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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 976/2002

of 4 June 2002

imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms (RBM) originating in Indonesia and terminating the anti-dumping proceeding in respect of imports of certain RBM originating in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PROCEDURE

1. Previous proceeding concerning imports of ring binder mechanisms originating in the People's Republic of China and Malaysia

(1) In January 1997, by Regulation (EC) No 119/97 [2], the Council imposed definitive anti-dumping duties on imports of ring binder mechanisms (RBMs) originating in the People's Republic of China (the PRC) and Malaysia.

(2) In September 2000, following the initiation of a review pursuant to Article 12 of Council Regulation (EC) No 384/96 (the basic Regulation), the Council, by Regulation (EC) No 2100/2000 [3], amended the definitive anti-dumping duties on imports of RBMs originating in the PRC.

(3) In January 2002, the Commission initiated a review pursuant to Article 11(2) of the basic Regulation of anti-dumping measures applicable to imports of RBMs originating in the PRC [4]. No request for a review was received concerning the measures applicable to Malaysia, which consequently expired in January 2002.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Council Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 22, 24.1.1997, p. 1.
[3] OJ L 250, 5.10.2000, p. 1.
[4] OJ C 21, 24.1.2002, p. 25.

2. Present proceeding

(4) On 18 May 2001, the Commission announced by a notice (Notice of Initiation) published in the *Official Journal of the European Communities* [5] the initiation of an anti-dumping proceeding with regard to imports into the Community of certain RBMs originating in India and Indonesia.

(5) The proceeding was initiated as a result of a complaint lodged on 3 April 2001 by the following Community producers: Koloman Handler AG (Koloman), Austria, and Krause Ringbuchtechnik GmbH & Co. KG (Krause), Germany (the complainants) representing a major proportion, in this case about 90 %, of the Community production of RBMs. 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.

(6) The initiation of a parallel anti-subsidy proceeding concerning imports of the same product originating in the same countries was announced by a notice published in the *Official Journal of the European Communities* [6] on the same date.

(7) The Commission officially advised the exporting producers, exporters and importers known to be concerned, the representatives of the exporting countries concerned, the complainants and all known other Community producers 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.

(8) One exporting producer in each of the countries concerned made its views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard were granted a hearing.

[5] OJ C 147, 18.5.2001, p. 2.
[6] OJ C 147, 18.5.2001, p. 4.

(9) 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 one of the two complainant Community producers, one exporting producer in India, as well as from its related exporter outside the Community, and from one user and two unrelated importers in the Community. The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, injury, causation and Community interest. Verification visits were carried out at the premises of the following companies:

(a) *Community producers*

— Koloman Handler AG, Austria

(b) *Exporting producers in India*

— ToCheungLee Stationery Mfg Co. Pvt. Ltd, Tiruvallore

(c) *Related exporters outside the Community in Hong Kong*

— ToCheungLee (BVI) Limited/World Wide Stationery Mfg Co. Ltd (ultimate holding company)

(d) *Unrelated importers*

— Bensons International Systems Ltd, United Kingdom

— Bensons International Systems BV, The Netherlands

(e) *User*

— Esselte, United Kingdom.

(10) The investigation of dumping and injury covered the period from 1 April 2000 to 31 March 2001 (investigation period or IP). For the purposes of analysing trends relevant for the assessment of injury, the Commission has examined data relating to the period 1 January 1998 up to the end of the IP (period considered).

3. **Provisional measures**

(11) Given the need to further examine certain aspects of injury, causation and Community interest, in particular in view of the ongoing restructuring of the complainants, no provisional anti-dumping measures were imposed on RBMs originating in India and Indonesia.

4. **Subsequent procedure**

(12) All parties were informed of the decision not to impose provisional measures. The Commission continued to seek and verify all information deemed necessary for definitive findings. In particular, further on-the-spot investigations were carried out at the premises of a user of RBMs in the Community and of two unrelated importers in the Community.

(13) 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. They were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were considered and, where appropriate, the findings have been modified accordingly.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(14) The product concerned is certain ring binder mechanisms (the product concerned). These are currently classifiable within CN code ex 8305 10 00. Lever-arch mechanisms, falling within the same CN code, are not included in the scope of this investigation.

(15) RBMs consist of two rectangular steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half-rings or with a small steel-made trigger mechanism fixed to the RBM. The rings can have different shapes, the most popular ones being round, rectangular or D-shaped.

(16) RBMs are used to file different kinds of documents or papers. They are used, *inter alia*, by producers of ring binders, software and technical manuals, photo and stamp albums, catalogues and brochures.

(17) Several hundred different models of RBMs were sold during the IP in the Community. The models varied by size, shape and number of rings, the size of the base plate and the system to open the rings (pull open or opening trigger). In the absence of a clear dividing line in the range of RBMs and given that all of them have the same basic physical and technical characteristics, and that the models of RBMs can, within certain ranges, replace each other, the Commission established that all RBMs constitute one single product for the purpose of the present proceeding.

2. **Like product**

(18) The Commission found that the RBMs produced and sold on the domestic market in India and those exported to the Community from India had the same basic physical and technical characteristics and uses.

(19) The Commission also found that there was no difference in the basic physical and technical characteristics and uses between the RBMs imported into the Community originating in India and the RBMs produced by the Community industry and sold on the Community market.

(20) In view of the lack of cooperation from any Indonesian producer, the Commission relied on facts available in accordance with Article 18 of the basic Regulation. In this regard and in the absence of any other information available for the country, the Commission considered it appropriate to make use of the information submitted in the complaint, according to which the RBMs produced and sold in Indonesia or exported to the Community and the RBMs produced by the complainant Community producers and sold on the Community market are alike.

(21) It was therefore concluded that the RBMs produced and sold by the Community industry on the Community market, the RBMs originating in India and Indonesia exported to the Community and the RBMs produced and sold on the domestic market in India and Indonesia were all like products within the meaning of Article 1(4) of the basic Regulation.

(22) During the IP the product concerned was subject to a conventional customs duty of 2,7 % in 2000 and 2,7 % in 2001. Under the GSP regime the product concerned imported from India and Indonesia benefited from a reduction amounting to 100 % of the conventional customs duty payable in 2000 and 2001. As a result, the duty applied was 0 % in 2000 and 0 % in 2001.

C. **DUMPING**

1. **India**

(23) One company replied to the questionnaire for exporting producers. A company outside the Community related to this exporting producer also replied to the questionnaire. On the basis of import data reported by Eurostat, this exporting producer accounted for all Indian exports to the Community.

(a) *Normal value*

(24) For the purpose of determining normal value, it was first established whether the total domestic sales of RBMs of the sole cooperating Indian exporting producer 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 not considered representative since the total domestic sales volume of the exporting producer was less than 5 % of its total export sales volume to the Community.

(25) In the absence of representative domestic sales, or sales by any other exporting producer in the domestic market, or other sales in the same general category of products by the exporting producer, normal value had to be constructed in accordance with Article 2(3) of the basic Regulation on the basis of the cost of manufacturing plus a reasonable amount for selling, general and administrative (SG and A) costs and for profits.

(26) The company's own SG and A costs and profit on domestic sales of the product concerned were added to the manufacturing costs of the exported models. In accordance with Article 2(5) of the basic Regulation, SG and A costs declared by the exporting producer were adjusted to reflect its audited financial statements.

(27) Following disclosure of the essential facts and considerations on the basis of which it was intended to impose definitive measures, the cooperating Indian exporting producer argued that, in the absence of representative domestic sales, its own SG and A and profit margin on domestic sales could not be used for the construction of normal value and that the profit margin was not reasonable in comparison to the profit margin, used for the injury elimination level calculation, used in previous investigations and actually attained on export sales.

(28) As regards SG and A, the argument put forward by the Indian exporting producer was not supported by evidence that the company's own SG and A would have been significantly different had the domestic sales been more than 5 % of exports. Accordingly, this claim was rejected.

(29) As regards profit, the situation was reviewed in light of new data obtained for the Indian domestic market. Based on this new data, it was determined that a reasonable profit margin, not exceeding the profit normally realised by other exporters or producers on sales of the same general category of products in the domestic market of the country of origin, India, would not exceed 5 %. The calculation was accordingly revised on this basis.

(b) *Export price*

(30) All export sales to the Community were made to independent importers in the Community and the export price was established pursuant to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.

(c) *Comparison*

(31) 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.

(32) Sales to the Community were made through a related company in Hong Kong. This company carried out the functions of a trader and an adjustment was made to the export price from this company in Hong Kong by deducting a commission from the export price to take account of the functions performed by it.

(33) Allowances for differences in transport, insurance, packing and credit costs have also been made where applicable and justified.

(d) *Dumping margin*

(34) As provided by Article 2(11) of the basic Regulation, the weighted average normal value of each model of the product concerned exported to the Community was compared to the weighted average export price at ex-factory level for the same model and at the same level of trade.

(35) The comparison showed that no dumping existed for exports of RBM made by the cooperating exporting producer during the IP. The definitive dumping margin expressed as a percentage of the CIF import price at the Community frontier duty unpaid is as follows:

— ToCheungLee Stationery Mfg Co. Pvt. Ltd: 0,0 %.

(36) Since the cooperating exporting producer accounted for all Indian exports to the Community of the product concerned, it was decided to set the residual dumping margin at the level of the dumping margin found for this cooperating exporting producer, i.e. 0,0 %.

2. **Indonesia**

(37) The sole known exporting producer in Indonesia and its related importer did not reply to the questionnaire. In accordance with Article 18 of the basic Regulation, this company was duly informed that should it not cooperate findings for it would be based on the facts available. Despite this, the company still did not cooperate with the investigation. In accordance with Article 16(1) of the basic Regulation no verification visit was carried out at the premises of this exporting producer.

(a) *Normal value and export price*

(38) Using facts available and in the absence of any other reliable information available for the country, it was considered appropriate to base the determination on the information submitted in the complaint. In accordance with Article 18(5) of the basic Regulation; this information was checked, where practicable, by reference to information from other independent sources.

(39) Normal value was constructed for five different types of RBMs in Indonesia on the basis of the cost of manufacturing plus a reasonable amount for SG and A costs and for profit.

(40) The export price was determined on the basis of the price to the first unrelated buyer in the Community for each of the five types. Adjustments for SG and A costs and a reasonable profit were made based on information contained in the complaint.

(41) The sole known exporting producer in Indonesia argued that the normal value established on the basis of the complaint was not representative of their true normal value and furthermore, that under Article 18(5) the Commission is required to check the information in the complaint against independent sources including published price lists, official statistics or other independent official information.

(42) As mentioned above, this exporting producer did not provide any data for the establishment of normal value. It was attempted, as much as possible, to find alternative sources of information and to cross-check the complaint data through internet searches, examination of data from an independent importer and analysis of data from Eurostat. In this respect, the complaint included five specific models with a diverse range of prices for normal value and compared those prices with the equivalent export prices for the same models. A comparison of each individual normal value or a simple average of the normal values from the complaint with the weighted average export price from Eurostat would not have provided a meaningful basis for a finding. Consequently, no alternative data was obtained with regard to normal value or export price which was considered more reliable than that in the complaint.

(b) *Comparison*

(43) Adjustments for transport and distribution costs were made where applicable in order to allow a fair comparison. The adjustments were equally based on information contained in the complaint which was verified.

(c) *Dumping margin*

(44) As provided by Article 2(11) of the basic Regulation, the normal values of each type considered, of the product concerned exported to the Community, were compared to the export prices at ex-factory level for each comparable type.

(45) The comparison showed the existence of dumping in respect of Indonesia. The dumping margin expressed as a percentage of the CIF import price at the Community frontier duty unpaid for all Indonesian exporting producers is as follows:

(46) All exporters: 144,0 %.

D. **INJURY**

1. **Preliminary remark**

(47) Given that only one Indian exporting producer cooperated in the investigation and that the Community industry comprises only one company, specific data relating to these companies have been indexed or put in the form of a range in order to preserve the confidentiality of the data submitted in accordance with Article 19 of the basic Regulation.

2. **Community production**

(48) It was established that, in addition to the two complainant Community producers' output, production was also taking place in Italy and Spain. Although the Italian company involved did not supply complete data to the Commission, the information received confirmed that, during the IP, it represented a share of around 10 % of total Community production. As regards the Spanish company, which did not supply complete data to the Commission, it was found that in 2001 it produced negligible volumes of the product concerned, while it imported a major portion of its sales from one of the countries concerned. It was concluded therefore that it should be considered as an importer rather than a producer.

(49) It was also found that a company located in the United Kingdom had formerly been involved in the production of a certain type of RBMs. This company confirmed in writing that its production of the product concerned ceased some years ago. No other producers in the Community are known.

(50) Based on the above, the production of the complainants and the other Community producer located in Italy constitute the total Community production within the meaning of Article 4(1) of the basic Regulation.

3. **Definition of the Community industry**

(a) *Community industry*

(51) Of the two complainant producers one did not reply to the questionnaire (Krause) and was considered to be non cooperating. This producer, even though supporting the complaint, was therefore not regarded as being part of the Community industry. Regarding the other producer (Koloman), it was found that this company not only produced the like product in the Community during the IP, but also produced parts of it in Hungary. In addition to its Community production, Koloman traded the Hungarian products in the Community and also used parts produced in Hungary for its Community production. Moreover, part of the production of the cooperating Community producer was relocated at the beginning of the year 2000 by means of transfer of certain machinery from Austria to Hungary. However, despite the foregoing, the core activity of this company remained in the Community i.e. head office, warehousing, sales office, production of a significant amount of the product range, as well as significant technical and marketing know-how. The imported sales completed the product range of the like product and did not therefore affect the Koloman's status as Community producer. As to the production of parts in Hungary and their subsequent incorporation into the finished product, the investigation established that these incorporated parts represented only a minor proportion of the cost of production of the finished products and thus, of the added value. Consequently, the status of the producer as Community producer is not affected by these imports.

(52) The investigation confirmed that the sole cooperating Community producer represented more than 25 % of the Community production of RBMs, thus fulfilling the requirements of Article 5(4) of the basic Regulation. It was therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the same Regulation and will be hereinafter referred to as 'the Community industry'.

(b) *Events occurring after the investigation period*

(53) In November 2001, i.e. after the end of the IP, the cooperating Community producer Koloman went into receivership and as a result of a liquidation procedure, was taken over by an Austrian company, whose parent company, located in the United Kingdom, also acquired the Hungarian affiliate of Koloman.

(54) The acquirers confirmed to the Commission their ongoing support of the complaint.

(c) *Community consumption*

(55) The apparent Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, the sales of the other Community producers on the Community market as reported in the complaint, duly adjusted as concerns the IP, information provided by the cooperating exporting producer and Eurostat import data. Account was taken of the fact that CN code 8305 10 00 also covers products not included in the scope of this proceeding. However, with regard to Indonesia, given the lack of cooperation of Indonesian exporters, best facts available were used, i.e. Eurostat data. In this respect, based on the complaint as best evidence available, all imports under the abovementioned CN code were considered to constitute the product concerned. The non cooperating Indonesian exporter claimed that its exports to the Community market were around 15 % lower than the import volumes used. However, this claim could not be verified and the difference was such that it could be explained by the ratio used to convert Eurostat statistics, which are in tonnes, to units. On this basis, Community consumption increased by 5 % between 1998 and the IP. In more detail, it remained relatively stable between 1998 and 1999 and then steadily increased until the end of the IP when it was found to be around 348 million units.

4. **Imports from the country concerned**

(56) It is recalled that the proceeding against India is terminated. Therefore, only imports from Indonesia are being analysed as imports from the remaining country concerned.

(a) *Volume of dumped imports*

(57) Even if import volume originating in Indonesia decreased between 1998 and 2000 and then slightly rose again between 2000 and the IP, it should be noted that while imports from the country concerned only started in 1997, they were already significant in 1998 and were at a level of 32 million pieces in the IP.

(b) *Market share of dumped imports*

(58) The market shares held by Indonesian imports were found to be between 8 % and 13 % having decreased by around 2 percentage points since 1998.

(c) *Prices of dumped imports*

(i) Price evolution

(59) The weighted average import prices of imports originating in Indonesia decreased by 5 % between 1998 and the IP, i.e. from ECU 105 per thousand units to EUR 99 per thousand units. The decrease was particularly marked between 1998 and 1999 when prices fell by 3 % and between 2000 and the IP when they fell by 2 %.

(ii) Undercutting

(60) Given the lack of cooperation from Indonesian exporters, the price comparison was made on the basis of Eurostat data duly adjusted for customs duties and post importation costs and compared, at the same level of trade, to Community producers' ex-works prices.

(61) On that basis, the price undercutting was reviewed and amended when necessary on the basis of information provided during the additional verification visits. Imports from Indonesia were found to undercut Community industry prices between 30 % and 40 %. It should also be noted that there was price suppression since the Community industry was not profitable.

5. **Situation of the Community industry**

(a) *Production*

(62) The Community industry's production followed a downward trend over the period, decreasing by 25 % between 1998 and the IP. A significant decrease took place between 1998 and 1999 (– 15 %). A further significant decrease occurred also between 1999 and 2000 and subsequently production volume remained stable until the end of the IP.

(b) *Capacity and capacity utilisation rates*

(63) The production capacity followed the same trend as the production and decreased by 26 % between 1998 and the IP.

(64) On this basis, the capacity utilisation rate remained stable over the period considered.

(c) *Stocks*

(65) The Community industry's end-of-year stocks decreased by 12 % between 1998 and the IP.

(d) *Sales in the Community*

(66) Despite an increase in Community consumption, the sales volume of the Community industry fell significantly between 1998 and the IP, by 25 %. A decrease occurred between 1998 and 1999 (– 10 %), and an even more pronounced one between 1999 and 2000, (– 15 %).

(e) *Market share*

(67) The market share of the Community industry decreased by more than 4 percentage points between 1998 and the IP, thus following the same trend as the volume sold.

(f) *Prices*

(68) The average net sales price of the Community industry decreased by 4 % between 1998 and the IP. Such a decrease was particularly marked between 1998 and 1999 (6 %), i.e. when the import prices of the country concerned significantly decreased, as explained in recital 59.

(g) *Profitability*

(69) The weighted average profitability of the Community industry deteriorated by 10 percentage points between 1998 and the IP became a loss as from 2000. As a result of this unfavourable development and as mentioned in recital 53, the Community industry had to go into receivership.

(h) *Cash flow and ability to raise capital*

(70) The development of the cash flow generated by the Community industry in relation to sales of RBMs is very similar to that of the profitability, i.e. a significant decrease between 1998 and the IP.

(71) The investigation established that the Community industry's ability to raise capital became more difficult at this time owing to its financial situation and in particular to its deteriorated profitability.

(i) *Employment, wages, and productivity*

(72) Employment of the Community industry related to the production of RBMs decreased by 30 % between 1998 and the IP. The total amount of wages as a whole followed a similar trend, falling by 27 % during the same period, thus leading to an increase of the average wage by 5 % between 1998 and the IP. Productivity of the Community industry's workforce, measured as production volume per person employed increased by 8 % between 1998 and the IP.

(j) *Investment and return on investment*

(73) The level of investments decreased by 39 % between 1998 and the IP. The decrease was particularly marked between 1999 and 2000. The investigation showed that most of this capital expenditure was related to replacing or maintaining existing facilities.

(74) The return on investment, expressed as the relation between the net profits of the Community industry and the net book value of its investments, followed very closely the profitability trend and became negative in 2000.

(k) *Growth*

(75) While Community consumption increased by 5 % between 1998 and the IP, the sales volume of the Community industry decreased by around 25 % and the volume of imports concerned remained significant. The Community industry was therefore unable to benefit from the slight increase of the demand on the Community market.

(l) *Magnitude of the dumping margin*

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

(m) *Recovery from the effect of past dumping*

(77) The Community industry is still in the process of recovering from the effect of the past dumped imports of RBMs originating in the PRC and Malaysia. As mentioned, Regulation (EC) No 119/97 imposing definitive measures was amended by Council Regulation (EC) No 2100/2000 to take account of the findings of an anti-absorption procedure against the PRC. Moreover, while measures against Malaysia lapsed in January 2002, a review has been opened with respect to Chinese imports of RBMs.

6. **Relocation of part of the production**

(78) In order to verify that the deterioration of situation of the Community industry was not due to a change in the pattern of the Community production, it was also examined whether the relocation of part of the production mentioned in recital 51 (by means of transfer of machinery from Austria to Hungary), which took place at the beginning of the year 2000, had an effect on the situation of the Community industry. It happened that while the decreasing trend of certain injury indicators was aggravated by this relocation (i.e. production, production capacity and sales volume), the trend of the capacity utilisation and of the average sales prices improved, leading to a limitation of losses. For instance, it was assessed that around 60 % of the decrease in the production is linked to the relocation, and around 80 % of the sales volume decrease, while without this relocation, the price decrease would have been three times higher and the profitability would have lost 7 additional percentage points. Given the above, it was concluded that the deterioration of the situation of the Community industry was not due to a change in the pattern of the Community production.

(79) It has been argued that the core activity of the Community industry is no longer in the Community since the relocation to Hungary allegedly entailed a 60 % decline in its Community production, and a 80 % decline in its Community produced sales.

(80) As already explained in recital 78, the relocation did not entail such a decrease in the Community industry's production, but only a decrease of 15 % of its Community production and 20 % of its Community produced sales. Therefore, the conclusion stated in recital 51 regarding the core activity of the Community industry is confirmed.

7. **Conclusion on injury**

(81) A deterioration of the situation of the Community industry (after having taken account of the relocation as outlined in recital 78) has been found by reference to the period considered.

(82) While the anti-dumping measures on imports of RBMs originating in the PRC and Malaysia led to a substantial decrease of imports originating in these countries after 1998, the Community industry could not fully benefit from this development. As from the year 1998, most injury indicators, i.e. production, sales volumes, prices, market share, profitability, return on investment, cash flow and employment developed negatively. In particular the decrease in the sales prices of the Community industry had a negative effect on its profitability.

(83) Moreover, while sales of the Community industry decreased between 1998 and the IP, imports originating in Indonesia were substantial. The investigation has shown that during the IP the Indonesian imports were made at prices undercutting those of the Community industry between 30 % and 40 %. In addition, there was price suppression.

(84) The situation of the Community industry is thus found to have deteriorated to such an extent that it is concluded that the Community industry has suffered material injury.

(85) It is recalled that after the IP, the poor financial situation led the Community industry to go into receivership.

E. CAUSATION

1. Introduction

(86) In accordance with Article 3(6) and (7) of the basic Regulation, it was examined whether the imports originating in Indonesia in view of their volume and their effect on prices in RBM Community market, have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports from Indonesia.

2. Effect of the dumped imports

(87) The volume of the dumped imports decreased by 14 % between 1998 and the IP, and its corresponding share of the Community market by 2 percentage points during the same period. However, they remained significant and always held a market share which ranged between 8 % and 13 % between 1998 and the IP. These imports also significantly undercut the prices of the Community industry. The market share of the Community industry went down by more than 4 percentage points. At the same time, average prices of the Community decreased by 4 %. The actual decline in prices was in fact even higher as outlined in recital 78.

(88) During the same period, between 1998 and the IP, the situation of the Community industry deteriorated as illustrated by the decrease of sales volume and market share, the price decrease and the substantial deterioration of its profitability, which turned to losses. Thus, the Community industry could not significantly benefit from the imposition of the abovementioned measures against the PRC and Malaysia.

(89) It has been argued by an Indonesian exporter that Indonesian exports could not have caused injury since they decreased between 1999 and 2000 and held a *de minimis* market share. The same company alleged that imports from Indonesia could not have any real impact on the Community industry since the Community production was five or six times higher than the volume of Indonesian imports.

(90) It is however recalled that although Indonesian imports decreased between 1998 and 2000, they slightly increased between 2000 and the IP without reaching the level of 1998. In addition, as already explained in recital 58, between 1998 and the IP, Indonesian imports held a market share situated between 8 % and 13 % which is substantial and clearly above *de minimis*. Finally, it is also recalled that the Community industry is clearly defined in recital 52 and that its level of production is far below that which has been alleged by the Indonesian company.

(91) It can therefore be concluded that the dumped imports originating in Indonesia have undermined the effects of the anti-dumping measures adopted in 1997 against the PRC and Malaysia and amended in 2000 as regards the PRC, and that they have been a substantive cause of the negative developments as summarised in the preceding paragraphs.

3. Effect of other factors

(a) *Imports from other third countries*

(92) Consideration was given to whether factors, other than the dumped imports from Indonesia, might have led to or contributed to the injury suffered by the Community industry and especially whether imports from countries other than Indonesia may have contributed to this situation.

(93) The import volume from other third countries increased by 17 % between 1998 and the IP while their market share increased by more than 5 percentage points during the same period. This increase is to a large extent due to the increase in imports originating in India, Hungary and Thailand, whereas in the meantime, imports originating in the PRC and Malaysia significantly decreased owing to the anti-dumping measures imposed in 1997.

(94) The average unit price of imports from third countries decreased by 16 % between 1998 and the IP. Prices from almost all third countries decreased during this period except prices of imports from the PRC, which due to the effect of the anti-dumping measures increased significantly although reaching the same level as the Hungarian prices only in the IP.

(i) India

(95) It was firstly examined whether imports originating in India might have contributed to the injury suffered by the Community industry. However, although imports from India increased significantly between 1998 and the IP, they were found to be undercut by the imports from Indonesia whose prices were found to be in a range of 2 % to 30 % lower than prices of Indian imports between 1998 and the IP. In addition, it should be noted that when Indian imports started in 1998, prices of Indian imports were found to be more than 40 % higher than prices of Indonesian imports for a comparable volume of RBMs. Since then, Indian import prices decreased steadily but have always been above Indonesian prices and were still found to be more than 5 % higher than Indonesian prices during the IP. It is therefore concluded that, although Indian imports have had a negative impact on the situation of the Community industry, the negative impact of the dumped imports from Indonesia taken in isolation was nonetheless substantial. Indeed, Indonesia was an influential and important player in the Community. Their volume of exports to the Community was lower than that of Indian exports but still substantial. Indonesian exports undercut the Community industry's prices even more than Indian exports. It is also noted that the aforementioned analysis was seriously impeded by the fact that Indonesia did not cooperate and, therefore, no information was available in terms of product types on market segments represented by exports from Indonesia.

(ii) The People's Republic of China

(96) Consideration was also given to whether the absorption of the anti-dumping measures imposed in 1997 on imports from the PRC might have led to or contributed to the injury suffered by the Community industry. In this respect, it is noteworthy that although the absorption of the duty on imports from the PRC have undermined the effect of the measures imposed in 1997 with regard to the sales prices, those measures still led to a significant reduction of the volumes imported from the PRC as soon as 1998. In addition, it should be noted that while imports from Indonesia only began in 1997, they had already reached around the same level as the imports from the PRC by 1998. Since then, imports from the PRC dramatically decreased while Indonesian imports decreased by a much lesser extent until the IP when these latter imports were still more than three times higher than imports from the PRC. Therefore, given that the import volumes from the PRC were far below the import volumes from Indonesia during the IP, it was concluded that these imports did not have as serious an impact on the Community industry as compared to the effect of the dumped imports from Indonesia.

(iii) Hungary

(97) In order to determine whether imports from Hungary, in isolation, caused injury to the Community industry, the level of imports and prices on the Community market were examined.

(98) The analysis as regards Hungarian imports between 1998 and the IP was based on data provided in the questionnaire reply of the Community producer, whose plant in Hungary represents the sole Hungarian producer.

(99) During the period considered, imports of RBMs originating in Hungary increased in volume. As to their prices charged by the Community industry on the Community market for its products imported from Hungary, while these decreased during the period considered, they remained the highest amongst the import prices from the other third countries and were undercut by imports from Indonesia.

(100) The Hungarian production of RBMs of the Community industry was analysed and compared to the Austrian production. It was found that there was very little overlap between the models produced in Austria and Hungary.

(101) Given this small percentage of models manufactured both in Austria and in Hungary, it was concluded that the Hungarian products completed the product range of the Community industry enabling it to offer a wider choice of models to customers and that they did not negatively affect the situation of the Community industry.

(102) On the basis of the above, it was concluded that imports from Hungary did not materially contribute to deteriorate the situation of the Community industry.

(iv) Thailand

(103) Given that, as already mentioned in Council Regulation (EC) No 2100/2000, 'some of the goods of Chinese origin were declared to national customs authorities as being of Thai origin and thus avoided payment of the anti-dumping duties normally due', it was also considered appropriate to evaluate the impact of imports consigned from Thailand.

(104) In this respect, imports from Thailand significantly increased during the period considered since they started in 1998 with around one million units and rose to more than 23 million units in the IP. In addition, it was established on the basis of Eurostat data, that sales' prices of Thai imports were generally below the prices of Indonesian imports.

(105) However, although Thai prices were found to be around 20 % lower than the prices of the Indonesian imports, it is recalled these latter are more than one third higher than import volumes from Thailand. Therefore, given that the volumes imported from Thailand are still substantially below the volumes imported from Indonesia, it was concluded that these imports could not have had a significant impact as compared to the effect of the dumped imports from Indonesia.

(106) The analysis in respect of Thailand has been questioned by an Indonesian exporter, who did not cooperate. In this respect, it argued that the level of imports from Indonesia is comparably lower and that prices are higher when compared to Thai imports. It is however recalled that although Thai prices were lower than the prices of the imports from Indonesia, the volumes imported from Indonesia were more than 30 % higher than imports from Thailand. Therefore, the conclusion drawn in recital 105 is confirmed.

(b) *Further factors*

(107) It was also examined whether factors other than the abovementioned might have contributed to the injury suffered by the Community industry.

(108) It has been contended by the cooperating importers that RBM business is extremely price sensitive and therefore producers must sell large volumes to be competitive. It was also argued by the same parties that the Community industry relies only on the Community market, instead of the world market, which would allow it to be more cost efficient. On this matter, it is recalled that the ratio of sales of the Community industry inside and outside of the Community did not significantly change between 1998 and the IP. Nevertheless, even though the Community industry was strongly oriented towards the Community market, its export sales permitted the Community industry to be profitable in 1998 at a time when imports from Indonesia were significant.

(109) One user argued that the injury was caused by the strong competition in the office supplies industry. This competition allegedly led the users/distributors of the product concerned to exert a price pressure on the Community industry thus leading to a price decrease. In this respect, it is underlined that the dumped imports must have significantly worsened the price pressure exerted by the users in the Community, thus causing injury to the Community industry.

(110) Moreover, it was examined whether the price depression could be attributable to the normal course of the RBM business, since prices from almost all sources of supply decreased between 1998 and the IP.

(111) In this respect, it is recalled that the general price decrease should be seen in the light of continued unfair practices, firstly from the PRC and Malaysia, secondly from Indonesia, which have influenced the Community market.

(112) In addition, as mentioned in recital 108, the RBM market is extremely price sensitive. Therefore, given that prices of the Indonesian imports were found to be dumped and lower than the average unit price of all other imports of RBMs between 1998 and the IP, it is to be concluded that imports from Indonesia, which held between 8 % and 13 % of the Community market during the IP, have had a price depressive impact on this market.

(113) Finally, it was analysed if the price behaviour of Krause, the non-cooperating Community producer, could have contributed to the injury suffered by the Community industry. The additional examination of data referring to Krause showed that this Community producer itself suffered a deterioration of its situation during the period considered, particularly as concerns sales price and profitability. It appears therefore that it has not contributed to the injury suffered by the Community industry, and that, it has been equally negatively affected by the imports from Indonesia, being forced to decrease its prices, like the Community industry.

(114) For all the reasons explained above, it was concluded that the price depression on the Community market should not be seen as representing a normal development of trade, but rather as the consequence of unfair commercial practices of Indonesia.

(115) It was contended by the Indonesian authorities that the Indonesian exports were limited to supplying an Italian producer of ring binders to complement its product range.

(116) However, this assertion was found to be in contradiction with the statement made by the non-cooperating Indonesian exporter who argued that the sole market where the Indonesian producer has significant market share is the United Kingdom. This is also confirmed by Eurostat.

(117) This latter producer alleged that these Indonesian exports could not cause injury since its main market is the United Kingdom where the Community industry does not have any significant activities. However, in addition to the fact that this assumption is in contradiction with the allegation made by the Indonesian authorities, it is also recalled that the injury analysis is made on a Community basis and not on a regional basis.

4. **Conclusion on causation**

(118) In view of the above, it is concluded that the material injury suffered by the Community industry, which is characterised by a negative development of production, sales volumes, prices, market share, profitability, return on investment, cash flow and employment duly adjusted to take account of the relocation to Hungary, was caused by the dumped imports concerned. Indeed, the combined effect on the Community industry's situation of imports from India, Thailand and the PRC as well as the partial relocation of Community production was only limited.

(119) It was also contended by an Indonesian exporter who did not cooperate, that there is a contradiction between the conclusion stated in recital 118 and the fact that there is sufficient evidence to open an expiry review on the PRC.

(120) In this respect, it should be recalled that the scope of an expiry review is to analyse the situation of the Community market in the perspective of the likelihood of continuation or recurrence of dumping and injury should the measures in force be removed. Consequently, the fact that the deterioration of the Community industry has been attributed during this investigation period to Indonesia, does not affect the analysis of the future behaviour in the Community market of Chinese exporters and its likely effect on the situation of the Community industry. It is also recalled that the Chinese market share was at a very low level during the last two years of the period considered.

(121) Given the analysis, which has properly distinguished and separated the effects of all the known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby concluded that these other factors as such do not reverse the fact that the material injury found must be attributed to the dumped imports.

F. **COMMUNITY INTEREST**

1. **Preliminary remark**

(122) It was examined whether, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

(123) In order to assess the likely impact of the imposition or non-imposition of measures, information was requested from all interested parties. Questionnaires were sent to the two complainant Community producers, two other companies known as producers in the Community, nine unrelated importers, 49 users and one users' association. One complainant Community producer (Koloman), two unrelated importers as well as one user related to those importers replied to the questionnaire. Another user made a submission without replying to the questionnaire.

(124) These replies and submissions formed the basis for the Community interest analysis.

2. **Interest of the Community industry**

(a) *Preliminary remark*

(125) Several producers of RBMs in the Community stopped manufacturing the product concerned within the last few years. As to the companies left, the investigation established that, as mentioned in recital 49, a company located in the United Kingdom also stopped its production some years ago. As to the company located in Italy, it was found that it did not represent a significant proportion of the production of RBMs in the Community and imported a significant part of its sales. As to the Spanish company it found that it should be considered as an importer rather than a producer since it produced negligible volumes of the product concerned, while imported more than 90 % of its sales from Indonesia. It is concluded, therefore, that the two complainants are the only Community producers of RBMs with a significant production left.

(126) It should be recalled that the two complainant Community producers were heavily injured already in the past by imports of RBMs originating in the PRC and Malaysia which, as described in Regulation (EC) No 119/97, led, *inter alia*, to a 28 % decrease of their workforce between 1992 and October 1995. As shown under recital 72, a further reduction of the Community industry's workforce of 30 % occurred between 1998 and the IP.

(127) In view of the material injury suffered by the Community industry, it is concluded that, should the Community industry not recover from the unfair dumping practices, it is likely that the production in the Community will cease completely and that the users will be significantly dependant on imports.

(b) *Financial situation of the Community industry*

(128) The financial situation of the Community industry developed so negatively during the period considered, that after the IP the Community industry went into receivership, as mentioned in recital 53. It should be noted that the Community industry's loss-making situation resulted from its difficulty to compete with the low-priced dumped imports. However, the fact that the cooperating Community producer has been taken over, shows that the production of RBMs in the Community is in the process of being restructured and that a strong effort is being made to keep this industry viable and to render it profitable.

(c) *Possible effects of the imposition/non-imposition of measures on the Community industry*

(129) Following the imposition of measures, the restoration of fair market conditions would enable the Community industry to recover lost market share and, by increasing capacity utilisation, to decrease unit production costs and to increase profitability. Furthermore, the measures are expected to have a positive effect on the level of the Community industry's prices. In conclusion, it is expected that the increase in production and sales volume, on the one hand, and the further decrease in unit costs, on the other hand, eventually combined with a moderate price increase, will allow the Community industry to improve its financial situation.

(130) To the contrary, should anti-dumping measures not be imposed, it is likely that the Community industry would have to further lower its prices and/or continue to lose market share. In both scenarios, the financial situation of the Community industry is likely to worsen. As a further consequence, it is likely that the Community production would, within a short period of time, definitively cease.

(131) Moreover, given that the Community industry does not only produce the product concerned but also other products accounting for about one third of its turnover, it is very likely that the closure of production lines manufacturing RBMs would affect the viability of the whole factory and lead to closure of all production lines with a consequent wider negative effect on employment and investment.

(d) *Possible relocation of the Community industry production*

(132) It was examined whether any measures could be considered as not being in the interest of the Community given the relocation of part of the Community industry production to a third country. The possibility of any further relocation was also examined.

(133) First of all, as explained in recital 78, it is recalled that the relocation, which took place in 2000, permitted the Community industry to limit its losses. In this respect, it was a strategic decision taken to thwart the effect of the dumped practices. In addition, it is likely that this relocation, by improving the financial situation of the Community industry, had the indirect effect to make it more attractive for the new investor that recently took it over.

(134) As to the risk of any additional relocation, the Commission received satisfactory confirmation that such relocation is not foreseen by the Community industry. In addition, there is no reason to consider that such a move is likely since the restructuring effort combined with the imposition of anti-dumping duty should enable the Community industry to enjoy a profitable situation once again.

3. **Interest of importers**

(135) Certain importers, who, however, did not purchase RBMs from Indonesia, submitted that switching sources of supply could involve additional costs or transitional problems. More particularly, the importers underlined that owing to the anti-dumping measures imposed in 1997, they had already been forced to change their source of supply.

(136) However, it is recalled that the purpose of anti-dumping measures is not to force importers or users to change their source of supply but to restore fair competition on the Community market. In addition, these importers also recognised that a number of other third countries could easily produce RBMs and they foresaw no difficulties in sourcing from a country not covered by anti-dumping measures. Moreover, they could also trade Community producers' products. Therefore any problems resulting from a possible switching of supply are likely to be temporary and unlikely to offset the positive effect on the Community industry of anti-dumping measures against injurious dumping.

4. **Interest of users and consumers**

(a) *Users*

(137) It has been alleged both by the cooperating unrelated importers and user (ring binder producer) that the imposition of anti-dumping measures would have a serious adverse impact on the financial situation of the users.

(138) In this respect, the likely effect on users' cost of production of the anti-dumping measures imposed on Indonesia was assessed. In this respect an estimation was undertaken of what would be the impact of the measures proposed against Indonesia on a user having as sole source of supply imports from Indonesia (worst case scenario). On this basis the impact of the measures proposed against Indonesia would be evaluated as an increase in the cost of production of around 4 %. As already explained, this is an entirely hypothetical scenario since no user cooperated which only sourced the product concerned from Indonesia.

(139) In view of the above findings, it was concluded that the impact of anti-dumping duties on users would be negligible. In more general terms, given the lack of cooperation from other users, it is likely that the cost impact on all other users would be similarly negligible.

(140) The cooperating user claimed that, as happened in the past three years, when it had to relocate part of its production outside the Community and to close three plants following the imposition of anti-dumping measures on RBMs originating in the PRC and Malaysia, anti-dumping measures on imports originating in Indonesia, by increasing the prices of one of the items of its cost of production, could entail a further move of its ring binder production outside of the Community and/or closure of the relevant plants. This would risk to affect its whole activity, i.e. also the manufacturing of other products, whose plants would be delocalised as well, with significant job losses in the Community.

(141) As a general remark, it should be noted that the risk of relocation of the downstream industry owing to the anti-dumping measures is tempered by the fact that part of the binder market is business to business oriented and that it is fundamental that users are close to their customers, have a flexible production ready to meet the demand and a sound knowledge of the market. The investigation showed in fact that the main criteria customers of ring binders producers take into account in their choice are price, quality and service, as well as speedy delivery. In addition, as already explained in recitals 137 to 138, the financial impact of the anti-dumping measures on the downstream industry was found negligible. Finally, the fact that only one binder producer fully cooperated with the investigation, tends to confirm the conclusion that anti-dumping measures will not have a decisive impact on users.

(142) In addition, certain interested parties pointed out that the relocation of several users that have occurred in the past years was due to the high cost of production in the Community. This confirms that any relocation should be seen in the wider context of the overall cost structure in which, as already explained, anti-dumping measures represent a negligible portion.

(143) As regards the specific situation of the cooperating user, the investigation showed that, although this user relocated part of its production outside the Community between 1998 and the IP, i.e. after the imposition of anti-dumping measures against the PRC and Malaysia, this user in fact changed its source of supply after the imposition of anti-dumping measures against the PRC and Malaysia, purchasing RBMs from the cooperating importers which in turn, as from 1998, started to import from India to the detriment of the PRC. It seems therefore difficult to establish a link between the move of the ring binder production of that user outside the Community and the imposition of anti-dumping duties on imports from the PRC and Malaysia. Moreover, as already shown in recital 139 anti-dumping duties have a negligible impact on the users' cost of production.

(144) It was found that the relocation described above should rather be seen as the consequence of the external-oriented strategy of this user which acquired a number of companies during the last years. This strategy eventually led to a consolidation and a restructuring of the different entities of the group, certain amongst which have been closed. The relocation of some plants outside the Community should be seen as part of this strategy, which aims to strengthen the position of that user over the Community market and to develop its presence in Eastern Europe.

(145) Before the above background, and in view of the negligible impact the level of the duties imposed is likely to have on the user concerned, it appears unlikely that the anti-dumping measures against Indonesia would, as such, entail a further move of its ring binder production outside of the Community.

(146) As regards the closure of plants and the risk of further closures linked to the imposition of anti-dumping measures against Indonesia, it was found that the cooperating user closed three plants in the past three years, when measures on the PRC and Malaysia were in force. In view of the negligible impact the measures would have on the cost of production and on the financial situation of the user in question, as explained under recital 144, it is unlikely that the measures on the PRC and Malaysia led, on their own, to the closure of these plants and that the anti-dumping measures on imports from Indonesia would cause a closure of other plants.

(b) *Consumers*

(147) It should be mentioned that the product concerned is not sold at retail level and that no consumers' association made themselves known and participated in this investigation.

(148) The cooperating user also argued that anti-dumping measures would increase the price paid by the final customer of ring binders, i.e. consumers. However, in view of the above explanation regarding the impact on ring binder producers, any increase in the final sales price to consumers of ring binders is likely not to be significant.

(149) In addition, the investigation showed that the cooperating user sells its products mainly to distributors. In the worst scenario, should the cost increase that the users might suffer be passed on in full until the final consumer, this would entail a price increase of a maximum of 4 % for the final consumer. However, this is unlikely to occur since general experience shows that each step in the distribution chain is likely to support part of its costs increase in order to stay competitive on its market.

(150) On the basis of the above, the impact on users of RBMs and consumers of ring binders was considered not to constitute a compelling reason against the imposition of anti-dumping measures, as the possible negative effect is unlikely to offset the positive effect on the Community industry of anti-dumping measures against injurious dumping.

(c) *Impact on competition*

(151) It was also examined whether the imposition of anti-dumping measures on imports from Indonesia could lead to a situation where the Community industry could benefit from a dominant position on the Community market, in particular in view of the anti-dumping measures imposed in 1997 on imports from the PRC and Malaysia and in view of the restructuring of the Community industry.

(152) First of all, it is recalled that the Community industry held, during the IP, a market share which only ranged between 10 % and 15 %. The two complainant Community producers taken together would have held, during the IP, a market share ranging between 32 % and 37 %. Even in the event of including Koloman's imports in the market share held by both complainants together, this market share would have ranged from 47 % to 52 % of the Community market in the IP. In addition, it is recalled that, although the Commission initiated a review of the measures against the PRC, this review does not concern imports from Malaysia. Also RBMs can still be imported from India. Therefore it is considered very unlikely that the imposition of anti-dumping measures against Indonesia would lead to any negative effect on competition of the Community industry on the Community market. Finally, it is recalled that the imposition of anti-dumping measures on imports from the PRC and Malaysia likewise did not lead to any kind of dominance for the Community industry, even if no other sources of supply but these two countries existed at the time.

(153) On the other hand, as already explained in recital 130, it is likely that without measures to correct the effects of dumped imports, Community production will, within a short period of time, no longer be viable and therefore cease. It would certainly not be in the interest of the users that the Community industry cease its production of the product concerned. Indeed, on the one hand, the sole user that cooperated purchased between 20 % and 50 % of its RBMs from the Community industry between 1998 and the IP. On the other hand, should the Community industry definitely cease the production of RBMs, users would be significantly dependent on imports.

(154) Should measures be imposed, several alternative sources of supply still exist. RBMs are being or can be purchased from the Community industry, the other Community producers, India and Hong Kong. In addition, imports from Malaysia are likely to recommence since measures against this country recently expired. Moreover, the investigation has shown that the imposition of anti-dumping measures on imports from the PRC and Malaysia did not entail any shortage of the product concerned. Finally, it is recalled that the impact of the measures on users was found to be negligible, and that the product concerned will therefore quite likely still be imported from Indonesia.

5. **Conclusion on Community interest**

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

G. **DEFINITIVE MEASURES**

1. **Injury elimination level**

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

(157) In accordance with Article 9(4) of the basic Regulation, the Commission examined what level of duty would be adequate to remove the injury to the Community industry caused by dumping. For that purpose, it was considered that a price level based on the Community producers' cost of production together with a reasonable profit margin should be calculated.

(158) Here, it was found that a profit margin of 5 % of turnover could be regarded as a reasonable minimum, taking into account the need for long-term investment and, more particularly, the profit margin which the Community industry could have been expected to obtain in the absence of injurious dumping.

(159) Given the lack of cooperation, it was considered that the injury elimination level should cover the difference between this calculated price and the CIF prices adjusted as explained in recital 60.

(160) The injury elimination level found was 42,30 % for imports from Indonesia.

2. **Definitive anti-dumping measures**

(161) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, it is considered that definitive anti-dumping duties should normally be imposed at the level of the injury margin for Indonesia.

(162) However, with regard to the parallel anti-subsidy proceeding, in accordance with Article 24(1) of Council Regulation (EC) No 2026/97 [1] (the basic anti-subsidy Regulation) and Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purposes of dealing with one and the same situation arising from dumping and from export subsidisation. In the present investigation, it was found that anti-dumping duties should be imposed on imports of the product concerned originating in Indonesia and therefore, it is necessary to determine whether, and to what extent, the subsidy and the dumping margins arise from the same situation.

(163) In the parallel anti-subsidy proceeding, with regard to Indonesia, countervailing duties corresponding to the amount of subsidies, which were found to be 10 %, were imposed in accordance with Article 15(1) of the basic anti-subsidy Regulation. Some of those investigated in Indonesia constituted export subsidies within the meaning of Article 3(4)(a) of the basic anti-subsidy Regulation. As such, these subsidies could only affect the export price of the Indonesian exporting producers, thus leading to increased margin of dumping. In other words, the dumping margin established for the Indonesian producers are partly due to the existence of export subsidies. However, it is noted that the injury margin was considerably lower than the dumping margin even if the latter was adjusted to take account of the export subsidy. In these circumstances it is not considered appropriate that both countervailing and anti-dumping duties could be imposed to the full extent of the relevant subsidy and dumping margins established. Therefore, the combined duty level should not exceed the injury margin. Given that a part of the injury margin amounting to 42,3 %, will be covered by the imposition of the countervailing duty which amounts to 10 %, the anti-dumping duty should not exceed the remaining injury margin of 32,3 %.

Company	Export subsidy margin	Total subsidy margin	Injury margin	Countervailing duty	Anti-dumping duty	Total duty rate
Indonesia: all companies	5 %	10 %	42,3 %	10 %	32,3 %	42,3 %

(164) It has been argued that Article 14(1) of the basic Regulation would have been violated since no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation. It is however recalled that as explained in recitals 162 and 163 the duties have been adjusted in conformity with Article 14(1) of the basic Regulation. The argument was therefore rejected.

(165) In order to meet the deadline set out in Article 6(9) of the basic Regulation, the present Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain ring binder mechanisms, falling within CN code ex 8305 10 00 (TARIC codes 8305 10 00*10 and 8305 10 00*20) and originating in Indonesia. For the purpose of this Regulation, ring binder mechanisms shall consist of two rectangular steel sheets or wires with at least four half rings made of steel wire fixed on it and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel-made trigger mechanism fixed to the ring binder mechanism.

[1] OJ L 288, 21.10.1997, p. 1.

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

Country	Definitive duty (%)
Indonesia	32,3

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

4. The proceeding concerning imports of certain ring binder mechanisms originating in India shall be terminated.

Article 2

This Regulation shall enter into force on the day 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 Luxembourg, 4 June 2002.

For the Council

The President

R. DE RATO Y FIGAREDO