COUNCIL REGULATION (EC) No 408/2002

of 28 February 2002

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain zinc oxides originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 1827/2001 [2] ('provisional Regulation'), imposed a provisional anti-dumping duty on imports of certain zinc oxides originating in the People's Republic of China ('PRC').

(2) In addition to the verification visits undertaken at the premises of exporting producers in the PRC, as mentioned in recital 7 of the provisional Regulation, it should be noted that verification visits were also carried out at the premises of a number of related export sales companies, namely:

Guangxi Liuzhou Nonferrous Metals Smelting Import & Export Co. Ltd, Liuzhou,

Rickeed Industries Ltd, Hong Kong,

Yinli Import and Export Co. Ltd, Liuzhou,

as well as at a related domestic company:

Gredmann Guangzhou Ltd, Guangzhou.

B. SUBSEQUENT PROCEDURE

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several interested parties submitted comments in writing. In accordance with the provisions of Article 20(1) of Regulation (EC) No 384/96 ('basic Regulation'), all interested parties who requested a hearing were granted an opportunity to be heard by the Commission.

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

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

(6) The oral and written arguments submitted by the parties were considered and, where deemed appropriate, the findings have been changed accordingly.

(7) Having reviewed the provisional findings on the basis of the information gathered since then, it is concluded that the main findings as set out in the provisional Regulation are hereby confirmed.

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(8) Subsequent to the publication of the provisional Regulation, a number of interested parties claimed that the definition of the product concerned was not correct. They argued that different grades of zinc oxide existed on the market, which, according to their purity, had different properties and applications. As a result, these various grades of zinc oxide could not be considered as a homogenous product. In addition, it was argued that there was insufficient interchangeability between the various grades of zinc oxide. Whilst it was accepted that higher purity grades could theoretically be used in all applications, the same could not be said of lower purity grades because of the level of impurities they contain.

(9) The fact that interchangeability may only be one-way due to different levels of purity between certain of the grades is not considered to be sufficient evidence in itself that the same grades constitute different products which should be treated separately for the purposes of the investigation. On the contrary, the fact that high purity grades can be used in all the various applications of zinc oxide demonstrates that all the grades can be considered as one product. If certain users accept a higher content of impurities this is mostly on the basis of price considerations.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 248, 18.9.2001, p. 17.

(10) Therefore, the comments made by the interested parties are not in any way sufficient to lead to a change of earlier findings, as set out in recital 11 of the provisional Regulation, that all grades of the product concerned should be considered as a single product.

(11) The findings, as set out in recitals 9 to 11 of the provisional Regulation, with regard to the product concerned are hereby confirmed.

2. **Like product**

(12) Certain interested parties claimed that producers of zinc oxide in the Community and the PRC used dissimilar production processes that gave zinc oxide produced in the PRC significant cost advantages in terms of raw material and other costs. They suggested that Chinese producers mainly used the 'direct' or American process while Community producers almost exclusively used the 'indirect' or French process. The direct process is so called because it produces zinc oxide directly from oxidised zinc materials. It was claimed that these raw materials were cheaper than the refined zinc metal and other zinc residues that are used in the indirect process.

(13) In the first instance, the question concerning the different production processes is not considered relevant in the current investigation as zinc oxides produced by either process share the same basic chemical characteristics (ZnO) and properties. Furthermore, a significant proportion of the sales made by the Community industry is obtained from the direct process and the costs related to both processes have been taken into account in the investigation.

(14) No new elements were brought to the attention of the Commission to lead it to alter the conclusions reached at the provisional stage, namely that the zinc oxide produced and sold by Community producers and that produced in the PRC and exported to the Community are a like product.

(15) The provisional findings concerning the like product as set out in recitals 12 to 14 of the provisional Regulation are hereby confirmed.

D. **DUMPING**

1. **Market economy treatment**

(16) Some Chinese producers questioned the consistency between granting market economy treatment ('MET') (recital 18 of the provisional Regulation) and the subsequent refusal by the Commission to use prices paid by the company in question for the zinc raw material (recital 47 of the provisional Regulation). According to these companies MET should not have been granted given that the Commission found that the zinc raw material prices, the main cost element, did not reflect market values within the meaning of Article 2(7)(c) of the basic Regulation.

(17) During the second and more detailed on-site investigation, by which the reply to the exporters' questionnaire was verified and after MET had been granted, the Commission found that certain cost elements, i.e. the prices paid for the zinc raw material, were unreliable. The Commission, therefore, adjusted the costs by basing them on zinc quotations as quoted on the London Metal Exchange ('LME'). It is normal practice to adjust costs if it appears that they are not accurate, reliable or in line with normal market conditions. The claim is therefore rejected and the findings in recitals 15 to 24 of the provisional Regulation are hereby confirmed.

2. **Individual treatment**

(18) In the absence of any comments under this heading, the provisional findings, as set out in recitals 25 to 27 of the provisional Regulation, are hereby confirmed.

3. **Normal value**

Determination of normal value for exporting producers not granted MET

Selection of the analogue country

(19) The Community zinc oxide users contested the choice of the United States of America ('USA') as an appropriate analogue country for the purpose of establishing normal value, arguing that costs in the PRC and the USA are different. This particular issue was already dealt with in detail in recitals 28 to 36 of the provisional Regulation and is hereby confirmed.

(20) In the absence of any new comments under this heading, the provisional findings, as set out in recitals 37 to 39 of the provisional Regulation, are hereby confirmed.

Determination of normal value for exporting producers granted MET

(21) The 'users', as well as some of the Chinese producers, claimed that the Chinese zinc raw material prices were determined by the Chinese market and should, therefore, be considered without making adjustments in accordance with the LME zinc quotations. As explained in recitals 46 and 47 of the provisional Regulation, the prices for supply and demand of zinc or zinc-related products in market economy countries worldwide are based on LME zinc quotations. Furthermore, it should be noted that when selling or purchasing zinc concentrate on the international market, Chinese companies use the LME as reference like any other operator. For reasons of reliability of costs, the Chinese prices for zinc raw materials had to be adjusted as these costs did not fully reflect the impact of LME zinc quotations. The claims have, therefore, to be rejected and the methodology used for the adjustment of zinc raw material prices through LME zinc quotations is hereby confirmed.

(22) After the publication of the provisional Regulation, one of the Chinese producers requested that the abovementioned adjustment to the zinc raw material cost be made to the price of zinc concentrates rather than to the price of zinc calcine on the grounds that its production process began with zinc concentrates. This issue was re-examined and it was found that the producer in question did indeed purchase zinc concentrates but subcontracted the production of the next stage of production, i.e. the production of zinc calcine from zinc concentrates, to a third party. The investigation also revealed that the company produced at least in part from zinc calcine it had purchased on the Chinese market and that had to be adjusted as outlined above. In view of the concern to arrive at a market value for the raw materials and given that the company in question's own production process actually began with zinc calcine, the company's claim could not be accepted and the methodology described in the provisional Regulation had to be confirmed.

(23) Another Chinese producer claimed that in constructing its normal value, the figure for selling, general and administrative expenses ('SG & A') was incorrect and submitted information in support of this claim. It was found that the claim was justified and the figures were corrected accordingly.

(24) One company claimed that the SG & A for domestic sales of all products should be used instead of the specific SG & A for domestic sales of the product concerned. This claim could not be accepted. The purpose of constructing a normal value is to calculate a surrogate for the domestic price of the like product. The SG & A used in this calculation should thus relate to the production and sales of the like product on the domestic market of the country of origin, as provided for in Article 2(6) of the basic Regulation. The company's claim had therefore to be rejected and the initial findings are hereby confirmed.

(25) The Chinese producers which were granted MET claimed that the profit made by sales of by-products generated from the manufacture of zinc calcine and/or zinc oxide should be deducted from the manufacturing costs of zinc oxide. However the investigation revealed that the companies treated by-products separately in their accounts. The profit on these by-products fluctuated substantially in time and was shown separately as extraordinary income in their accounts. The companies never considered any return on the sales of by-products as a credit towards the cost of zinc oxide. This approach was also followed for the purposes of the provisional findings. The claim has consequently been rejected and the provisional findings are hereby confirmed.

(26) Moreover, they also claimed that in order to establish the level of profit in the calculation of the constructed normal value, the Commission should refer to the Community producers' profit instead of referring to the profit made by the producer in the analogue country. Article 2(7)(a) of the basic Regulation provides that the normal value is determined on the basis of the price or constructed value in a market economy third country, in this case the USA. Other methods of establishing normal value are only considered when the relevant analogue country data are not available. The use of the Community producers' profit margin should therefore be rejected.

(27) One Chinese producer claimed that direct selling expenses, relating to exports only, were included in the SG & A expenses relating to domestic sales. This claim was substantiated and found to be justified. The calculations have consequently been corrected.

(28) Concerning the methodology described in recitals 40 to 47 of the provisional Regulation, these findings are hereby confirmed.

4. **Export prices**

(29) One Chinese producer claimed that in the calculation of export prices certain expenses had been deducted twice. The claim was verified and accepted and a correction was made accordingly.

(30) In the absence of any other comments under this heading, the provisional findings, as set out in recital 48 of the provisional Regulation, are hereby confirmed.

5. **Comparison**

(31) In the absence of any comments under this heading, the provisional findings, as set out in recitals 49 and 50 of the provisional Regulation, are hereby confirmed.

6. **Dumping margins**

For the cooperating exporting producers granted MET and individual treatment ('IT')

(32) One Chinese producer claimed that its dumping calculation should be based on sales and/or costs of own produced products, both for normal value and for exports, and that the volume of the zinc oxide purchased from other producers should be excluded from the cost calculations. This claim was verified in more detail and it was possible to isolate the transactions in question. The argument was consequently accepted and a new calculation has been made limited to the sales and/or costs of zinc oxide produced by the company itself.

(33) The definitive weighted average dumping margins expressed as a percentage of the cif (cost, insurance, freight) Community price duty unpaid for the product produced by the following manufacturers are:

Liuzhou Nonferrous Metals Smelting Co. Ltd	6,9 %
Liuzhou Fuxin Chemical Industry Co. Ltd	11,0 %
Gredmann Guigang Chemical Ltd	19,3 %
Liuzhou Longcheng Chemical General Plant	64,5 %

For all other exporting producers

(34) The level of dumping provisionally established at 69,8 % of the cif Community frontier price is hereby confirmed.

E. **COMMUNITY INDUSTRY**

(35) Certain parties claimed that on the basis of recital 57 of the provisional Regulation, it appeared that 15 out of 21 zinc oxide producers in the Community did not cooperate in the investigation. It was therefore suggested that the complaint did not meet the requirements of Article 5(4) of the basic Regulation. It should be recalled that the six producers who did cooperate in the investigation represented a major part of Community zinc oxide production in the investigation period, 1 January to 31 December 2000 ('IP'), in this case, more than 75 % of the production of the 21 known companies, thereby satisfying the requirements of Article 5(4). In the absence of any new information submitted with respect to the definition of the Community industry, the findings as set out in recitals 57 to 59 of the provisional Regulation are hereby confirmed.

F. **INJURY**

1. **Preliminary remarks**

(36) In the absence of any arguments to the contrary, the methodology used for establishing the level of imports of the product concerned into the Community as set out in recital 60 of the provisional Regulation and that used to determine Community consumption of zinc oxide (recitals 62 and 63) is hereby confirmed.

2. **Situation of the Community industry**

(37) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all relevant factors and indices having a bearing on the state of the Community industry.

(38) Certain interested parties questioned the Commission's conclusions on injury. They argued that certain information relating to the operating performance of the Community industry, such as production, production capacity and utilisation levels, contained in the non-confidential version of the complaint and the replies to the Commission's questionnaires showed either increasing or stable trends. One interested party also claimed that the Commission's findings were erroneous, as the data used in recital 82 of the provisional Regulation concerning cash flow were incomplete. The same interested parties also pointed to the fact that some of the parent companies of the entities forming the Community industry recorded substantial profits in the IP and that as such the Community industry did not suffer material injury within the meaning of Article 3 of the basic Regulation.

(39) These arguments could not be accepted. In the first instance, these interested parties based their claims on partial information concerning only certain members of the Community industry. They did not take into account the results of the Commission's investigation as set out in recitals 72 to 89 of the provisional Regulation that represent the overall situation of the Community industry. Secondly, it is to be recalled that the current investigation is limited in scope to the product concerned as defined in recital 9 of the provisional Regulation. Whilst it is true that the parent companies of certain members of the Community industry recorded profits during the IP, the overall level of profitability for their zinc oxide activities in the Community was negative in this period as set out in recital 77 of the provisional Regulation.

(40) As regards the cash flow information detailed in recital 82 of the provisional Regulation, it is acknowledged that some entities forming the Community industry were not able to supply detailed information concerning their zinc oxide activities. However, the entities which were able to do so, and whose verified information was used by the Commission to arrive at their provisional findings, accounted for over 80 % of the production of the Community industry in the IP. The verified data were therefore considered to be representative of the situation of the Community industry as a whole.

3. **Developments occurring before and after the IP**

(41) A number of interested parties, in particular users of the product concerned, asked the Commission to broaden the scope of their analysis and take into account developments occurring both before the beginning of the analysis period (1 January 1996 to 31 December 2000) and after the end of the IP. They argued that the years 1993, 1994 and 1995 should be considered in order to have a better appreciation of the market. They also claimed that Community producers were taking advantage of falling zinc metal prices after the IP to increase their margins and that, as such, the imposition of measures was unwarranted.

(42) It should be recalled that Article 6(1) of the basic Regulation provides that information relating to a period after the IP should, normally, not be taken into account. The information provided by the interested parties concerning events occurring after the IP, consisting principally of references to the fall in the zinc quotation on the LME, did not give any basis on which it could be said that the findings reached in the investigation were no longer valid. Indeed, the investigation established that under normal market conditions, the prices in zinc oxide market followed the evolution of raw material prices and mostly the LME zinc quotation. Fluctuations in prices and costs in the zinc oxide business were therefore linked to the LME quotation and developments which occurred after the IP were simply a manifestation of the normal functioning of the market and it could not be said that there had been any change of a structural nature in the market which made it manifestly unsuitable to base findings on data relating to the IP. The request to take events occurring after the IP into account is therefore rejected.

(43) Similarly, it should be recalled that the findings regarding injury were established on the basis of information relating to the IP. The purpose of presenting data relating to earlier years is to better understand the IP and place it in context by showing the development of trends. It is considered that the presentation of data relating to the four years preceding the IP (1996 to 1999) is sufficient for this purpose. The claim to widen the analysis period to include 1993, 1994 and 1995 is therefore rejected.

4. **Conclusion on injury**

(44) Given that no other arguments were received regarding the injury suffered by the Community industry, the conclusion that it has suffered material injury within the meaning of Article 3 of the basic Regulation, as detailed in recitals 72 to 89 of the provisional Regulation, is hereby confirmed.

G. **CAUSATION**

1. **General comments on the Commission's conclusions regarding causality**

(45) One interested party argued that the alleged injury suffered by the Community industry was the result of factors other than the imports concerned although these other factors were not specified. It was claimed that the Community industry had managed to maintain its production levels and raise its prices during the analysis period in spite of the dumped imports. Another interested party argued that the provisional Regulation failed to take proper account of the depreciation of the euro against the US dollar in the second half of the analysis period and that this factor, rather than the imports from the PRC, was responsible for the injury suffered by the Community industry.

(46) In view of the fact that the first interested party gave no other factors which it considered could be responsible for the injury suffered by the Community industry, this claim adds nothing new to the investigation and should therefore be rejected.

(47) With regard to the issue of the depreciation of the euro against the dollar raised by the other interested party, it was accepted in recital 61 of the provisional Regulation that this may have magnified the increase in the cost of zinc as a raw material. This could have had an adverse effect on the financial performance of certain Community producers as the LME quotation is made in dollars whereas the majority of their sales are made in euro. However, it is to be recalled that, at this same time, the Community industry was, to a certain degree, able to increase its selling prices to reflect the increase in its cost of production. The fact that this increase did not fully reflect the increase in the cost of zinc as quoted on the LME shows the price suppressing effect of the dumped imports on the selling prices of the Community industry during the IP. Indeed, in the IP, the volume of imports from the PRC reached record levels and obtained a market share of 18,4 % as their prices significantly undercut those of the Community industry. It is also noted that imports from other third countries decreased during the analysis period and had a market share of 7,3 % in the IP. It is not unreasonable to conclude that without the dumped imports, the Community industry could have fully, or almost fully, passed on the increased costs. The claim that the dumped imports were not responsible for the injury suffered by the Community industry is therefore rejected.

(48) In view of the above considerations and given that no other valid arguments were received regarding the possible cause of the injury suffered by the Community industry, it is hereby confirmed that the dumped imports of zinc oxide originating in the PRC caused injury to the Community industry.

H. COMMUNITY INTEREST

(49) Following the publication of the provisional Regulation, the Commission received a large number of letters with identical texts from users of zinc oxide in the Spanish ceramic tile industry, principally the manufactures of frits, enamels and glazes and the producers of ceramic tiles. Many of these companies had not previously made themselves known to the Commission or cooperated in the investigation although it is to be recalled that their respective trade associations had made representations.

(50) These users raised a number of points concerning the definition of the product concerned, the choice of the analogue country and the financial performance of the Community industry, which have already been addressed above.

(51) Their comments on the Community interest aspects of the investigation can be summarised into two main areas. The first area concerns the loss of competitiveness that an increase in the cost of zinc oxide would have on their financial performance and the consequences for continued investment in manufacturing frits and ceramic tiles in the Community. The second area concerns the manner in which the Commission took account of the balance of interests of the various interested parties when making its assessment of the overall Community interest. They argued that the Commission had unfairly focussed on the relatively small number of job losses in the Community industry during the analysis period and had failed to reflect the thousands of jobs that had been created in the ceramic industry during the same period. However, no evidence was submitted in support of the aforementioned allegations.

(52) The representations received from these interested parties, both after the publication of the provisional Regulation and following disclosure of the essential facts and considerations on which it was proposed to impose definitive anti-dumping duties, did not add any new elements or evidence that had not already been taken into account. Consequently, the conclusion that there are no compelling reasons not to impose measures, as set out in recital 151 of the provisional Regulation, is hereby confirmed.

I. ANTI-DUMPING MEASURES

1. Injury elimination level

(53) A number of interested parties claimed that the Commission did not make a fair price comparison between the zinc oxide originating in the PRC and that produced by the Community industry since most of the Chinese oxide was produced with the American process and was of a low quality.

(54) This argument is not correct. Indeed, a comparison of sales prices on the Community market during the IP was made between prices of the Community industry and those of the cooperating exporting producers on the basis of comparable grades and level of trade (prices to independent dealers/importers). Such a fair comparison was made both for the purposes of establishing the injury margin and for the undercutting calculation.

(55) These comparisons, between the zinc oxide produced by the Community industry and that exported to the Community by the Chinese exporting producers, were made on the basis of the same range of zinc oxide (i.e. a zinc oxide produced by the direct process with a zinc oxide content between 95 % and 99,8 %).

(56) In the absence of any other claim, the methodology for calculating the injury margins as set out in recitals 154 and 155 of the provisional Regulation is hereby confirmed.

(57) As regards the determination of the non-injurious price, it was found that certain products of one Community producer were wrongly classified, in the cost-of-production table, in a high quality grade and these were appropriately reclassified. This had the effect of slightly lowering the non-injurious price and margins previously found.

2. Form and level of the duties

(58) Three of the four cooperating exporting producers in China exported their manufactured products either directly or via their respective related trading companies. However, the investigation revealed that the related trading companies also exported zinc oxide which they had purchased from producers which did not cooperate in the investigation. Only the zinc oxide products manufactured by the producing companies can benefit from the specific dumping margin calculated for each producer concerned. The fourth producer sold part of its production to another producer involved in the proceeding. Furthermore given the substantial level of non-cooperation (35 %) and the fact that the non-cooperating producers also exported via the same related traders, it is exceptionally considered that special provisions are needed in this case to ensure the proper application of the anti-dumping duty.

(59) These special provisions include the presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to the Regulation. Only

imports accompanied by such an invoice shall be declared under the applicable Taric additional codes of the producer in question. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters. The companies concerned have also been invited to submit regular reports to the Commission in order to ensure a proper follow up of their sales of zinc oxide to the Community. In cases where reports are not submitted, or where the reports disclose that the measures are not adequate to eliminate the effects of injurious dumping, it may be necessary to initiate an interim review in accordance with Article 11(3) of the basic Regulation.

(60) The corrections made to the dumping and injury margins had no effect on the application of the lesser duty rule and therefore the methodology used for establishing the anti-dumping duty rates as described in recitals 156 to 159 of the provisional Regulation is hereby confirmed.

3. **Definitive collection of provisional duties and other provisions**

(61) In view of the magnitude of the dumping found for the exporting producers, and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties shall be collected at the rate of the duty definitively imposed. As the definitive duties are lower than the provisional duties, the amounts secured in excess of that level should be released.

(62) 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 forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. 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,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of zinc oxide (chemical formula: ZnO) with a purity of not less than 93 % zinc oxide, falling within CN code ex 2817 00 00 (TARIC code 2817 00 00 11) and originating in the People's Republic of China.

2. The rate of definitive anti-dumping duty applicable, before duty, to the net, free-at-Community frontier price of the products manufactured by the following companies, shall be as follows, provided that they are imported in conformity with paragraph 3:

Company	Definitive duty (%)	TARIC additional code
Liuzhou Nonferrous Metals Smelting Co. Ltd 17 Baiyun Road, Liuzhou City, 545006 Guangxi Province, China	6,9	A277
Liuzhou Fuxin Chemical Industry Co. Ltd 16-90 Xihuan Road, Liuzhou, 545007 Guangxi Province, China	11,0	A278
Gredmann Guigang Chemical Ltd Development Zone for Enterprises with Foreign Investment (Batang Maijiupo) Guigang City, 537100 Guangxi Province, China	19,3	A279
Liuzhou Longcheng Chemical General Plant Luowei Horticultural Farm, Liuzhou Guangxi Province, China	26,3	A280
All other companies	28,0	A999

3. The application of the individual duty rates specified for the four companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

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

Article 2

The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 1827/2001 shall be definitively collected at the rate of the duties definitively imposed. The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 3

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

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

Done at Brussels, 28 February 2002.

For the Council

The President

A. ACEBES PANIAGUA

ANNEX

The valid commercial invoice must include a signed declaration in the following format:

the name of the official of the company which has issued the commercial invoice and the following signed declaration:

'I, the undersigned, certify that the goods sold for export to the European Community and covered by this invoice:

1. were manufactured by [company name and address];
2. have a zinc oxide content of (precise %);
3. have a volume of (tonnes).

I declare that the information provided in this invoice is complete and correct.'