COMMISSION REGULATION (EC) No 230/2001

of 2 February 2001

imposing a provisional anti-dumping duty on certain iron or steel ropes and cables originating in the Czech Republic, Russia, Thailand and Turkey and accepting undertakings offered by certain exporters in the Czech Republic and Turkey

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 2238/2000 [2], and in particular Article 7 thereof,

Whereas:

A. **PROCEDURE**

1. **Initiation**

(1) On 5 May 2000, the Commission announced by a notice (hereinafter referred to as 'notice of initiation') 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 certain iron or steel ropes and cables originating in the Czech Republic, the Republic of Korea (hereinafter referred to as 'Korea'), Malaysia, Russia, Thailand and Turkey.

(2) The proceeding was initiated as a result of a complaint lodged in March 2000 by the Liaison Committee of European Union Wire Rope Industries (EWRIS) (hereinafter referred to as the 'complainant') on behalf of producers representing a major proportion, i.e. 76 % of the Community production of the product concerned. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the exporting producers, exporters and importers known to be concerned as well as their associations, the representatives of the exporting countries concerned, the EU-Czech Republic and EC-Turkey Association Councils, the complainant and all known Community producers, raw material suppliers and users, about the initiation of the proceeding. 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.

(4) A number of exporting producers in the countries concerned, as well as Community producers and importers made their views known in writing. All parties who so requested within the above time limit and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.

(5) The Commission sent questionnaires to all parties known to be concerned and to all other companies which made themselves known within the deadlines set out in the notice of initiation. Replies were received from 19 Community producers, 11 exporting producers in the countries concerned, as well as from their related importers in the Community, from one unrelated importer in the Community and one raw material supplier. No user responded to the questionnaire.

(6) In order to allow exporting producers from Russia to submit a claim for market economy status (MES) or individual treatment if they so wished, the Commission sent to Russian companies known to be concerned a market economy status and an individual treatment claim form. No other companies made themselves known within the deadline set out in the notice of initiation. Two companies requested MES pursuant to Article 2(7)(b) of Regulation (EC) No 384/96 (hereinafter referred to as 'the basic regulation') or individual treatment should the investigation establish that they did not meet the conditions for MES.

(7) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) Community producers

— BTS Drahtseile GmbH, Gelsenkirchen, Germany

— Randers Rebslaaeri A/S, Randers, Denmark

— Redaelli Tecna Cordati SpA, Gardone V.T., Italy

— Trefileurope, Bourg-en-Bresse, France

— Trenzas y Cables, SL, Barberà del Vallès, Spain

(b) Exporting producers

Czech Republic

— ŽDB a. s., Bohumín and its related exporter, Prague

Korea

— Kiswire Ltd, Seoul and Pusan

— Chung Woo Rope Co., Pusan

— DSR Wire Corp., Suncheon

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 257, 11.10.2000, p. 2.
[3] OJ C 127, 5.5.2000, p. 12.

Malaysia

— Kiswire Sdn. Bhd., Johor Bahru

Russia (market economy status verification)

— Cherepovetsky Staleprokatny Zavod, Cherepovets

Thailand

— Usha Siam Steel Industries plc

Turkey

— Celik Halat ve Tel Sanayii A.S, Istanbul/Izmit

— Has Celik ve Halat Sanayi Ticaret A.S, Kayseri

(c) Related importers in the Community

United Kingdom

— Usha Martin UK Ltd, Clydebank

Denmark

— Usha Martin Scandinavia A/S, Vallensbaek Strand

Netherlands

— Kiswire Europe BV, Dongen.

(8) The investigation of dumping and injury covered the period from 1 April 1999 to 31 March 2000 (hereinafter referred to as 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 1997 up to the end of the IP (hereinafter referred to as 'period considered').

2. **Product concerned and like product**

(a) ***Product concerned***

(9) The product concerned is 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. These products are often referred to by the industry as 'steel wire ropes' (SWR). Indeed, the investigation established that iron cannot be used as raw material for producing ropes and cables. SWR are currently classifiable within CN codes 7312 10 82, 7312 10 84, 7312 10 86, 7312 10 88 and 7312 10 99.

(10) SWR consist of three basic components: the steel wires that form the strand, the strands that are wrapped around a core, and the core itself. These components vary in design depending on the physical requirement of the intended application of the SWR. There are different types of steel wire, with varying tensile strength and diameter. The steel wire may be galvanised (i.e. zinc coated) or bright. The strand is obtained by closely twisting together several wires arranged in different geometric patterns or formations (e.g. standard, seale, filler, warrington). The quantity, size and quality of the steel wire and the specific construction establish the properties of each type of SWR. The strands are usually assembled and wrapped around a core which can be of fibre (natural or synthetic), steel, or a combination of the two. There are other specifications of SWR such as the lay direction, whether there is pre-forming or other special properties (e.g. compacted, cable lay, rotation resistance). They are generally round in cross-section but may also be rectangular. SWR may be covered with plastic and may be cut to length or fitted (hooks, rings).

(11) SWR are used in a variety of industries including fishing, maritime/shipping, oil and gas industries, mining, forestry, aerial transport, civil engineering, construction and elevator. All SWR were found to 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).

(12) Several interested parties claimed that SWR should be divided into two different products, general purpose SWR and high performance SWR (including locked coil ropes). It was alleged that high performance SWR or at least locked coil ropes ([4]) should be excluded from the scope of the proceeding on the ground that they differ substantially from general purpose SWR in terms of physical characteristics, production process, end-uses, end-markets and prices.

(13) The investigation revealed that SWR are produced in a wide range of different types with a certain degree of physical and technical differences and that various types of SWR can be classified into a number of product groups reflecting their physical and technical characteristics. However, it was also found that all of them have the same basic physical characteristics and the same technical characteristics and 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. In the absence of a clear dividing line in the range of SWR and given that all of them have the same basic physical and technical characteristics, all SWR are considered as one product.

(b) ***Like product***

(14) Certain interested parties argued that the product under consideration and that manufactured and sold by the Community industry on the Community market are different given that the former consists mostly of general purpose SWR whereas the latter include mostly high performance ropes. In view of the reasons given in recital 13, this argument could not be accepted.

([4]) A locked coil rope is made up of layers of interlocking wires around a round-wire strand core. The special shape of the wires prevents locked coil ropes from fraying if one wire breaks and makes them technically part of the SWR family.

(15) The Commission found that there were no significant differences in the basic physical and technical characteristics of the various types of SWR (see description above). As concerns the application and usage of SWR, although a wide range of user industries exists, all SWR were found to have essentially the same use, i.e. to transmit force. Furthermore, within each product type it was found that SWR were interchangeable. SWR produced and sold on the domestic market in the Czech Republic, Korea, Malaysia, Thailand and Turkey and those exported to the Community from the countries concerned as well as those produced and sold by the Community industry were found to have the same physical and technical characteristics and uses. The same has been found to be the case with the SWR exported to the Community from Russia as well as those produced and sold by the Community industry.

(16) It was therefore concluded that the SWR produced and sold by the Community industry on the Community market were a like product to the SWR exported to the Community originating in the countries concerned, within the meaning of Article 1(4) of the basic Regulation. It was also concluded, that the SWR produced and sold on the domestic market in the Czech Republic, Korea, Malaysia, Thailand and Turkey were alike to the SWR originating in the countries concerned and exported to the Community. 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.

B. **DUMPING**

1. **General methodology**

(17) The general methodology set out hereinafter has been applied for all exporting countries concerned. The presentation of the findings on dumping for each of the six countries concerned therefore only describes what is specific for each exporting country.

(a) ***Normal value***

(18) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of SWR were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

(19) The Commission subsequently identified, for the companies having representative domestic sales, those types of SWR sold domestically that were identical or directly comparable to the types sold for export to the Community. In general, types with the same diameter, construction, number of strands and wires per strand, core, material of wire, rope characteristics, rope cover, surface finishing, tensile strength, whether with fittings attached or not were considered to be directly comparable. One exporting producer claimed that identification of directly comparable types should also take into consideration the following factors: breaking load, diameter tolerance, application, elongation factor, corrosion protection properties, extraordinary length and weight, special wires. The alternative categorisation of the comparable product type proposed by this exporting producer included only some of these additional factors and the analysis of prices charged by this exporting producer did not establish that the prices were influenced by these additional factors. Accordingly, this claim was rejected. No other interested party contested the criteria proposed by the Commission.

(20) For each of the types sold by the exporting producers on their domestic markets and found to be directly comparable to types sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of SWR of that type during the IP represented 5 % or more of the total sales volume of SWR of the comparable type exported to the Community.

(21) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the product type in question. In cases where the sales volume sold at a net sales price equal to or above the calculated cost of production (also referred to as 'profitable sales') represented 80 % or more of the total sales volume and where the weighted average price of that type was equal to or above cost of production, normal value was based on the weighted average of the prices of all domestic sales made during the IP, irrespective of whether all these sales were profitable or not. In cases where the volume of profitable sales represented less than 80 % but 10 % or more of the total sales volume, normal value was based on the weighted average price of profitable sales only.

(22) In cases where the volume of profitable sales of any type of SWR represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(23) Wherever domestic prices of a particular type sold by an exporting producer could not be used, 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, whenever such data were available.

(24) Where, per product type, there were insufficient sales or no such representative domestic sales by other producers in the country concerned, normal value was constructed, in accordance with Article 2(3) of the basic Regulation, by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses (SG & A) and a reasonable margin of profit. To this end, the Commission examined whether the SG & A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.

(25) Actual domestic SG & A expenses were considered reliable when the domestic sales volume of the like product by the company concerned could be regarded as representative. The domestic profit margin was determined on the basis of domestic sales of the product concerned made in the ordinary course of trade as defined in recital 21.

(b) ***Export price***

(26) In all cases where SWR were exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of prices actually paid or payable.

(27) Where the export sale was made to a related importer, the export price was constructed pursuant to Article 2(9) of the basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer. In such cases, adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price. Since information made available from the only cooperating unrelated importer was incomplete, the level of profit of the importers was based on the information submitted by the cooperating unrelated importers of the product concerned in a previous proceeding concerning the same product [5] and considered to be reasonable for the functions performed by the parties concerned. On that basis the level of profit was set at 5 %.

(c) ***Comparison***

(28) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.

(d) ***Dumping margin for the companies investigated***

(29) According to Article 2(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 and at the same level of trade. When there was a pattern of export prices differing among purchasers, regions or time periods and the method previously described did not reflect the full degree of dumping, normal value established on a weighted average basis was compared to prices of all individual export transactions to the Community.

(e) ***Residual dumping margin***

(30) For those exporting producers which neither replied to the questionnaire nor otherwise made themselves known, the dumping margin was established on the basis of the facts available, in accordance with Article 18(1) of the basic Regulation.

(31) For all countries subject to the investigation, the volume of exports to the Community reported by the cooperating exporting producers was compared with the equivalent import data reported by Eurostat in order to establish the overall level of cooperation.

(32) For those countries with a high level of cooperation, it was decided to set the residual dumping margin at the level established for the cooperating exporting producer with the highest dumping margin.

(33) For those countries where the level of cooperation was low or where there was evidence of known exporters that deliberately did not cooperate in the investigation, information from the cooperating exporting producer with the highest dumping margin was also used. However, in this case, the residual dumping margin was set at the highest level of dumping found for representative types made by the said cooperating exporting producer. This approach was taken, as there is no reason to believe that any non-cooperating exporting producer in the country concerned would have dumped at a lower level than a cooperating exporting producer in the same country.

(34) The above approach with regard to non-cooperating exporting producers was also considered necessary in order to prevent non-cooperating exporting producers benefiting from their non-cooperation.

[5] Commission Regulation (EC) No 362/1999 of 18 February 1999 imposing a provisional anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China, India, Mexico, South Africa and the Ukraine and accepting undertakings offered by certain exporters in Hungary and Poland, O J L 45, 19.02.1999, p. 8.

2. **Czech Republic**

(35) Two companies replied to the questionnaire for exporting producers. However, the reply submitted by one exporting producer in the Czech Republic was too incomplete to enable the Commission to arrive at a reasonably accurate finding. Notably, audited accounts or other financial statements were not transmitted, no information was submitted on costs of production, or, apart from total figures, on exports to the Community and domestic sales of the product concerned. In accordance with Article 18(4) of the basic Regulation, the company was duly informed that the information was insufficient to make any individual determination in its respect and given an opportunity to provide further explanations. None of the major deficiencies noted above were corrected and accordingly the company was informed that provisional findings in its respect would be based on facts available pursuant to Article 18(1) of the basic Regulation. No verification visit was carried out at the premises of this exporting producer in accordance with Article 16(1) of the basic Regulation. For this company, a residual dumping margin was established as described in recital 33.

(a) ***Normal value***

(36) For types sold in the Community and on the domestic market in representative quantities and in the ordinary course of trade, normal values were established on the basis of the domestic sales prices in accordance with Article 2(1) of the basic Regulation.

(37) For most of the types, in the absence of representative domestic sales of comparable models and of cooperation on the part of another exporting producer in the Czech Republic, normal values were calculated in accordance with Article 2(3) of the basic Regulation. The company's own SG & A expenses and the company's own profit on domestic sales of the product concerned in the ordinary course of trade were added to the manufacturing costs of these exported types.

(b) ***Export price***

(38) All sales for export to the Community of the product concerned by the exporting producer, whether directly or via its related exporter, were to independent importers in the Community. Consequently, the export price was established according to Article 2(8) of the basic Regulation as the price actually paid or payable for the product concerned when sold for export to the Community.

(c) ***Comparison***

(39) Allowances for differences in level of trade, transport, insurance, handling, loading and ancillary costs, packing, and credit have been made where applicable and justified.

(40) As the related exporter's functions can be considered similar to those of a trader acting on a commission basis, an adjustment of 5 % for SG & A expenses and profit was also deducted from the prices charged by the related trading subsidiary to independent customers in the Community. This figure was estimated by reference to the commissions paid for transactions on the product concerned by two Korean exporting producers to an unrelated agent and was considered reasonable given the degree of the related trader's involvement in the selling activities of the exporter.

(d) ***Dumping margin***

(41) Pursuant to Article 2(11) of the basic Regulation, the weighted average normal value of each type of the product concerned exported to the Community was compared to the weighted average export price of each corresponding type of the product concerned. Indeed, although a different pattern of prices between customers, regions and time periods had been declared, this method reflected the full degree of dumping being practised.

(42) The comparison showed the existence of dumping in respect of the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community frontier duty unpaid is for:

— ŽDB a.s.: 47,1 %.

(43) Since a known exporting producer deliberately did not cooperate, the methodology followed to determine a provisional residual dumping margin for the Czech Republic was the one explained in recital 33 for countries where the level of cooperation was low. On this basis, the residual dumping margin is 66,0 %.

3. **Republic of Korea**

(44) In view of the large number of Korean exporting producers mentioned in the complaint and the time limits established in Article 6(9) of the basic Regulation, the Commission initially envisaged to investigate dumping for Korea on the basis of a sample of exporters, in accordance with Article 17 of the basic Regulation. However, only three exporting producers contacted the Commission and provided the information requested in the notice of initiation within 15 days of its publication. Consequently the use of sampling techniques was deemed unnecessary. These three companies replied to the questionnaire for exporting producers. A related importer of one of the exporting producers also sent in a response to the questionnaire intended for related importers.

(a) ***Normal value***

(45) One Korean exporting producer which purchases the raw material (wire) from a related company requested the Commission to calculate the cost of production of the product concerned by taking the cost of production of the raw material from the related company. The claim was rejected as those costs were entered into the company accounts at the purchasing price which was found to be at arms-length and thus considered to reasonably reflect the cost associated with the production of the product under consideration.

(46) Another exporting producer did not report all SG & A expenses incurred for the production and sales of the product concerned. However, given the fact that the party had acted to the best of its ability, and that the information submitted was verifiable, the Commission was able to correct the figures reported in the questionnaire on the basis of the information obtained and verified on the spot.

(47) For most of the types sold for export to the Community, normal values were established on the basis of the domestic sales price of comparable types in accordance with Article 2(1) of the basic Regulation.

(48) For other product types sold for export to the Community, 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.

(49) For the remaining types normal value was constructed in accordance with Article 2(3) of the basic Regulation.

(b) ***Export price***

(50) A major part of the sales for export to the Community were made directly to independent customers. For these sales the export price was established on the basis of the prices actually paid or payable when sold for export to the Community as provided for in Article 2(8) of the basic Regulation.

(c) ***Comparison***

(51) Allowances for differences in physical characteristics, import charges, charges for transport, insurance, handling, loading, ancillary costs, packing, credit, and commission have been made where applicable and justified.

(52) One exporting producer claimed an allowance for differences in levels of trade. The company considers that indirect selling expenses incurred for domestic sales should be deducted from the domestic price in the calculation of normal value in a similar way as selling expenses for its related importer in the Community are deducted from the resale price in order to construct the export price. Alternatively, the company asked the Commission to disregard export sales in the Community made through its related importer.

(53) These claims could not be accepted. The involvement of a related importer is not in itself a reason to make a deduction on the normal value side. Rather, the determination of the export price and the subsequent comparison of this export price with normal value are two separate steps governed by separate rules. The provisional determination has not shown any differences in the level of trade of export and domestic sales. It should finally be noted that the amount of exports into the Community market channelled through its related importer is substantial.

(54) The same company claimed an adjustment on both domestic and export sales for differences in other factors, consisting of the costs incurred by the company for the inspection fees and outside processing (cut to length ropes or incorporation of fittings) of certain sales in order to meet customers' requirements. It was considered more appropriate to grant this claim as an adjustment for differences in physical characteristics. The amount of the adjustment corresponds to a reasonable estimate of the market value of the difference established by the Commission.

(d) ***Dumping margin***

(55) As provided by Article 2(11) of the basic Regulation, the weighted average normal value of each type of the prodcut concerned exported to the Community was compared to the weighted average export price of each corresponding type of the product concerned.

(56) The comparison showed the existence of dumping in respect of the cooperating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community frontier duty unpaid are for:

— Kiswire, Ltd:	0,21 %
— Chung Woo Rope Co.:	2,71 %
— DSR Wire Corp.:	0,49 %.

(57) The three exporting producers appear to represent (when compared to the import data reported by Eurostat) the entirety of the Korean exports to the Community of the product concerned. In order to asses whether, on a countrywide basis, the dumping margin was *de minimis*, a weighted average dumping margin was established. This margin amounted to: 1,2 %.

4. **Malaysia**

(58) One company replied to the questionnaire for exporting producers. A company in the Community related to this exporting producer also replied to the questionnaire intended for related importers.

(a) ***Normal value***

(59) For most of the types sold for export to the Community, normal values were established on the basis of the domestic sales price of comparable types in accordance with Article 2(1) of the basic Regulation.

(60) For the remaining types normal value was constructed in accordance with Article 2(3) of the basic Regulation.

(b) ***Export price***

(61) A major part of the sales for export to the Community were made to a related importer in the Community. For these sales the Commission constructed the export price according to Article 2(9) of the basic Regulation.

(c) ***Comparison***

(62) Allowances for differences in physical characteristics, import charges, charges for transport, insurance, handling, loading, ancillary costs, packing, credit, and commission have been made where applicable and justified.

(63) The cooperating exporting producer claimed an allowance for differences in levels of trade on the same ground as one of the Korean cooperating exporting producers. However, no differences in the level of trade of export and domestic sales was found. This claim could not be granted for the reasons explained in recital 53.

(d) ***Dumping margin***

(64) As provided by Article 2(11) of the basic Regulation, the weighted average normal value of each type of the product concerned exported to the Community was compared to the weighted average export price of each corresponding type of the product concerned.

(65) The comparison showed the existence of dumping in respect of the cooperating exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community frontier duty unpaid is for:

— Kiswire, Sdn. Bhd.: 0,56 %.

(66) The exporting producer appears to represent (when compared to the import data reported by Eurostat) the entirety of the Malaysian exports to the Community of the product concerned. Accordingly, the dumping margin provisionally established for this sole exporting producer is valid for the whole country.

5. **Thailand**

(67) One company replied to the questionnaire for exporting producers. Two companies in the Community related to this exporting producer also replied to the questionnaire intended for related importers.

(a) ***Normal value***

(68) The Thai exporting producer, which also purchases its raw material (wire rod) from a related company in India, at a price higher than the prevailing market price, requested the Commission to consider the arms-length price for the calculation of the cost of manufacturing for both the purpose of carrying out the normal course of trade test and constructing normal value where appropriate. The claim was accepted as it was found that the purchasing price was a transfer price and did not merely reflect the costs associated with the production and sale of the product concerned.

(69) For most of the types sold for export to the Community, normal values were established on the basis of the domestic sales price of comparable types in accordance with Article 2(1) of the basic Regulation.

(70) For the remaining types normal value was constructed in accordance with Article 2(3) of the Regulation.

(b) ***Export price***

(71) All sales of SWR on the Community market were to related importers in the Community. Consequently, export prices were constructed according to Article 2(9) of the basic Regulation.

(c) ***Comparison***

(72) Allowances for differences in physical characteristics, import charges, charges for transport, insurance, handling, loading, ancillary costs, packing, credit, and commission have been made where applicable and justified.

(73) The exporting producer claimed an adjustment to the normal values for finance costs for value added tax (VAT), pursuant to Article 2(10)(k) of the basic Regulation. The claim was based on the grounds that the government refunds VAT with a significant delay and therefore the company incurs additional finance costs on the non-refunded VAT amount. The claim could not be granted since the company did not demonstrate that this factor affects price comparability and, in particular, that customers consistently pay different prices on the domestic market because of the difference in such a factor. The finance costs for the VAT are, in fact, a normal operational overhead.

(d) ***Dumping margin***

(74) As provided by Article 2(11) of the basic Regulation, the comparison was made on the basis of a weighted average normal value to a weighted average export price.

(75) The comparison showed the existence of dumping in respect of the exporting producer. The provisional dumping margin expressed as a percentage of the cif import price at the Community frontier duty unpaid is for:

— Usha Siam Steel Industries plc: 30,5 %

(76) Since the level of cooperation was low (less than 80 % of the exports of the product concerned to the Community from Thailand), the residual provisional dumping margin was set at the level of the highest dumping margin established for representative transactions by the cooperating exporting producer. Expressed as a percentage of the free-at-Community frontier price, duty unpaid, the margin is 42,8 %.

6. **Turkey**

(77) Two companies replied to the questionnaire for exporting producers.

(a) ***Normal value***

(78) In line with the general methodology, it was possible, for some of the product types, to establish normal value on the basis of the domestic price of comparable types in accordance with Article 2(1) of the basic Regulation. Representativeness and ordinary course of trade tests for the domestic sales of comparable types were carried out on a monthly basis given the high inflation in Turkey during the IP.

(79) For all other types of the product concerned sold for export to the Community by the cooperating companies, normal value was constructed in accordance with Article 2(3) of the basic Regulation. The companies' own domestic SG & A expenses and the profit margin realised on the domestic market in the ordinary course of trade were added to the manufacturing cost. To account for the high inflation, constructed normal values were calculated for each month of the IP.

(b) ***Export price***

(80) All sales of the product concerned made by the cooperating companies on the Community market were to independent customers in the Community. Consequently, the export price was established on the basis of the prices actually paid or payable as provided for in Article 2(8) of the basic Regulation.

(c) ***Comparison***

(81) Allowances for differences in import charges and indirect taxes, discounts, rebates and quantities, transport, insurance, handling, loading and ancillary costs, credit, technical assistance, commissions have been made where applicable and justified.

(82) One exporting producer claimed pursuant to Article 2(10)(b) of the basic Regulation an adjustment to normal values for a 3 % tax paid on imported raw materials purchased on delayed payment terms as this tax would not be collected in respect of raw materials to be used in the manufacture of wire ropes to be eventually exported. The on-the-spot verification established that companies obtain at the beginning of the year the right to import free of this tax a quantity of raw materials based on the previous year's exports of finished products, no matter whether these materials would be incorporated in domestically sold or exported finished products. There was consequently no means of establishing that the tax had been paid on imported raw materials physically incorporated in SWR sold domestically. The claim was accordingly rejected.

(83) One exporting producer claimed an adjustment to the domestic prices for differences in levels of trade pursuant to Article 2(10)(d)(i) of the basic Regulation on the ground that all exports to the Community were to retailers whereas domestic sales were to retailers and to end-users. This adjustment was not granted since the company was unable to demonstrate that there were consistent and distinct differences in prices and functions on the domestic market for the alleged different levels of trade. The other exporting producer described its distribution channels in the Community and on the domestic market and submitted a claim for an allowance without any explanation on how this affected price comparability. Moreover, explanations received on the spot established that its distribution channel in the Community could not be described as claimed. Accordingly, no adjustment was made at this stage of the investigation.

(84) The adjustment for differences in the direct costs of providing warranties claimed by one exporting producer was partly rejected in respect of the amount which corresponded actually to expenses incurred for bank guarantees. These costs were a normal operational overhead not eligible to an adjustment claim. This claim also included returns on sales which were duly deducted from the price of the relevant transactions.

(85) Both exporting producers presented two claims under Article 2(10)(j) of the basic Regulation for currency conversions allowance. The claims were as follows: (i) the export prices set in euro or in currencies of the Member States having adopted the euro should be converted first to US dollars as domestic prices are set in

US dollars, using the exchange rate of 60 days prior to the date of invoice (or preferably, for one, the exchange rate at the beginning of the IP) due to the 'sustained' depreciation of the euro vis-a-vis the US dollar; (ii) then export prices should be converted from US dollar to Turkish lira using the exchange rate of the date of payment.

(86) As regards the first claim, it was established that even if the US dollar was used to set the domestic price list to avoid its on-going revision because of the high inflation, the currency used for invoicing and settling the debts on the domestic market was the Turkish lira. As price comparison required a conversion from euro to Turkish lira, the Commission considered that the relevant exchange rate for comparing export and domestic prices was the Turkish lira/euro rate and thus the first claim could not be granted. The Commission could not grant the second claim presented by the companies either. Indeed, Article 2(10)(j) of the basic Regulation grants exporters time to adjust their export prices in order to reflect sustained movement in exchange rates, but it does not provide for an adjustment which takes into account exchange rate variations that occur after the date of sale.

(87) Both exporting producers claimed an adjustment to normal values pursuant to Article 2(10)(k) of the basic Regulation to cover the cost resulting from financing the VAT payment from its due date (25th of the month following the sale) to the due date of payment by the domestic customer. The claim could not be granted since the companies did not demonstrate that this factor affects price comparability and, in particular, that customers consistently pay different prices on the domestic market because of the difference in such a factor. The finance costs for the VAT are, in fact, a normal operational overhead.

(88) Finally, pursuant to Article 2(10)(k) of the basic Regulation, one exporting producer claimed that the normal value should be adjusted considering that unlike the Community exports, domestic sales were irregular and on small quantities. This claim was provisionally rejected since the company did not quantify it and could not demonstrate that this factor affected price comparability and in particular that customers consistently paid different prices on the domestic market because of the difference in such factors.

(d) ***Dumping margin***

(89) Pursuant to Article 2(11) of the basic Regulation, the weighted average normal value of each type of the product concerned exported to the Community was compared to the weighted average export price of each corresponding type of the product concerned. Indeed, although both exporting producers declared that there was a different pattern of prices between customers, regions and time periods, this method reflected the full degree of dumping being practised.

(90) This comparison shows the existence of dumping for the cooperating companies. The provisional dumping margins expressed as a percentage of the cif import price at the Community frontier duty unpaid are for:

— Celik Halat ve Tel Sanayii A.S: 58,1 %

— Has Celik ve Halat San Tic A.S: 19,2 %

(91) Since the level of cooperation was high (more than 80 % of the exports of the product concerned to the Community from Turkey), the residual provisional dumping margin was set at the same level as the highest established for the cooperating companies, i.e. 58,1 %.

7. **Russia**

(a) ***General aspects***

(i) *Analysis of market economy status*

(92) Two Russian companies requested market economy status (MES), pursuant to Article 2(7)(b) of the basic Regulation. For one of these Russian companies, the reply to the questionnaire for producers/exporters in the countries concerned was submitted beyond the deadline without giving any acceptable reason for this delay after having been granted twice an extension of one week. In addition the reply was clearly insufficient. Notably, the company submitted no listings of its export sales to the Community or its domestic sales, nor did it provide the requisite information regarding the cost of production. The company was therefore considered as non-cooperating in the investigation and informed that findings in its respect (as part of the 'residual determination') would be based on facts available in accordance with Article 18(1) of the basic Regulation. Its market economy status/individual treatment claim was therefore rejected. Furthermore, it did not reply to the request for additional information and clarification critical to its market economy status/individual treatment application.

(93) The Commission sought all information deemed necessary and verified on the spot all information submitted in the MES application of the other applicant.

(94) It was established that this company did not meet several of the criteria laid down in Article 2(7)(c) of the basic Regulation, notably that it had several contradicting and irreconcilable sets of basic accounting records, some costs did not substantially reflect market values and some payments were made via compensation of debts.

(95) Consequently, after consultation of the Advisory Committee, both companies were informed that their MES applications could not be granted.

(ii) *Choice of analogue country*

(96) In the absence of any companies fulfilling the requirements of MES, it was necessary to compare the export prices of the Russian exporting producers with a normal value established in an appropriate market economy country, pursuant to Article 2(7)(a) of the basic Regulation.

(97) The Czech Republic was suggested by the complainant. The Commission envisaged in the notice of initiation the Czech Republic or Brazil. Within the required time limit, two Russian exporting producers provisionally expressed their agreement with the countries envisaged and indicated that they could also accept the choice of South Korea as a possible analogue country. The complainant expressed some concerns about the choice of Brazil in particular given the high level of custom duties. The complainant confirmed that the Czech Republic was an appropriate choice in its opinion and also suggested Canada as an alternative.

(98) None of the contacted Brazilian producers replied to the request for cooperation. The Commission also tried without success to obtain cooperation from Canadian producers. Other known producing countries were not envisaged as either imports of the product concerned originating in these countries were currently under anti-dumping measures or the previous investigation established they were not an appropriate choice on grounds which had remained unchanged (i.e. limited competition in Norway, non-cooperation in the USA) ([6]).

(99) The cooperating exporting producer in the Czech Republic sold on the domestic market mostly types of the product concerned different from those exported by the Russian producers to the Community.

(100) Under these circumstances, the Commission have investigated the appropriateness to use one of the other countries involved in the proceeding. The Republic of Korea was considered the most appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation. First, the South Korean domestic market is the largest in size, characterised by a significant number of competing local producers; second, South Korean domestic sales of the product concerned are the most representative in terms of types and volume when compared with Russian exports to the Community. Interested parties were informed, pursuant to Article 2(7)(a) of the basic Regulation, that the Republic of Korea was envisaged as analogue country and no objections were received.

(iii) *Individual treatment*

(101) In accordance with Article 9(5) of the basic Regulation, it is the Community Institutions' practice to calculate a countrywide duty for non-market economy countries, except in those cases where exporting producers can demonstrate a degree of legal and factual independence comparable to that which would prevail in a market economy country and which would justify a departure from the determination of a single countrywide duty. To this end, detailed questions were included in the MES claim form sent to the parties concerned upon the initiation of the proceeding.

(102) The two exporting producers that requested MES also asked for individual treatment, should their claim for MES be rejected.

(103) The individual treatment claim of one company was rejected since, due to its non-cooperation in the investigation, findings in its respect (as part of the 'residual determination') are based on facts available in accordance with Article 18(1) of the basic Regulation (see recital 92).

(104) The Commission sought all information deemed necessary, verified on the spot all information submitted in the application of the other applicant and analysed it on the basis of the following criteria for individual treatment ([7]):

— the first criteria (freedom to repatriate capital and profits) is not relevant in the present case, the Joint Stock Company Cherepovetsky Staleprokatny Zavod (JSC CHSPZ) being a wholly Russian owned company,

— no restrictions in the determination of export prices and quantities were identified; the majority of the shares of the applicant company and of the parent companies up to two levels belongs to private persons,

— JSC CHSPZ carries operations at the foreign exchange rate of the Central Bank of the Russian Federation, which is the market rate determined at Moscow International Foreign Exchange,

— no State interference was established in the management of the company, of the parent company or of the major shareholder of this parent company.

(105) Consequently, individual treatment is granted to this company.

(b) ***Normal value***

(106) Normal value for the Russian exporting producers was calculated on the basis of the normal values established for the cooperating Korean companies by using the methodology described in recitals 47 to 49. In this context, the types sold on the Korean domestic market which were found to be comparable to the Russian types exported to the Community were used.

([6]) Regulation (EC) No 362/1999 (See footnote 5) and Council Regulation (EC) No 1796/1999 (OJ L 217, 17.8.1999, p. 1).

([7]) Review of the anti-dumping regime applicable to China and Russia, (COM (2000) 363 final).

(c) ***Export price***

(107) For the cooperating exporting producer, the export price was established by reference to the prices paid or payable.

(d) ***Comparison***

(108) Where applicable, adjustments were made on the export price to take account of differences relating to transport, insurance, handling, loading and ancillary costs, packing, credit, commissions. Given that costs in non-market economy countries cannot be taken into account in determining prices on the basis of which the comparison between export prices and normal value is made, the adjustment on export prices for transport costs and related costs (handling loading and ancillary costs) as far as they were incurred in Russia, was based on the analogue country costs.

(109) To allow a fair comparison at an ex-work level, adjustments were also made on the normal value established on the basis of the normal values of the cooperating Korean companies in respect of physical characteristics (including the estimated market value of the general differences in quality between the product manufactured and sold on the Korean market and the product manufactured in Russia and exported to the Community), import charges, transport, insurance, handling, loading, ancillary costs, packing, credit, and commission where applicable and justified.

(e) ***Dumping margin***

(110) As provided by Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(111) The provisional dumping margin expressed as a percentage of the cif import price at the Community frontier duty unpaid has been established for the company granted individual treatment as follows:

— Cherepovetsky Staleprokatny Zavod: 35,8 %

(112) Since a known exporting producer did deliberately not cooperate, the methodology followed to determine a provisional residual dumping margin for Russia was the one explained in recital 33 for countries where the level of cooperation was low. On this basis, the residual dumping margin is 50,7 %.

8. **Conclusion on dumping**

(113) The Commission established substantial dumping margins for all cooperating companies in the Czech Republic, Russia, Thailand and Turkey. In the case of the Republic of Korea and Malaysia the dumping margins found were *de minimis*.

C. **COMMUNITY INDUSTRY**

1. **Community production**

(114) The product concerned is manufactured in the Community by the following:

— producers who lodged the complaint or supported it and cooperated in the investigation (see recital 118),

— producers who lodged the complaint and were considered non-cooperators in the current investigation (see recital 120),

— other producers who were not complainants, who either provided general information or not but did not oppose the proceeding.

(115) The Commission found that eight complainant/supporting Community producers purchased SWR from various sources outside the Community, including the countries concerned, in the IP. However, the total volume of these imports represented a negligible share of total production (i.e. less than 1 % of their production in the IP). In particular, the imports from the countries concerned during the IP were below 0,5 % of the complainant/supporting Community producers' production of SWR. The Commission therefore considered that these purchases were in accordance with standard commercial practice of producers who had to supplement their own range of products with small purchases. In view of the above, it was concluded that there were no grounds to exclude any of these Community producers from the total Community production.

(116) The SWR produced by all these companies constitute therefore the Community production within the meaning of Article 4(1) of the basic Regulation.

2. **Definition of Community industry**

(117) The Commission examined whether the cooperating complainant or supporting Community producers represented a major proportion of the total Community production of the product concerned and arrived at the conclusion that they accounted for 70,6 % of the total Community production of SWR in the IP. The Commission therefore considered that the cooperating/supporting Community producers represent the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation. They are hereinafter referred to as the 'Community industry'.

(118) The following Community producers made up the Community industry:

— Bridon International, Retford, United Kingdom

— BTS Drahtseile GmbH, Germany

— Cables y Alambres Especiales, SA, Spain

— CASAR Drahtseilwerk Saar GmbH, Germany

— Cordoaria Oliveira Sá — Manuel Rodrigues de Oliveira Sá & Filhos, SA, Portugal

— Drahtseilerei Gustav Kocks GmbH & Co., Germany

— Drahtseilwerk GmbH, Germany

— Drahtseilwerk Hemer GmbH & Co. KG, Germany

— Hamburger Drahtseilerei A. Steppuhn GmbH, Germany

— Metal Press SRL, Italy

— Randers Rebslaaeri A/S, Denmark

— Redaelli Tecna Cordati SpA, Italy

— Trefileurope, France

— Trenzas y Cables, SL, Spain

— Vereinigte Drahtseilwerke GmbH, Germany

— Voest-Alpine Austria Draht GmbH, Austria

— Wadra GmbH, Germany.

(119) Drahtseilwerk Hemer GmbH & Co. KG only started production of SWR in January 2000. Therefore the company could not provide information for the period considered. In view of the above, the data provided by this company has not been taken into account.

3. **Other Community producers**

(120) Five producers who belonged to the complainant organisation EWRIS but failed to cooperate (Iscar SRL, Metalcalvi Wire Ropes SRL, Midland Wire Cordage Co. Ltd, Teufelberger Seil GmbH and Westfalische Drahtindustrie GmbH — Seilfabrik Zwickau) as well as the other producers who were not complainants, who either provided general information or not but did not oppose to the proceeding, are hereinafter referred to as the 'other Community producers'.

D. **INJURY**

1. **Preliminary remarks**

(121) Since the margins of dumping found for Korea and Malaysia are *de minimis*, the analysis of injury and causality refers to the remaining countries under investigation, i.e. the Czech Republic, Russia, Thailand and Turkey (hereinafter referred to as the 'countries concerned').

(122) The analysis of injury should be seen in the light of the anti-dumping measures imposed on the product concerned by Council Regulation (EC) No 1796/1999 ([8]). The latter imposed a definitive anti-dumping duty on imports of the product concerned originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine.

([8]) See footnote 6.

2. **Collection of injury data**

(123) The Commission requested information from the whole Community industry relating to the product concerned with respect to production, capacity, capacity utilisation, sales, stocks and employment. In view of the large number of producers in the Community industry and the time limits established in Article 6(9) of the basic Regulation, the Commission based the analysis of the remaining injury indicators on a sample of companies from the Community industry. Whenever the injury indicators mentioned refer to information from the sample, it will be expressly stated in this Regulation. In the absence of such reference, the injury indicators refer to the information obtained from all of the Community producers that form the Community industry.

(124) The sample was made according to geographical location and the size of the companies in terms of production. In this context, the sample includes medium and large Community producers from six Member States: BTS Drahtseile GmbH, Randers Rebslaaeri A/S, Redaelli Tecna Cordati SpA, Trefileurope, Trenzas y Cables, SL. and Teufelberger Seil GmbH. The latter failed to cooperate and was therefore excluded from the sample.

(125) The cooperating sampled companies accounted for 51 % of the production volume of the product concerned manufactured by the Community industry in 1999.

3. **Apparent Community consumption**

(126) Apparent Community consumption was based on the questionnaire replies (volume of sales of the Community industry), Eurostat information (volume of imports) and the complaint (other Community producers' volume of sales).

(127) It should be noted that the development of apparent consumption is largely influenced by the behaviour of importers/traders (important stockholders) on the Community market because they act as intermediaries between producers of SWR on one hand and users on the other hand. The apparent consumption figures therefore reflect to a large extent the purchases made by importers/traders during the period considered and not necessarily those made by users.

(128) On the above basis, the apparent Community consumption decreased 6 % during the period considered from 156 658 tonnes in 1997 to 147 963 tonnes in the IP. Taking into account that it had increased 9 % in 1998 reaching 170 922 tonnes, the decrease in 1999 to 147 104 tonnes can be explained by sales of stock built up in 1998 by importers/traders. In 1998, imports from the countries that were subject to anti-dumping duties in the following year increased 28 % before decreasing significantly in 1999 and the IP. This explanation also seems to be in line with the fact that the sectors that are the main users of SWR (fisheries, mining and the offshore oil and gas industry, construction including lifts) have registered low and, in the case of fisheries, negative, growth throughout the period considered.

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

(129) The Commission examined whether imports of SWR originating in the countries concerned should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.

(130) It was found that the margin of dumping established in relation to the imports from each of the countries concerned was found to be more than *de minimis* as defined in Article 9(3) of the basic Regulation and the volume of imports from each of these countries was not negligible.

(131) As regards the conditions of competition, the investigation showed that SWR imported from the countries concerned, considered on a type-by-type basis, were alike in all their essential physical and technical characteristics. Furthermore, on that basis, these SWR were interchangeable and were marketed in the Community during the period considered through comparable sales channels under similar commercial conditions. It should be noted that the imported SWR were therefore considered to compete with each other and with the SWR produced in the Community.

(132) In the light of the above, the Commission considered that all the criteria set out in Article 3(4) of the basic Regulation were met and that imports from the countries concerned should therefore be examined cumulatively.

5. **Imports from the countries concerned**

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

(133) The volume of the dumped imports into the Community of SWR originating in the countries concerned increased continuously from 5 100 tonnes in 1997 to 7 233 tonnes in 1998, 13 644 tonnes in 1999 and 16 052 tonnes in the IP, i.e. a 215 % growth during the period considered.

(134) The market share held by these countries increased by 7,5 percentage points over the period considered, from 3,3 % in 1997 to 4,2 % in 1998, 9,3 % in 1999 and 10,8 % in the IP. The greatest increase took place in 1999 (+5,1 percentage points), coinciding with the imposition of anti-dumping measures against imports from certain other third countries in a previous proceeding.

(b) ***Prices of the dumped imports***

(i) *Price evolution*

(135) The prices of imports from the countries concerned in EUR per kg as reported by Eurostat decrease 16 % between 1997 and 1998 and stabilised thereafter.

(ii) *Price undercutting*

(136) As regards price undercutting, the Community industry and the exporting producers concerned were requested to provide information on sales prices of SWR categorised in models according to the following criteria: number of strands, number of wires per strand, arrangement of wires in strand, core, material of the wire, tensile strength, wire characteristics, rope characteristics, rope cover and diameter of the rope.

(137) In view of the large number of Community producers in the sample and the large number of models sold by both the exporting producers concerned and the Community industry on the Community market, the Commission grouped the models according to those criteria that were considered to be the main price drivers on the Community market. In this context, the tensile strength was not taken into account since it was found not to have a separate impact on sales prices.

(138) Furthermore, the exporting producers' prices were adjusted for post-importation costs (customs duties, incoming freight and handling costs), on the basis of the substantiated information provided by one unrelated importer. Furthermore, those prices were further adjusted for differences in level of trade to take into account the costs incurred by unrelated importers between importation and sales ex works.

(139) For each type of SWR, the Commission compared the exporting producers' and the Community industry's average selling prices net of all rebates and taxes, calculated on the basis of sales to the first unrelated customer at the same level of trade.

(140) Based on the above methodology, 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.	30,4
Russia	Cherepovetsky Staleprokatny Zavod	51,4
Thailand	Usha Siam Steel Industries plc	26,1
Turkey	Celik Halat ve Tel Sanayii AŞ	16,4
	Has Celik ve Halat San Tic AŞ	30,8

6. **Situation of the Community industry**

(a) ***Production, installed capacity and capacity utilisation***

(141) The production of the Community industry decreased by 8 % over the period considered from 107 735 tonnes in 1997 to 99 588 tonnes in the IP. In 1998, production increased by 6 % but sales expectations were above actual sales and stocks built up (+19 %) as importers increased significantly their imports, especially those from the countries now subject to anti-dumping measures. In 1999, production decreased by around 15 000 tonnes to cope with the stock built-up and a decrease in sales. After the imposition of anti-dumping measures in 1999, production stabilised at around 100 000 tonnes.

(142) The installed capacity of the Community industry increased by 7 % in the period considered, going from 203 319 tonnes in 1997 to 209 313 tonnes in 1998, 213 984 tonnes in 1999 and 216 904 tonnes in the IP. The increase in capacity was due to investment in new machinery.

(143) The acquisition of new machinery, coupled with the existence of old, but still usable machinery (in some cases already fully depreciated) and optimum set-up times and number of shifts resulted in a low capacity utilisation rate throughout the period considered (53 % in 1997, 55 % in 1998 and 46 % in 1999 and the IP). Even if the Community industry were to produce also what is currently being sold on the Community market by the countries concerned, its capacity utilisation would remain at around 55 %.

(b) ***Stocks***

(144) The Community industry's closing stocks increased by 13 % over the period considered from 26 136 tonnes in 1997 to 29 660 tonnes in the IP. Stocks have, however, decreased after reaching 31 208 tonnes in 1998, falling to 30 050 tonnes in 1999.

(c) ***Growth, volume of sales and market share***

(145) Growth prospects on the Community market are influenced by the modest growth prospects of the sectors that use SWR and the ability of the Community industry to compete with low-priced imports from third countries. The Community industry was unable to benefit fully from the virtual withdrawal from the market of the imports from the countries subject to anti-dumping measures in 1999, which were largely replaced by the dumped imports from the countries included in the current proceeding.

(146) The Community industry's sales to unrelated customers on the Community market decreased by 5 % over the period considered from 71 125 tonnes in 1997 to 67 671 tonnes in the IP (they had increased to 72 676 tonnes in 1998 before falling to 66 331 tonnes in 1999), though they showed signs of recovery after the imposition of anti-dumping measures in 1999.

(147) The market share held by the Community industry decreased by 0,6 percentage points over the period considered, going from 55,2 % in 1997 to 50,5 % in 1998 and remaining stable in 1999 and the IP (54,3 % and 54,6 % respectively) — a period which registered a further growth of the market share of the countries concerned. The Community industry's increase in market share in 1999 is largely attributable to a decline in consumption following the stock built-up which occurred just before the imposition of anti-dumping measures in 1999.

(d) ***Sales prices and factors affecting sales prices — information from sample***

(148) The weighted average selling price of SWR sold by the Community industry on the Community market to unrelated customers increased by 8 % during the period considered. This increase took place mostly in 1999 when it grew by 6 %. The 1 % price increase in the IP is modest taking into account the level of the anti-dumping measures imposed in 1999. The price of the main raw material (steel wires), which represents up to 50 % of the manufacturing costs, declined in 1999 and remained stable in the IP.

(e) ***Profitability, return on investment and cash flow — information from sample***

(149) The Community industry has consistently registered a pre-tax loss over the period considered on its sales to unrelated customers on the Community market (– 1,4 % in 1997, – 1,5 % in 1998 and – 0,6 % in 1999), with the exception of the IP, a period in which it broke even. This poor financial result coincided with the presence of dumped imports throughout the period considered.

(150) The figures concerning the return on investment and cash flow were only available for the total company in respect of each sampled company. Taking into account that the product concerned is only one among other products produced by the sampled Community producers, these indicators are not considered to provide guidance as to the situation of the Community industry regarding the product concerned. It is, however, clear that the poor profitability of the product concerned did not contribute positively either to the low return on investment registered or a cash inflow from operating activities.

(f) ***Investments and ability to raise capital — information from sample***

(151) Investments increased over the period considered from EUR 5,8 million in 1997 to EUR 11,6 million in 1998, EUR 22,3 million in 1999 and EUR 21,5 million in the IP. The part of investment made in plant and machinery is responsible for a large share of total investment, ranging from around 95 % in 1997 to 44 % in the IP. During the period considered, the majority of the remaining investments was made in buildings. Investment in plant and machinery is essential for the Community industry to remain competitive in the long term. The investment effort needs thus to be maintained even during periods of low profitability.

(152) The impact of these investments on the profitability of the Community industry is mostly taken into account in the form of depreciation and interest paid. In this respect, given that most investment has been made in plant and machinery (depreciated over a period of around 10 years) and buildings (depreciated over a period of around 25 years), the impact of these investments on the profitability of the Community industry in the period considered is minor.

(153) The Community industry does not appear to have been hampered in its ability to raise capital either from the parent companies or from the banking system.

(g) ***Employment***

(154) Employment decreased continuously going from 2 226 persons in 1997 to 2 045 in the IP, i.e. 8 % over the period considered. This decrease in employment was mainly the result of the restructuring effort made by the Community industry.

(h) ***Productivity***

(155) Productivity of the Community industry, measured in tonnes per employee, improved only by 1 % over the period considered. In 1998, productivity increased due to an increase in production, whereas productivity decreased in 1999 because production decreased faster than employment. Productivity improved slightly in the IP since production improved whereas employment fell slightly.

(i) ***Wages — information from sample***

(156) The Community industry's labour costs per unit of output, measured in euro per kg, remained stable over the period considered.

(j) ***Magnitude of the actual margin of dumping***

(157) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

(k) ***Conclusion on injury***

(158) During the period considered, the volume of dumped imports from the countries concerned increased by 215 % and their market share went from 3,3 % to 10,8 %.

(159) 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 was kept at the same level and stocks decreased slightly from 30 050 to 29 660 tonnes. 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.

(160) Regarding the profitability of the Community industry, although it improved slightly from – 1,4 % to 0 % over the period considered, it still remained at a level which is insufficient for the long-term viability of the Community industry. Furthermore, in the IP, the Community industry's prices did not increase as expected following the anti-dumping measures imposed in 1999. 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.

(161) In view of the above, it has been provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(2) of the basic Regulation.

E. **CAUSATION**

1. **Preliminary remarks**

(162) In order to reach its provisional conclusion as to whether there is a causal link between the dumped imports and the injury suffered by the Community industry, the Commission examined the impact of the dumped imports from the countries concerned on the situation in that industry.

(163) Pursuant to Article 3(7) of the basic Regulation, other known factors, such as the development of consumption, the situation of other Community producers, the export performance of the Community industry, the evolution and impact of imports from third countries and the effect of changes in the cost of raw materials are analysed below in order to examine whether any causal link between the dumped imports and the injury suffered by the Community industry could have been broken by factors other than the dumped imports.

2. **Impact of the imports concerned**

(164) At the outset, it should be noted that in the SWR market, where the bulk of the products are highly standardised, competition takes place to a great extent in terms of prices.

(165) There is a clear coincidence between the increase in imports from the countries concerned and the impossibility for the Community industry to reasonably benefit from the anti-dumping measures imposed in 1999. Furthermore, the imports from the countries concerned were found to have significantly undercut the Community industry's prices in the IP.

(166) Indeed, following the imposition of anti-dumping measures in 1999 on imports originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine, the Community industry was able to stabilise or slightly improve the situation in terms of production, capacity utilisation, stocks and sales while the development of market share was unsatisfactory and the development of profitability was clearly inadequate.

(167) The imports from the countries concerned increased significantly in 1999 and the IP. Indeed, the imports from the countries concerned have not only largely substituted the imports from the countries under measures but have also been able to grow at the expense of the Community industry (and also of the other Community producers). These imports significantly undercut the prices of the Community industry. All this can be directly linked to the fact that the Community industry could not significantly benefit from the imposition of the aforementioned measures by using its spare capacity and improving its sales volume thus reversing its bad financial situation (during the IP, the Community industry was only at break even point).

(168) It can therefore be concluded that the imports from the countries concerned have largely undermined the effects of the anti-dumping measures adopted in 1999 and that the stagnation of the Community industry's market share, its level of prices and its poor situation, in particular in terms of profitability, can be attributed to the dumped imports from the countries concerned.

3. **Effect of other factors**

(a) ***Development of apparent consumption***

(169) The Commission considered whether the development of apparent consumption was a material cause of the deterioration of the situation of the Community industry.

(170) It should be noted that while apparent consumption strongly increased in 1998 (by 9 %), the volume of sales of the Community industry remained almost the same. That increase only benefited the countries now subject to anti-dumping measures, the countries concerned as well as Korea and Malaysia. These countries saw their market shares rise, while the Community industry lost 4,7 percentage points in market share in the same period. This coincided with the initiation of the previous anti-dumping proceeding and it may be explained by a stock built-up by importers of SWR. In 1999, apparent consumption contracted, coinciding with the imposition of anti-dumping measures in the previous proceeding and with sales out of stocks by importers. During this period, the Community industry's sales volume to unrelated customers in the Community decreased significantly (from 72 676 in 1998 to 66 331 tonnes in 1999), while the imports from the countries concerned continued to grow despite the contraction in apparent consumption. In 1999 and the IP consumption remained largely at the same level, whereas the volume of imports from the countries concerned increased from 13 644 to 16 052 tonnes and the sales of the Community industry recovered slightly from 66 331 to 67 671 tonnes.

(171) It is therefore unlikely that the development in apparent consumption has contributed to the deterioration of the situation of the Community industry.

(b) ***Situation of the other Community producers***

(172) In the course of the investigation it was also considered whether the situation of the other Community producers, which represented 29,4 % of the total Community production in the IP, had been the cause of the injury suffered by the Community industry. For this purpose, it is recalled that the Commission based their conclusions on the information contained in the complaint and additional information provided by some other Community producers on their overall production and sales volume. Both their sales volume and production declined over the period considered (4 % and 5 % respectively) following a similar pattern as that of the Community industry.

(173) It cannot therefore be argued that the performance of the other Community producers was the cause of the stagnation in the volume of production and sales of the Community industry.

(c) ***Imports from other third countries***

(174) Imports from other third countries, including those from third countries not concerned by this proceeding as well as those originating in Korea and Malaysia, lost market share, which deced from 27 % in 1997 to 19,7 % in the IP.

(i) *Korea*

(175) The investigation has shown that the margins of dumping found for exporting producers in Korea were *de minimis*. Nonetheless, imports from this country registered a significant increase during the period considered (299 %) and increased their market share from 1,9 % in 1997 to 8,2 % in the IP. The prices of imports originating in Korea were found to undercut the selling prices of the Community industry in the IP.

(176) It is therefore considered that imports from Korea have had a negative impact on the situation of the Community industry.

(ii) *Malaysia*

(177) The investigation has shown that the margin of dumping found for the exporting producer in Malaysia was *de minimis*. Nonetheless, imports from this country registered a significant increase during the period considered (244 %) and increased their market share from 0,5 % in 1997 to 1,8 % in the IP. The prices of imports originating in Malaysia were found to undercut the selling prices of the Community industry in the IP.

(178) It is therefore considered that imports from Malaysia have had a negative impact on the situation of the Community industry.

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

(179) The Commission found that the market share held by third countries other than those included in the current proceeding decreased by 63 % during the period considered, mainly due to the decrease in imports from the countries subject to anti-dumping measures. Given the fact that these imports are mostly subject to anti-dumping measures and in view of the sharp decline in their volume, it cannot be concluded that they have contributed to the material injury suffered by the Community industry.

(iv) *Raw materials*

(180) The Commission has examined whether the injury found to be suffered by the Community industry could be attributed to an increase in the costs of raw materials.

(181) It was found that the price of the raw materials commonly used in the production of the product concerned (steel wire rod and steel wire, depending on the Community producers' structure) decreased during the period considered.

(182) In view of the above, the Commission considered that the price of the raw material did not contribute to the injury suffered by the Community industry.

4. **Conclusion**

(183) In the light of the above, it is concluded that, although other factors, namely the imports from Korea and Malaysia, may have had a negative impact on the situation of the Community industry in the IP, this impact is 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.

F. **COMMUNITY INTEREST**

1. **General considerations**

(184) The Commission provisionally examined, on the basis of the information submitted, whether despite the dumping and injury findings, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose measures in the present case.

(185) For this purpose, the Commission considered the impact of possible measures for all parties involved in the proceeding and also the consequences for those same parties of not taking provisional measures.

2. **Collection of information**

(186) In order to assess the impact of possible measures, the Commission sent Community interest questionnaires to all interested parties known to be concerned in the upstream and downstream industries at the time of the initiation of the proceeding. The Commission also requested information on Community interest from the Community industry. Only one raw-material supplier, two non-complainant Community producers, one importer and the Community industry responded to the questionnaires. No users replied to the questionnaire.

3. **Interest of the Community industry**

(a) ***Nature and structure of the Community industry***

(187) The Community industry is composed of small and medium-sized companies as well as two large companies, loacted in the Member States (Austria, Denmark, France, Germany, Italy, Portugal, Spain and the UK). Substantial competition exists in the Community market due to this large number of Community producers.

(188) Production of SWR is capital intensive and the Community industry needs to invest in new machinery and carry out R & D to maintain a comparative advantage in the upper segment of the market, in particular to improve the product offer of custom-made SWR. SWR produced by the Community industry are often subject to operations that add value to them, sometimes carried out by related trading companies, such as cutting and the attachment of fittings. It should be noted that SWR are used by a variety of end-user industries that incorporate them into various applications. The Community industry employed around 2 000 people in the IP and bought its raw materials from Community suppliers, thus having an impact on the employment levels of raw material suppliers.

(189) In addition to the production of standard SWR, the Community industry also produces a wide range of special SWR, including some on a project basis such as for the construction of suspension bridges or the offshore oil industry. The manufacturing of project SWR has the advantage of higher profit margins, lower costs of stocking (the SWR is produced on order) and a more efficient use of capacity since the set-up of machinery does not need to be altered so frequently as when small volumes are produced. It needs sophisticated machinery, investment in R & D (often carried out by related companies) and good planning so that the project SWR is completed within the deadlines usually established by contract. It is to be noted that project work has over the years become an important source of revenue for the Community industry. Given that project orders usually require close technical cooperation with the customers and additional services, not only in the installation of the SWR but also in repair and maintenance work, the Community industry is virtually the exclusive supplier in the Community market of project SWR.

(190) However, with the exception of project SWR and other upper segments of the market, the range of SWR is highly standardised and both the Community industry and the exporting producers in the countries concerned produce SWR to agreed norms. Given this high degree of standardisation and the bargaining power of the major importers/traders in the Community, some of which act both as importers of SWR produced in third countries and SWR produced in the Community, competition mostly takes place on the basis of prices of SWR. The most common types are thus extremely sensitive to dumped imports.

(191) Furthermore, the Community industry produces special SWR on the same machinery and using the same labour force as for standard SWR of equivalent dimension, and therefore the production of special SWR is linked to the production of standard SWR to the extent that the latter are needed to spread fixed costs. These standard and special SWR, and not project SWR, constitute the bulk of the Community industry's production.

(b) ***Effects of the imposition/non-imposition of measures on the Community industry***

(192) Given that the injury found has taken the form of an insufficient increase both in the volume of sales and sales prices, which in turn resulted in the Community industry's poor profitability, it is expected that, following the imposition of anti-dumping duties, the volume of SWR sold by the Community industry might increase and, to a certain extent, the prices of SWR on the Community market might also rise. This would enable the Community industry to reach an acceptable level of profitability. However, the prices of the Community industry are unlikely to increase by the full amount of the duty, due to the conditions of competition among Community producers and the presence of other low-priced imports not subject to anti-dumping measures.

(193) It should be noted that the Community industry's poor profit margins are to a large extent the result of its difficulty to compete with the dumped, low-priced imports originating in the countries concerned. It is likely that the imposition of measures will allow the Community industry to increase its sales volume and thus get higher contributions to cover its fixed costs. The types of SWR produced by the countries concerned that can be economically produced by the Community industry in the absence of dumped imports have been estimated to represent above 70 % of the total imports from the countries concerned. In view of the expected gains in productivity and the prospects regarding the growth of consumption, the imposition of measures is unlikely to result in an increase in the level of employment.

(194) It should be noted, however, that the benefit to the Community industry from the imposition of anti-dumping measures is unlikely to result from an increase in sales in the lowest segment of the product range. Given the cost structure of the Community industry, in particular its variable costs, exporting producers will continue to have a comparative advantage in that segment. This segment has been found to represent slightly less than 30 % of the total imports from the countries concerned.

(195) Should measures not be imposed, the Community industry's situation is likely to deteriorate since it will not be able to compete with the dumped, low-priced imports from the countries concerned. In this respect the restructuring efforts undertaken by the Community industry in recent years could be frustrated. The closure of some companies in the medium term may become inevitable, resulting in a further decrease in the level of employment. Furthermore, the injury suffered by the Community industry on the types of SWR exported from the countries concerned could have a negative impact on its ability to produce project SWR if it led major producers of these types of SWR to close down.

(196) In conclusion, it is expected that measures would be effective in giving the industry the opportunity to fully recover from the injurious dumping found in this investigation and in the previous investigation

4. **Interest of the supplier industry**

(a) ***Situation of the raw material suppliers***

(197) The principal raw material used in the production of SWR is industrial steel wire (produced from steel wire rod), in particular high-carbon steel wire that may be galvanised or otherwise coated. Some Community producers of SWR manufacture their own steel wire and the raw material they buy is thus steel wire rod. It is to be noted that there are other inputs, such as synthetic fibres and grease, which are also important in the production of SWR. The steel wire comes in reels. The steel wire rod and the steel wire used by the Community industry are produced by the major steel makers in Europe, who supply the entirety of the raw materials consumed by the sampled Community producers. There are a number of qualities and diameters of steel wire that can be used in this type of production. The steel wire makers in the Community produce the full range necessary for the production of SWR.

(198) Only one cooperating raw material supplier (producer of steel wire), which employed a total of 589 persons in 1999, responded to the questionnaire. Its volume of sales in the Community of the raw material concerned to Community producers of SWR decreased (between 24 % and 26 %) ([9]) over the period considered. The profit margin of the total company increased by (between 1 and 2 percentage points) between 1997 and 1999 and the turnover of the raw material concerned represented (between 22 % and 26 %) of the company's turnover in 1999.

(b) ***Effect of imposition/non-imposition of measures***

(199) On the basis of the information provided by this company, it can be concluded that Community suppliers of the raw materials concerned sell more than two thirds of their production on the Community market to producers of SWR.

(200) Taking into account that total Community production of the raw materials concerned represents (between 15 % and 20 %) of the total turnover and employment of raw material suppliers, it can be considered that in the event of the imposition of measures they could benefit from higher sales volumes.

(201) On the other hand, should measures not be imposed, the downward trends in the sales volumes and turnover of the raw material concerned are likely to continue.

([9]) Data is given in a range to preserve confidentiality.

5. **Interest of importers/traders**

(a) ***Structure of the import and distribution channels***

(202) The distribution of SWR in the Community is characterised by the existence of a significant number of importers/traders that hold large stocks of the product concerned. In essence, the importers/traders act between producers (Community and non-EU) and users of SWR and their behaviour on the market strongly influences the prices of SWR. Importers are able to control the levels of apparent consumption and thus prices through their access to dumped imports and their bargaining power over third-country suppliers and the Community industry. It was found that the Community industry still relies on this well established distribution network for around 15 % of its sales in the Community.

(b) ***Economic situation of importers***

(203) The only importer responding to the questionnaire reported low pre-tax profit margins over the period considered, though it is not possible to know from the reply what was the profitability of the product concerned (SWR accounted for 32 % of its total sales in 1999). This importer accounted for around 6,5 % of imports from the countries included in this proceeding. It is recalled that the previous investigation showed that the overall profit margin of importers ranged between 3 % and 18 %.

(c) ***Effect of imposition/non-imposition of measures***

(204) It should be noted that importers trade also in a large number of other items that are not concerned by this proceeding. Indeed, the Commission found in the previous anti-dumping investigation that the product concerned represented between 40 % and 80 % of the importers' total turnover. Furthermore, alternative third country sources of supply not subject to measures exist and they represented around 15 % of the Community consumption in the IP.

(205) The Commission also examined the impact of anti-dumping measures on the economic situation of importers in the light of the measures already imposed in the previous anti-dumping proceeding. In this context, it is worth noting that only one importer responded to the questionnaire in the present proceeding, which could indicate that the anti-dumping measures imposed in 1999 did not have a significant impact on them. In any event, the impact of any anti-dumping duty on the situation of importers should also be seen in the light of the fact that these parties trade in other products. It is also important to note that they obtain additional revenues from the sale of SWR produced according to customers requirements such as length and fittings.

(206) Should anti-dumping measures be imposed, the Commission considers that prices of SWR on the Community market will probably increase. Although the prices of the dumped imports will in all likelihood increase to the full extent of the duty, prices of the Community SWR are not expected to increase to the same extent. This increase in prices is likely to have a negative impact on importers and their margins will probably decrease. However, it should be noted that the importers, who also act to a large extent as traders, may choose to increase their purchases from the Community industry or from sources not subject to measures and may obtain discounts for larger volumes. Furthermore, it should also be noted that importers/traders may also pass increases in prices on to users, for whom the product concerned represents a negligible part of their total costs.

(207) In the light of the above, it was considered by the Commission that if measures are imposed, it is unlikely that the situation of importers will significantly worsen.

6. **Interest of users**

(a) ***Nature and structure of user industries***

(208) In the absence of any cooperation from users in the present proceeding, the effects of the imposition of anti-dumping measures on users have been analysed on the basis of the findings in the previous investigation.

(209) SWR are used in a wide variety of applications: fishing, maritime/shipping, mining (deep-shaft and surface mining) and offshore oil and gas industry, forestry, aerial transport (including skilifts and cableways), civil engineering (suspension bridges, towers, covered roof structures), construction (cranes and lifts). In view of the type of user industry involved, and in accordance with the information submitted by users in the previous proceeding, it is not incorrect to conclude that SWR represent a small percentage of the costs of the final products. It was found during the previous investigation that the proportion of user's turnover related to the product concerned ranged from 0,01 % to only 3 % showing that SWR had a minimal impact on the overall activities of users.

(b) ***Effect of imposition/non-imposition of measures***

(210) Given the lack of cooperation from users in the present proceeding, the supply channels and the type of users concerned, the impact of any anti-dumping duty on users is likely to be very marginal as the prices of SWR represent a marginal proportion of the cost of production of the final product as shown in the previous investigation.

(211) Furthermore, should anti-dumping measures be imposed, it is unlikely that supply constraints would occur, given the existence of alternative sources of supply not covered by measures, including the Community industry.

7. **Conclusion on Community interest**

(212) The investigation has shown that the imposition of measures can be expected to allow the Community industry to increase prices and volumes and therefore to improve profitability, with consequent beneficial effects on the competitive conditions on the Community market. The imposition of anti-dumping duties is also expected to benefit raw material suppliers.

(213) Whilst any negative effects are likely to result for the importers in price increases, the extent of these may be reduced by decreasing margins or by increasing the prices charged to the user industry.

(214) The user industry, in turn, is unlikely to suffer serious consequences from such an increase given the low incidence of SWR on their final products.

(215) In the light of the above, the Commission considers that no compelling reasons exist for not imposing measures and that the application of anti-dumping duties would be in the interests of the Community.

G. **PROVISIONAL ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(216) Having established that the dumped imports under consideration caused material injury to the Community industry and that there are no compelling reasons not to take action, the measures envisaged should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margins found.

(217) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community.

(218) On the basis of the information provided by interested parties, it was preliminarily found that a profit margin of 5 % of turnover could be regarded as an appropriate minimum which the Community industry could be expected to obtain in the absence of injurious dumping. It is also considered that this profit margin would allow the Community industry to make the necessary investments.

(219) On this basis, the weighted average export prices of SWR, adjusted according to the methodology described in recitals 138 and 139, were compared with the selling prices charged by the Community industry, adjusted to reflect a reasonable profit margin of 5 %. The result was then expressed as a percentage of the exporting producers' export prices on a cif Community frontier level, i.e. the injury margin.

2. **Provisional anti-dumping measures**

(220) 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, except for a company in Turkey for which the duty should be imposed at the level of the injury margin which is lower, in accordance with Article 7(2) of the basic Regulation.

(221) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the residual duty applicable to 'all other companies' are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(222) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ([10]) forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

3. **Non-imposition of provisional measures in respect of Korea and Malaysia**

(223) 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, no provisional measures should be imposed in respect of Korea and Malaysia. The Commission will continue to investigate and consider any further evidence submitted. Should the provisional findings be confirmed at the definitive stage, the proceeding would be terminated as regards these imports.

4. **Undertakings**

(224) The exporting producers in the Czech Republic and Turkey have 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. In addition, the nature of the product, the structure of the companies and their sales patterns is such that the risk of circumvention of the undertakings is also minimised.

(225) 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.

(226) 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.

(227) 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.

(228) Furthermore, in accordance with Article 8(6) of the basic Regulation, the investigation of dumping, injury and Community interest will be completed in respect of the countries concerned notwithstanding the acceptance of undertakings in the course of the investigation.

H. **FINAL PROVISION**

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

([10]) European Commission
Directorate-General Trade
Directorate C
TERV 0/12
Rue de la Loi/Wetstraat 200
B-1049 Brussels

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional 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 provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows for products originating in:

Country	Provisional duty (%)	TARIC additional code
Czech Republic	66,0	A999
Russia	50,7	A999
Thailand	42,8	A999
Turkey	32,1	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	Provisional duty (%)	TARIC additional code
Czech Republic	ŽDB a.s	47,1	A216
Russia	Cherepovetsky Staleprokatny Zavod	35,8	A217
Thailand	Usha Siam Steel Industries plc	30,5	A218
Turkey	Celik Halat ve Tel Sanayii AS	32,1	A219
	Has Celik ve Halat San Tic AS	19,2	A220

4. Notwithstanding Article 1(1), the provisional duty shall not apply to imports released for free circulation in accordance with Article 2.

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

6. 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

1. The undertakings offered by the companies listed below are hereby accepted.

Country	Company	TARIC additional code (%)
Czech Republic	ŽDB a.s.	A216
Turkey	Celik Halat ve Tel Sanayii A.S.	A219
	Has Celik ve Halat San Tic A.S.	A220

2. Imports declared for release into free circulation under TARIC additional codes A216, A219, A220 shall be exempt from the anti-dumping duties imposed by Article 1 if they are produced and directly exported (i. e. invoiced and shipped) by a company mentioned in Article 2(1) to a company acting as an importer in the Community. Such imports shall also be accompanied by a commercial invoice containing at least the elements listed in the Annex.

3. Exemption from the duty shall be conditional on the goods declared and presented to customs corresponding precisely to the description on the commercial invoice.

Article 3

1. Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, present their views in writing and request a hearing from the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may request a hearing concerning the analysis of the Community interest and may comment on the application of this Regulation within one month of the date of its entry into force.

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.

Done at Brussels, 2 February 2001.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX

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

1. The invoice number.
2. The TARIC additional code under which the goods on the invoice may be customs-cleared at the Community frontier.
3. The exact description of the goods, including:
   — the product code number (PCN) (as established in the undertaking offered by the exporting producer in question),
   — CN code,
   — quantity (to be given in kg).
4. The description of the terms of the sale, including:
   — price per kg,
   — the applicable payment terms,
   — the applicable delivery terms,
   — total discounts and rebates.
5. Name of the company acting as an importer to which the invoice is issued directly by the company.
6. 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 Regulation (EC) No 230/2001. I declare that the information provided in this invoice is complete and correct.'