy Status

(75) In the absence of any new information in this respect, the finding that one Russian exporting producer was considered as non-cooperating in the investigation is confirmed. After publication of the provisional Regulation, the cooperating exporting producers submitted comments on the market economy status ('MES') determination mainly reiterating comments made earlier, following disclosure on the proposed determination on the MES claims and answered together with disclosure on provisional findings. It should be noted that as JSC ChSPZ had already had an opportunity to comment following disclosure of the proposed MES determination and as those comments did not raise any new facts or considerations which invalidated the Commission's findings, that MES determination remains in force throughout the investigation in accordance with Article 2(7)(c) of the basic Regulation. In any event, the objections raised following publication of the provisional Regulation, would not have affected the MES determination either.

(76) The cooperating exporting producer contested the rejection of its MES application on three main grounds. The company alleged that: (i) non-respect of the three month time limit for determination breached its legal expectations, its rights of defence and the principle of good administration; (ii) the request for a full reply to the dumping questionnaire (including on data relevant to the normal value determination) put an unnecessary workload on the company; and (iii) the MES determination was based on a wrong interpretation of Article 2(7)(c) of the basic Regulation and on an incorrect interpretation or analysis of the factual situation of the applicant. Notably, costs identified as not reflecting substantially market values were not major inputs in its views; it did have one clear set of basic accounting records (namely the set made according to Russian legislation); its accounting records had been independently audited in line with international accounting standards and existing differences between the Russian and the international accounting standards could lead to an adjustment or a reconciliation rather than to a rejection of the MES claim; payments via compensation of debts during the IP had been exceptional, made in accordance with real market values, concerned small cost factors not related to the product concerned and did not qualify as barter/counter trade or compensation trade.

(77) Although it is not disputed that the Commission was unable to complete its determination of MES within three months of the initiation of the investigation, the findings were disclosed to the company as soon as it was in a position to do so in accordance with the principle of sound administration. The company's rights of defence and its expectations that it would be able to comment on any such proposal and to submit relevant information in view of this determination were in no way prejudiced as it was invited to present its views and any counter arguments on the proposed MES determination and given a reasonable period of time in which to do so. It was also invited to comment on the choice of the analogue country. As stated above, the comments received in response to the disclosure of the MES determination did not raise any new facts or considerations which could invalidate the Commission's findings.

(78) It was considered desirable to request a full questionnaire reply in order to enable the Commission to proceed to establish normal value on the basis of the data submitted by the company in the event that MES was justified. As regards the workload for replying to the questionnaire, some of the information required for questionnaire reply should also have formed part of the

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MES claim form. In any event, due account was taken of the particular circumstances encountered by the company, which received two extensions of one week each to the initial deadline.

(79) Contrary to the company's submissions, the on-the-spot verification and explanations submitted by the company actually revealed that for several important inputs the cost did not substantially reflect market values. It is important to note that the company had more than one set of financial statements. It submitted (i) financial statements in US dollars prepared in line with international accounting standards but not audited and (ii) financial statements audited in line with Russian standards which differed from the International Accepted Accounting Standards. Though asked several times, the company did not provide any explanation on how to reconcile the discrepancies found between these different sets of financial statements, thus it failed to prove the existence of a single set of accounts. In addition no evidence was provided that any of these accounts had been independently audited in line with international accounting standards. The existence of numerous 'triangular' transactions was mentioned in the 1998 US dollars financial statements. The company could not submit such financial statements for 1999 to establish whether this practice had ceased during the IP, and the Commission found for a significant amount of transactions (charge for land use in 1999, water supply i.e. general expenses which concern all products) that the payments had been made partly by another company or mutually settled, a practice which the company itself admitted to exist.

(ii) Choice of analogue country

(80) Following publication of the provisional Regulation, the complainant questioned the choice of Korea as an analogue country instead of the Czech Republic. The latter country was envisaged (together with Brazil) as an appropriate analogue country in the notice of initiation. The complainant claimed that the selection of Korea favoured Russian exporting producers as shown by the difference in the provisional dumping margins between Russia and the Czech Republic. The fact that the catalogues of the Czech and Russian producers propose the same range of SWR for domestic and export sales would also invalidate the reasoning set out in recital 99 of the provisional Regulation for not selecting the Czech Republic.

(81) The reasons for envisaging Korea as an appropriate market economy third country were disclosed to all interested parties in due time during the investigation. Comments were only received from the exporting producers concerned, which agreed with the selection. In the absence of any objection, Korea was selected as an appropriate analogue country. Moreover, the fact that the catalogues of the Czech and Russian producers contained the same types of SWR is quite irrelevant in this case since there was only a small overlap between the SWR types exported by the Russian exporting producers to the Community and the SWR types sold by the Czech cooperating exporting producer on its domestic market types during the IP. No other arguments were put forward which would question the appropriateness of Korea as analogue country.

(82) Under these circumstances, the decision to use Korea as an appropriate analogue country was upheld.

(iii) Individual treatment

(83) In the absence of any new information on individual treatment, the provisional findings as described in recitals 101 to 105 of the provisional Regulation are confirmed.

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(b) *Normal value*

(84) The cooperating exporting producer argued that the use of constructed normal values unduly inflated its dumping margin. It suggested to extend the use of domestic sales prices by relaxing some characteristics used to define various models and types of SWR and, in this way, increasing the number of types sold on the Korean market that are comparable to the types it had exported to the Community.

(85) Article 2(7)(a) of the basic Regulation provides that in the case of imports from countries such as Russia, normal values be established on the basis of the price or constructed value in a market economy third country unless an exporting producer meets the criteria set out in subparagraph (c) of the aforementioned provision. Therefore, it was not possible to comply with this request.

(86) In view of the above, the provisional findings as described in recital 106 of the provisional Regulation are confirmed.

(c) *Export price*

(87) In the absence of any new information on export price, the provisional findings as described in recital 107 of the provisional Regulation are confirmed.

(d) *Comparison*

(88) The cooperating exporting producer contested the use of analogue country costs in order to determine the adjustments to export prices with regard to transport and related costs (handling, loading and ancillary costs). It argued that its own costs should be used since they are paid to independent forwarders and insurers and therefore follow market prices. Such an approach would also be consistent with the approach taken by the Commission with regard to adjustments concerning commission, packing and credit costs. Alternatively, the cooperating exporting producer asked for a check of the transport cost allowance, which it considered unreasonable.

(89) The request to base the adjustment on the transport and related costs incurred by the Russian exporting producer could not be accepted. Indeed, this producer did not receive market economy treatment. Moreover, no evidence was submitted that these costs reflected market signals. The transport costs allowance was based on data collected and verified in the analogue country. As requested, the result was re-checked and confirmed.

(90) Following the abovementioned claim, and in view of the conclusions set out in the preceding paragraph, the Commission reviewed its approach with regard to packaging costs and based the adjustment on data obtained from the analogue country producer.

(91) Adjustments on export prices for credit and commission remained unchanged since they were not likely to be distorted by the non-market economy environment.

(92) Therefore and except where corrected as described above, the provisional findings as described in recitals 108 and 109 of the provisional Regulation are confirmed.

(e) *Dumping margin*

(93) In accordance with Article 2(11) of the basic Regulation, weighted average normal value of each type of the product concerned was compared to the weighted average export price of each corresponding type.

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(94) After revision of the calculations, the dumping margin definitively established, expressed as a percentage of the cif import price at the Community frontier customs duty unpaid, is for:

— Cherepovetsky Staleprokatny Zavod: 36,1 %.

(95) In the absence of any new information in this respect, the methodology set out in recital 112 of the provisional Regulation to determine the residual dumping margin is confirmed. On this basis the definitive residual dumping margin is 50,7 %.

D. **COMMUNITY INDUSTRY**

(96) In the absence of any new information on the Community industry, the provisional findings as described in recitals 114 to 120 of the provisional Regulation are confirmed.

E. **INJURY**

1. **Collection of injury data**

(97) Some interested parties disagreed with the methodology adopted by the Commission to request information from the whole Community industry relating to the product concerned with respect to production, capacity, capacity utilisation, sales, stocks and employment and basing the analysis of the remaining injury indicators on a sample of companies from the Community industry. They alleged that this methodology was allegedly insufficient to satisfy the Commission's obligations under Article 3(5) of the basic Regulation.

(98) In arriving at its provisional findings, the Commission evaluated all relevant economic factors and indices having a bearing on the state of the industry in accordance with Article 3(5) of the basic Regulation and applied the sampling methodology described in Article 17 of the basic Regulation. Sampling, which is fully compatible with the requirements of Article 3(5) of the basic Regulation, was necessary in view of the number of complainant/supporting Community producers and the need to limit the investigation to a reasonable number of parties which could reasonably be investigated within the time available (a sample of five companies). It should be noted that neither the selection of the sample nor its representativity were contested by any interested party.

(99) In view of the above, the methodology described in recitals 123 to 125 of the provisional Regulation is confirmed.

2. **Apparent Community consumption**

(100) One interested party contested the statement in recital 128 that the decrease of apparent consumption in 1999 could be explained by sales of stock built up in 1998 by importers/traders. It argued that the reasons behind the decrease in apparent consumption were the decisions taken by the Community shipping and fisheries sectors to buy SWR in third countries without clearing customs in the Community and by a certain number of importers to increase sales of SWR to off-shore oil rigs located outside the Community in order to avoid the effects of the imposition of anti-dumping measures.

(101) Firstly, it is important to note that no evidence was provided to substantiate this allegation.

(102) Secondly, it is recalled that apparent consumption, i.e. the volume of sales made by Community producers and the volume of imports into the Community originating in third countries, does not necessarily reflect the real consumption of the users concerned.

(103) Finally, given the low percentage of the users' total costs represented by SWR, as found in the context of the previous investigation, it is unlikely that the fishing and shipping sectors

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would decide on their purchases of SWR according to their routes.

(104) In view of the above, the provisional findings as described in recitals 126 to 128 of the provisional Regulation are confirmed.

3. **Cumulative assessment of the effects of the imports concerned**

(105) In the absence of any new information on the cumulative assessment of the effects of the imports concerned, the provisional findings as described in recitals 129 to 132 of the provisional Regulation are confirmed.

4. **Imports from the countries concerned**

(a) *Volume and market share of dumped imports*

(106) The Thai exporting producer argued that its exports to the Community were negligible throughout the period considered.

(107) Imports of SWR originating in Thailand represented 1,5 % in 1999 and 2 % in the IP and were therefore not negligible according to Article 9(3) of the basic Regulation. Furthermore, they represented 4,6 % of the Community's volume of imports of the product concerned originating in third countries in 1999 and 6,5 % in the IP and were thus also above the 3 % threshold established in the WTO Anti-dumping Agreement.

(108) In view of the above, the provisional findings as described in recitals 133 and 134 of the provisional Regulation are confirmed.

(b) *Prices of the dumped imports*

(i) Price evolution

(109) In the absence of any new information on the price evolution, the provisional findings as described in recital 135 of the provisional Regulation are confirmed.

(ii) Price undercutting

(110) One interested party stated that the double conversion carried out by the Commission — from the currency of the invoice to the national currency of the exporting country and then to the EUR — contravened Article 2.4.1 of the WTO Anti-dumping Agreement.

(111) In this respect it should be noted that Article 2.4.1 of the WTO Anti-dumping Agreement is not relevant for the price undercutting calculation, but only for the determination of dumping. However, in order to eliminate any inaccuracy resulting from two currency conversions, the calculations of all exporting producers were revised as requested. The cif values in the currency provided by the exporting producers were directly converted into EUR using the appropriate exchange rates.

(112) One Turkish exporting producer argued that the adjustment for level of trade was based on an inappropriate choice of importer because the latter was neither a customer of the exporting producer nor an importer of SWR from Turkey. Furthermore, it claimed that the level of the adjustment was too low. In support of this claim the exporting producer provided a sample of its sales invoices for certain types of SWR issued to an unrelated importer in the Community and the latter's sales invoices issued to customers in the Community. At a later stage, the financial statements of the unrelated importer were also submitted to support this claim. The margin thus obtained, which reflected the overall difference between purchases and re-sales, was higher than the one used by the Commission at the provisional stage.

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(113) It should firstly be noted that, in the absence of substantiated information on this point from the sole cooperating unrelated importer, the prices of the exporting producers were adjusted for differences in level of trade on the basis of the information available, i.e. the data provided by an association of importers in the Community and supported by evidence presented by one of its members. In this respect it is worth noting that the unrelated importer proposed by the Turkish exporting producer was contacted by the Commission at the outset of the investigation, but did not reply to the questionnaire or provide any information. The importers' association was given disclosure of the adjustment and did not raise any objection. Furthermore, the adjustment took into account all relevant costs incurred by unrelated importers between importation and sales ex-works and thus it did not reflect the overall margin between purchases and resales, as claimed by the Turkish exporting producer. In view of the above, it is considered that the adjustment made at the provisional stage adequately reflects the differences in the level of trade. The request was thus rejected.

(114) Some interested parties argued that the tensile strength, contrary to the Commission's statement in recital 137 of the provisional Regulation, was a main price driver and requested the use of this criterion to avoid inflating price undercutting margins.

(115) Though the analysis of tensile strength on a type by type basis at company level did not show a discernible pattern in prices, a comparison of the exporting producers' prices with those of the Community industry's showed that tensile strength was indeed a factor that affected price. Price undercutting was thus recalculated including tensile strength as a criterion for the product categorisation.

(116) Based on the methodology explained in recitals 136 to 139 of the provisional Regulation, and taking into account the modifications mentioned above and the correction of clerical errors, the difference between the prices, expressed as a percentage of the Community industry's weighted average price (ex works), i.e. the price undercutting margin, is shown in the table below.

Country	Company	Undercutting margin (%)
Czech Republic	ŽDB a.s.	24,1
Russia	Cherepovetsky Staleprokatny Zavod	41,8
Thailand	Usha Siam Steel Industries Plc.	14,2
Turkey	Celik Halat ve Tel Sanayii A.Ş.	16,4
	Has Celik ve Halat San Tic A.S.	27,0

5. **Situation of the Community industry**

(a) *Investments and ability to raise capital*

(117) Some interested parties argued that the impact of investments cannot only be considered in terms of depreciation and the interest paid to finance the investment, but the analysis should also cover the creditworthiness, goodwill and the cost/benefit of the use of financial resources.

(118) It should be noted that the analysis of creditworthiness is made in recital 153 of the provisional Regulation.

(119) Goodwill can be defined as the excess amount that has to be paid to acquire a part or the whole of a business as a going

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concern, over and above the value of the net assets owned by the business (purchased goodwill is capitalised as an asset). As such, it would only be analysed if depreciation of goodwill had influenced profitability, which is not the case.

(120) Finally, a cost/benefit analysis of the Community industry's investments that goes beyond the analysis made on the impact of investments in profitability is beyond the scope of the proceeding.

(121) The same interested parties argued that the Commission had found in the course of the investigation in the previous anti-dumping proceeding that the Community industry's investments had increased significantly between 1994 and 1998 and that their impact in terms of depreciation and interest paid in the period considered should also be analysed.

(122) Though depreciation in the period considered increased by 9 %, depreciation of plant and machinery actually decreased 3 %, which shows that investments have not been excessive, but were needed to replace old machinery already fully depreciated. The depreciation figures also reflect the depreciation charges due to investment made before the period considered. As stated in recital 152 of the provisional Regulation, the impact in profitability of the increase in depreciation is minor.

(123) In view of the above, the provisional findings as described in recitals 151 to 153 of the provisional Regulation are confirmed.

(b) *Other factors*

(124) In the absence of any new information on other relevant injury factors, the provisional findings as described in recitals 141 to 150 and 154 to 157 of the provisional Regulation are confirmed.

(c) *Conclusion on injury*

(125) On the basis of the above it is confirmed that following the imposition of anti-dumping measures in 1999, the situation of the Community industry stabilised in the IP, but was still weak: production remained largely stable, capacity utilisation stagnated and stocks remained largely at the same level. Although sales increased modestly from 66 331 in 1999 to 67 671 tonnes in the IP, the Community industry's market share did not increase despite the restored, effective competition from the countries subject to anti-dumping measures. The Community industry's sales prices also remained basically at the same level, despite the imposition of anti-dumping measures in 1999.

(126) Regarding the profitability of the Community industry, although it improved slightly from a loss of – 1,4 % to break even over the period considered, it still remained at such a low level that the long term viability of the Community industry cannot be ensured.

(127) Therefore the Community industry could hardly benefit from the imposition of anti-dumping measures in 1999 due to the increase in the volume of imports from the countries concerned at prices which significantly undercut those of the Community industry.

(128) In view of the above, the provisional findings as described in recitals 158 to 161 of the provisional Regulation, i.e. that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation, are confirmed.

F. **CAUSATION**

(129) Following disclosure of the provisional findings, some interested parties argued that no causal link existed between the dumped imports and the injury suffered by the Community industry and that injury, if any, should be attributed to a combination of the following factors: a decline in apparent consumption; self-inflicted injury through the erroneous decisions made by the

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Community industry regarding its investments and production capacity; and imports from other third countries, including those originating in Korea and Malaysia for which no dumping was found.

(130) As no new information was submitted on the situation of the other Community producers and evolution of raw material prices, the provisional findings as described in recitals 172, 173 and 180 to 182 of the provisional Regulation are confirmed.

1. **Development of apparent consumption**

(131) Some interested parties argued that the Community industry's falling sales and production followed the trend of apparent consumption, which proved that the latter, and not the dumped imports from the countries concerned, was the cause of any injury suffered by the Community industry.

(132) On the development of apparent consumption, it is useful to recall the findings in recitals 126 to 128 and 169 to 171 of the provisional Regulation.

(133) While apparent consumption substantially increased in 1998 (9 %), it hardly benefited the Community industry (2 % rise in sales to unrelated customers in the Community), though the countries concerned saw their exports to the Community rise by 42 % in the same year, at a time when there were no anti-dumping measures in force. The sharp contraction of apparent consumption in 1999 (–14 %), coinciding with the imposition of anti-dumping measures, did not affect the countries concerned, which registered a further 89 % rise of exports to the Community. This clearly shows that it is not the decline in consumption that is causing injury to the Community industry, but other factors such as the sustained, high growth of dumped imports originating in the countries concerned.

(134) In view of the above, the provisional findings as described in recitals 169 to 171 of the provisional Regulation are confirmed.

2. **Self-inflicted injury through erroneous decisions on investments**

(135) Some interested parties argued that the Community industry's low level of profitability in the IP (0 %) was due to the erroneous decisions made by the Community industry to increase investments.

(136) As already explained in recital 122 above depreciation of plant and machinery decreased by 3 % in the period considered, which shows that investment has not been excessive, but was needed to replace old machinery already fully depreciated. This investment has obviously increased capacity, but it was necessary to maintain the competitiveness of the Community industry. The low profitability of the Community industry is mainly the result of lower sales volumes and the fact that it had to align its prices with those of the low-priced, dumped imports originating in the countries concerned.

(137) The same interested parties also alleged that certain Community producers failed to reposition themselves in the face of competition as they failed to invest in new production technology, to innovate in terms of research and development in their product line, and to rationalise their overall operations.

(138) It was found that the Community industry did invest in new production technology, was able to innovate and did rationalise its operations. On this last point it is useful to mention the reorganisations of the manufacturing and sales activities of many Community producers.

(139) It is therefore concluded that the situation of the Community industry in the IP cannot be attributed to any erroneous decisions made by the Community industry regarding its investments.

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3. **Imports from other third countries**

(140) Regarding other third countries, some interested parties requested that care be taken to ensure that the impact of imports from other third countries was not attributed to the imports from the countries concerned. The Russian exporting producers claimed that imports originating in Romania not only undercut the Community industry's prices, but also their prices.

(a) *Korea and Malaysia*

(141) Imports from Korea and Malaysia registered a significant increase during the period considered (288 %) and increased their market share from 2,4 % in 1997 to 10 % in the IP. Their prices were also found, with the exception of one Korean exporting producer, to undercut the selling prices of the Community industry in the IP.

(142) Although the growth of imports originating in the countries concerned was lower in the period considered (215 %), their market share in the IP (10,8 %) was still higher than that of Korea and Malaysia. Furthermore, the overall price undercutting margin in the IP found for Korea and Malaysia was substantially lower than that found for the countries concerned.

(143) Thus, the Community industry would in all likelihood have been able to increase its sales volume if there were no dumped imports from the countries concerned despite the competition from imports originating in Korea and Malaysia. Therefore the impact of the latter was not such as to break the causal link between the dumped imports and the situation of the Community industry.

(b) *Other third countries excluding Korea and Malaysia*

(144) The sales volume of third countries other than those included in the current investigation decreased by 63 % during the period considered, mainly due to the decrease in imports from the countries subject to anti-dumping measures. In this context, the market share of other third countries (excluding the countries concerned, Korea and Malaysia) decreased from 24,6 % in 1997 to 9,7 % in the IP. Among the countries mentioned by interested parties as having caused injury to the Community industry only Poland and Romania held a market share of at least 1 % in the IP.

(145) Regarding Poland, during the period considered its market share declined from 3,3 % to 2,9 % and its selling prices per kg rose by 23 %. In this context, it cannot be argued that Poland contributed to the material injury suffered by the Community industry.

(146) Concerning Romania, its market share remained stable during the period considered (0,9 % in 1997, 1,1 % in 1998, 0,9 % in 1999 and 1 % in the IP), while imports originating in this country increased by 8 % from 1 398 tonnes in 1997 to 1 510 tonnes in the IP. During the period considered, the prices per kg of Romanian SWR were, with the exception of 1998, consistently higher than those of the Russian exporting producers and consistently lower than those of the Community industry. It can be assumed that, taking into account Romania's stable market share (which was negligible in 1997 and 1999), its impact on the Community industry was not such as to break the causal link between the imports concerned and the situation of the Community industry.

(147) In view of the above, the provisional findings as described in recitals 174 to 179 of the provisional Regulation are confirmed.

4. **Conclusion**

(148) It is confirmed that, although other factors, namely the imports from Korea, Malaysia and Romania, may have had a negative impact on the situation of the Community industry in the IP,

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this impact was not such as to break the causal link between the dumped imports and the situation of the Community industry. Therefore the imports from the countries concerned taken in isolation have been found to cause material injury to the Community industry as described in recitals 164 to 168 of the provisional Regulation.

G. COMMUNITY INTEREST

1. Collection of information and interest of the Community industry

(149) In the absence of any new information on the collection of information and interest of the Community industry, the provisional findings as described in recitals 186 to 196 of the provisional Regulation are confirmed.

2. Interest of the supplier industry

(150) One interested party argued that the imposition of measures would negatively affect raw material suppliers as the Commission did not take into account the detrimental effect of the anti-dumping measures in force on the situation of those suppliers of wire rod exporting to producers in third countries subject to measures.

(151) The only cooperating raw material supplier (producer of steel wire) indicated that the imposition of measures would be beneficial for its business. This company also exported to third countries, including countries subject to the previous and the current investigations. Furthermore, the conclusions reached in the provisional Regulation on the interest of the supplier industry were not contested by any raw material supplier.

(152) In view of the above, the provisional findings as described in recitals 197 to 201 of the provisional Regulation are confirmed.

3. Interest of importers/traders

(153) One importers' association argued that since SWR represent the main business for most importers, it is thus essential for them to maintain a sufficient volume of sales in order to remain viable. It further alleged that Community producers have their own integrated channels of distribution and refuse to sell through independent traders. The situation of importers will thus become increasingly precarious taking into account the number of countries subject to anti-dumping measures.

(154) Firstly, interested parties did not provide any new element on these points that could change the findings reached at the provisional stage.

(155) Furthermore, it was found that alternative sources of supply not subject to measures existed, including the Community industry. Though it is true that many Community producers have their own integrated channels of distribution, the information provided by the Community industry shows that they also sell to unrelated importers/traders in the Community. The argument should therefore be rejected.

(156) Another interested party argued that the measures would eliminate competition from imports to the benefit of Korean and Malaysian SWR, which will flood the Community market. This will result in further injury to the Community industry, limit the sources of supply and discriminate against customers of SWR originating in the countries concerned.

(157) Although it is likely that Korean and Malaysian exporting producers will increase their market shares, it is unlikely that they will flood the Community market given their current high capacity utilisation and the fact that the level of price undercutting found for these countries is lower (or even none in the case of a

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Korean exporting producer) than those found for the countries concerned. Regarding discrimination, it is important to note that discrimination does not take place in this respect since imports from Korea and Malaysia, unlike the other countries concerned, have not been found to be dumped. The argument should therefore be rejected.

(158) In view of the above, the provisional findings as described in recitals 202 to 207 of the provisional Regulation are confirmed.

4. **Interest of users**

(159) In the absence of any new information on the interest of users, the provisional findings as described in recitals 208 to 211 of the provisional Regulation are confirmed.

5. **Conclusion on Community interest**

(160) In view of the above, the provisional findings as described in recitals 212 to 215 of the provisional Regulation are confirmed, i.e. that no compelling reasons exist on grounds of Community interest for not imposing anti-dumping measures.

H. **DEFINITIVE ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(161) Based on the methodology explained in recitals 216 to 219 of the provisional Regulation, and taking into account the modifications mentioned in recitals 111 and 115 above and the correction of clerical errors, the weighted average export prices of SWR were compared with the selling prices charged by the Community industry in the Community market — adjusted to reflect a profit margin of 5 %. The difference was then expressed as a percentage of the exporting producers' export prices on a cif Community frontier level.

2. **Definitive anti-dumping measures**

(162) In the light of the foregoing, it is considered that a definitive anti-dumping duty should be imposed at the level of the dumping margins found, except for two companies — one in Thailand and the other in Turkey — for which the duty should be imposed at the level of the injury margin, which is lower, in accordance with Article 9(4) of the basic Regulation.

Country	Company	Definitive Duty (%)
Czech Republic	ŽDB a.s.	30,7
	All other companies	47,1
Russia	Cherepovetsky Staleprokatny Zavod	36,1
	All other companies	50,7
Thailand	Usha Siam Steel Industries Plc.	24,8
	All other companies	42,8
Turkey	Celik Halat ve Tel Sanayii A.Ş,	31,0
	Has Celik ve Halat San Tic A.S.	17,8
	All other companies	31,0

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3. **Termination of the proceeding in respect of Korea and Malaysia without imposition of measures**

(163) In view of the results of the investigation concerning Korea and Malaysia, and considering that the dumping margin found in the case of these two countries is below the 2 % threshold set in Article 9(3) of the basic Regulation, the proceeding should be terminated without the imposition of anti-dumping measures in respect of imports of the product concerned originating in Korea and Malaysia. The proceeding concerning imports originating in Korea and Malaysia has been terminated by Commission Decision 2001/602/EC of 26 July 2001 accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of certain iron or steel ropes and cables originating in the Czech Republic, the Republic of Korea, Malaysia, Russia, Thailand and Turkey and terminating the proceeding in respect of imports originating in the Republic of Korea and Malaysia ([1]).

4. **Undertakings**

(164) The undertakings offered by the exporting producers in the Czech Republic and Turkey were accepted at the provisional stage. The minimum prices established have been changed to reflect the definitive findings of the investigation.

(165) Following the disclosure of the provisional findings, exporting producers in Russia and Thailand offered price undertakings in accordance with Article 8(1) of the basic Regulation. By doing so, they have agreed to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the nature of the product, the structure of the companies and their sales patterns is such that the risk of them circumventing the agreed undertaking is limited.

(166) In view of this, the offers of undertakings are therefore considered acceptable and the companies concerned have been informed of the essential facts, considerations and obligations upon which acceptance is based.

(167) To further enable the Commission to effectively monitor the compliance of the companies with their undertakings, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty shall be conditional on the presentation of a commercial invoice containing at least the elements listed in the Annex. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

(168) It should be noted that in the event of a breach or withdrawal of the undertaking or a suspected breach, an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation.

(169) Furthermore, in accordance with Article 8(6) of the basic Regulation, the investigation of dumping, injury and Community interest was completed in respect of the countries concerned notwithstanding the acceptance of undertakings in the course of the investigation. The undertakings offered by two exporting producers in Thailand and in Russia were accepted by Decision 2001/602/EC,

([1]) See page 47 of this Official Journal.

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HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of iron or steel ropes and cables, including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, with fittings attached or not, falling within CN codes 7312 10 82, 7312 10 84, 7312 10 86, 7312 10 88 and 7312 10 99, originating in the Czech Republic, Russia, Thailand and Turkey.

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

Country	Rate of duty (%)	TARIC additional code
Czech Republic	47,1	A999
Russia	50,7	A999
Thailand	42,8	A999
Turkey	31,0	A999

3. The above rates shall not apply to the products manufactured by the companies listed below, which shall be subject to the following anti-dumping duty rates:

Country	Company	Rate of duty (%)	TARIC additional code
Czech Republic	ŽDB a.s. Bezručova 300, 735 93 Bohumín, Czech Republic	30,7	A216
Russia	Open Joint Stock Company Cherepovetsky Staleprokatny Zavod, Russia, 162600 , Cherepovets, Vologda Region, ul. 50-letia Oktiabria, 1/33	36,1	A217
Thailand	Usha Siam Steel Ind. Public Company Limited 888/116 Mahatun Plaza Building, Ploenchit Road, Bangkok 10330 , Thailand	24,8	A218
Turkey	Celik Halat ve Tel Sanayii A.Ş. Fahrettın Kerım Gokaı Cad. No 14 Denızcıler iş Merkezı A. Blok Kat. 1	31,0	A219
	Has Çelik ve Halat Sanayi Ticaret A.S. Hacilar Yolu 8. Km Kayseri Turkiye	17,8	A220

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

Article 2

1. Imports under one of the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by a company named below to a company in the Community acting as an importer shall be exempt from the anti-dumping duties imposed by Article 1 provided that they are imported in conformity with paragraph 2.

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Country	Company	Taric additional code
Czech Republic	ŽDB as Bezruova 300, 73593 Bohumín Czech Republic	A216
Russia	Open Joint Stock Company Cherepovetsky Staleprokanty Zavod, Russia, 162600 Cherepovets, Vologda Region, ul. 50-letia Oktiabria, 1/33	A217
Thailand	Usha Siam Steel Ind. Public Company Limited 888/116 Mahatun Plaza Building Ploenchit Road, Bangkok 10330 , Thaïlande	A218
Turkey	Has Çelik ve Halat Sanayi Ticaret A.S. Hacilar Yolu 8.Km Kayseri Turkey	A220

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2. Imports mentioned in paragraph 1 shall be exempt from the duty on condition that:

(a) a commercial invoice containing at least the elements listed in the Annex is presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and

(b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

Article 3

1. As regards imports of the product described in Article 1(1) originating in the Czech Republic, Thailand and Turkey, the amounts secured by way of the provisional anti-dumping duty imposed by Commission Regulation (EC) No 230/2001 of 2 February 2001 shall be collected at the rate of the duty definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

2. As regards imports of the product described in Article 1(1) originating in Russia, the amounts secured by way of the provisional anti-dumping duty imposed by Regulation (EC) No 230/2001 shall be collected at the rate of the duty provisionally imposed.

Article 4

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

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

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ANNEX

Necessary information for commercial invoices accompanying sales made subject to an undertaking

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.
2. The name of the company mentioned in Article 2(1) issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice is to be customs-cleared at the Community frontier.
6. The exact description of the goods, including:
   - the product code number (PCN) (as established in the undertaking offered by the exporting producer in question);
   - the number of strands; the number of wires per strand; the arrangement of wires per strand (e.g. standard, seal, warrington etc); rope characteristics (rotation resistant, compacted etc);
   - the company product code number (CPC) (if applicable);
   - CN code;
   - quantity (to be given in kg and length).
7. The description of the terms of the sale, including:
   - price per kg;
   - the applicable payment terms;
   - the applicable delivery terms;
   - total discounts and rebates.
8. Name of the company acting as an importer to which the invoice is issued directly by the company.
9. The name of the official of the company that has issued the invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company], and accepted by the European Commission through Decision 2001/602/EC. I declare that the information provided on this invoice is complete and correct.'