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COUNCIL REGULATION (EC) No 151/2003

of 27 January 2003

imposing a definitive anti-dumping duty on imports of certain grain oriented electrical sheets originating in Russia

(OJ L 25, 30.1.2003, p. 7)

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►**M2**	Council Regulation (EC) No 989/2004 of 17 May 2004	L 182	1	19.5.2004

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imposing a definitive anti-dumping duty on imports of certain grain oriented electrical sheets originating in Russia

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ([1]) (the basic Regulation), and in particular Article 11(2) and (3) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Previous investigation and measures in force

(1) By Decision No 303/96/ECSC ([2]), the Commission imposed a definitive anti-dumping duty on imports into the Community of certain grain oriented electrical sheets (GOES) originating in Russia and falling within CN codes 7225 11 00 and 7226 11 10. The rate of the anti-dumping duty imposed was 40,1 %. An undertaking offered in connection with such imports was accepted.

(2) In view of the expiry of the Treaty establishing the European Coal and Steel Community on 23 July 2002, the Council, by Regulation (EC) No 963/2002 ([3]), decided that anti-dumping proceedings initiated pursuant to Commission Decision No 2277/96/ECSC ([4]) (basic Decision) and still in force on that date shall be continued and be governed by the provisions of the basic Regulation with effect from 24 July 2002. Likewise, any anti-dumping measures resulting from pending anti-dumping investigations shall be governed by the provisions of the basic Regulation from 24 July 2002.

2. Requests for reviews

(3) Following the publication of a notice of the impending expiry of the anti-dumping measures in force on imports of GOES originating in Russia ([5]), the Commission received a request to review the measures pursuant to Article 11(2) of the basic Decision.

(4) The request was lodged by the European Confederation of Iron and Steel Industries (Eurofer) (the applicant) on behalf of producers representing a major proportion of the Community production of the product concerned. The request was based on the grounds that the expiry of measures would be likely to result in a continuation and/or recurrence of dumping and injury to the Community industry.

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation pursuant to Article 11(2) of the basic Regulation ([6]).

([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 42, 20.2.1996, p. 7.
([3]) OJ L 149, 7.6.2002, p. 3. Regulation as last amended by Regulation (EC) No 1310/2002 (OJ L 192, 20.7.2002, p. 9).
([4]) OJ L 308, 29.11.1996, p. 11.
([5]) OJ C 216, 28.7.2000, p. 2.
([6]) OJ C 53, 20.2.2001, p. 13.

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(6) At the same time a decision to open an Article 11(3) investigation was taken by the Commission on its own initiative in order to examine the appropriateness of the form of the measures ([1]). During the course of the ongoing investigations, the Commission received requests for Market Economy Treatment (MET) pursuant to Article 11(3) of the basic Regulation by Viz Stal and Novolipetsk Iron and steel Corporation. These requests were made on the grounds that the exporting producers concerned would now fulfil these requirements and that their dumping margins had consequently decreased substantially. As a result of these requests for MET the Commission decided to initiate specific interim reviews in accordance with Article 11(3) of the basic Regulation, limited in scope to the investigation of dumping of these exporting producers. Therefore, it is considered appropriate to only decide on the results of the expiry review (which was initiated on 20 February 2001) at this stage. The interim review limited to the form of the measures on the other hand will be concluded together with the MET reviews, thereby taking into account the current economic circumstances of the exporters.

3. **Present investigation**

(a) *Procedure*

(7) The Commission officially advised the Community producers requesting the review, the exporting producers, the importers, the suppliers and the users known to be concerned, as well as the representatives of the exporting country, of the initiation, and gave interested parties the opportunity to make their views known in writing and to request a hearing within the time limits set out in the notice of initiation.

(b) *Interested parties and verification visits*

(8) The Commission sent questionnaires to the parties known to be concerned and to all known producers of the product concerned in Brazil, the Czech Republic, India, Japan, the Republic of Korea, Poland and the United States of America, these countries being considered as potential analogue countries in the present investigation. The Commission received replies from the four Community producers, requesting the review, the two exporting producers in Russia, one supplier and from 10 user companies in the Community. Additionally, two Community importers both related to one of the Russian exporting producers replied to the questionnaires. Finally, one producer of GOES in Brazil replied to the questionnaire.

(9) The Commission sought and verified all the information it deemed necessary for the purposes of the likely continuation or recurrence of dumping and injury and the determination of the Community interest. Verification visits were carried out at the premises of the following companies:

Community producers requesting the review:

— Acciai Speciali Terni SpA, Terni, Italy

— EBG Gesellschaft für elektromagnetische Werkstoffe mbH, Gelsenkirchen, Germany

— Orb Electrical Steels Limited, Newport, United Kingdom

— Ugo SA, Isbergues, France

Supplier:

— Thyssen Krupp Stahl AG, Duisburg, Germany

Users:

— Alstom T & D SA, Saint-Ouen, France

([1]) OJ C 53, 20.2.2001, p. 13.

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— Blum GmbH, Vaihingen, Germany

Exporting producers in Russia:

— Novolipetsk Iron and Steel Corporation (NLMK), Lipetsk

— VIZ STAL, Ekaterinburg

Other cooperating company, situated in a third country:

— Duferco Investment SA, Lugano, Switzerland (Import coordinator within Duferco Group)

Analogue country producer:

— ACESITA SA, Sao Paulo and Timoteo, Brazil.

(10) The following companies also cooperated with the investigation but were not visited:

Users:

— Alstom T & D SA, Le Petit Quevilly, France

— Brush Transformers Limited, Loughborough, United Kingdom

— Cogent Power Ltd, Bilston, United Kingdom

— France Transfo SA, Maizières-les-Metz, France

— Hawker Siddeley Power Transformers Limited, London, United Kingdom

— Société Nouvelle Transfix SA, Toulon, France

— South Wales Transformers Limited, Blackwood, United Kingdom

— Surahammars Bruks AB, Surahammar, Sweden.

(11) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the maintenance of the measures. They were also granted a period within which to make representations subsequent to these disclosures. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.

(c) *Investigation period*

(12) The investigation into the continuation and/or recurrence of dumping and injury covered the period from 1 January 2000 to 31 December 2000 (IP). The examination of the trends relevant for the assessment of likelihood of a continuation and/or recurrence of injury covered the period from 1997 to the end of the IP (analysis period).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(13) The product concerned is the same as in the original investigation, i.e. grain oriented cold-rolled sheets and strips of silicon-electrical steel with a width of more than 500 mm originating in Russia, falling within CN codes 7225 11 00 and 7226 11 10. This product is used for electromagnetic appliances and in installations such as power and distribution transformers.

(14) In the rather complex manufacturing process of GOES, grain structures are orientated uniformly in the direction of the rolling of the sheet or of the strip in order to allow it to conduct a magnetic field with a high degree of efficiency. The product in question has to comply with specifications concerning the magnetic induction, the pile factor as well as the highest admissible level of re-magnetisation losses. In general, both sides of the product are covered with a thin isolating coating.

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2. **Like product**

(15) GOES produced and sold in the Community by the Community producers requesting the review and GOES produced in Russia and sold in the Community by the exporting producers are considered to be like products, within the meaning of Article 1(4) of the basic Regulation. It was also established that GOES produced and sold domestically in the market economy third country (the analogue country), i.e. Brazil (see recitals 20 to 28), had the same basic physical and technical characteristics as GOES produced in Russia and exported to the Community. Therefore, they were considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. **LIKELIHOOD OF CONTINUATION OF DUMPING**

1. **Preliminary remarks**

(16) According to Article 11(2) of the basic Regulation, the purpose of an expiry review is to determine whether dumping prevailed during the IP and whether the expiry of the measures is likely to lead to a continuation or recurrence of dumping.

(17) In this regard, the volumes exported to the Community during the present IP were examined. During the original IP, the share of Russian GOES exports on the Community market amounted to 7,4 % of the Community consumption, while the market share of Russian imports of GOES in the Community during the present IP was 2,2 %. This is, however, still significant, i.e. above the *de minimis* threshold defined in Article 5(7) of the basic Regulation.

(18) The level of cooperation in the present proceeding was high. Both known Russian exporting producers cooperated and replied to the Commission questionnaire. The replies of both companies were verified on-the-spot.

2. **Likelihood of continuation of dumping**

(19) In the context of the likelihood of a continuation of dumping, it was investigated whether dumping of exports from Russia was currently taking place. This was on the grounds that, if dumping was taking place now, this could be an important indication that dumping would be likely to continue and increase in the future, should the measures be allowed to expire.

(a) *Analogue country*

(20) The dumping margin calculated in the original investigation resulted in a single countrywide margin concerning all imports into the Community of GOES originating in Russia. In accordance with Article 11(9) of the basic Regulation, the same methodology was employed as in the original investigation. Accordingly, normal value was determined on the basis of information obtained in an appropriate analogue country selected in accordance with Article 2(7) of the basic Regulation.

(21) Brazil was selected as an appropriate analogue country in the original investigation. As indicated in the notice of initiation, the Commission envisaged to use Brazil as an appropriate analogue country also in the present investigation.

(22) One exporting producer objected to the choice of Brazil, arguing that the domestic market of GOES of the Czech Republic or Poland would be more similar to the Russian market.

(23) The other exporting producer opposed to the choice of Brazil, arguing that because of the existence of only one producer of the product concerned in Brazil the level of competition on that domestic market was low.

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(24) The Commission, as mentioned in recital 8, sent questionnaires to all producers known to produce the product concerned in other third countries, including the Czech Republic and Poland. These producers were invited to cooperate in the present proceeding and to provide information on production and domestic sales of GOES. However, none of these producers were willing to provide such information and to cooperate in the present investigation.

(25) Therefore, it should be noted that, although the investigation confirmed the existence of only one producer of GOES in Brazil, no cooperation at all was received from other producers in any other potential analogue country. Therefore, the information provided by the producer in Brazil was considered the best and most reliable one which was available for the purpose of determining normal value.

(26) Alternatively, the first mentioned exporting producer argued that in case of non-cooperation in both proposed countries, the Czech Republic and Poland, export prices of the product concerned from these countries to the Community should be used to establish the normal value in accordance with Article 2(7) of the basic Regulation. However, due to the non-cooperation, export prices would have to be based on Eurostat data instead of actual and verified figures. In this regard, it was considered that the use of Eurostat data would result in less accurate findings, due to the fact that export prices are recorded on a general basis without making any distinction between differences having an influence on the export price, such as different product qualities or level of trade. Since the producer in Brazil cooperated in the present proceeding it was considered more appropriate to use actual, verified data of this producer, which resulted therefore in more precise findings. Accordingly, the use of either Czech Republic or Poland had to be rejected.

(27) Furthermore, it was found that the production volume and production process in Brazil were comparable to the ones in Russia. Indeed, the production process is virtually the same worldwide. As mentioned in recital 15, it was also established that the product produced and sold on the domestic market in Brazil was a like product to GOES produced in Russia and exported to the Community. Furthermore, domestic sales of GOES on the Brazilian market were representative as compared to the Russian exports to the Community. Brazil was also used as an analogue country in the original investigation.

(28) Consequently, the Commission had no reason to believe that the choice of Brazil was not appropriate. Considering the above, and in the absence of any alternatives, Brazil was selected as the most appropriate analogue country.

(b) *Normal value*

(29) In accordance with Article 2(1) of the basic Regulation, it was considered whether domestic sales of GOES in Brazil could be seen to be made in the ordinary course of trade by reason of price. For so doing the Commission examined whether domestic sales were profitable. For this purpose the full cost of production per unit during the IP was compared to the average unit sales price of the IP. It was found that sales were made at a profit. The investigation also revealed that all sales were made to independent customers. As a result the prices paid or payable for GOES by independent customers on the Brazilian domestic market in the ordinary course of trade were used to determine the normal value in accordance with Article 2(1) of the basic Regulation.

(c) *Export price*

(30) During the original investigation three exporters/producers, of which one was a trader, cooperated. The present investigation revealed that the trader had ceased its export of the product

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concerned to the Community prior to the current IP. Therefore, the export price in the present investigation was established on the basis of the information submitted by the remaining two exporting producers in Russia, which both cooperated.

(31) One of these Russian exporting producers exported the product concerned to the Community via two independent traders, both of which engaged merely in the re-invoicing to end-users in the Community and other third countries. For this exporting producer, export prices were determined on the basis of the prices charged to the first independent customers, i.e. the unrelated traders. Thus, export prices were established on the basis of the price actually paid or payable for the product concerned when sold for export to the Community in accordance with Article 2(8) of the basic Regulation.

(32) The other Russian exporting producer was largely owned and controlled by a related holding/trading company in Switzerland. All exports were made via the Swiss company to two related importers in the Community, which resold the product concerned to the final customers in the Community. Therefore, export prices were constructed on the basis of resale prices to the first independent customer in the Community in accordance with Article 2(9) of the basic Regulation.

(33) Furthermore, the related company in Switzerland imported the product concerned into the Community via its two Community based importing companies. It carried out the functions of a trader and an adjustment was made to the export price by deducting a commission from the export price to take account of the functions performed by it. As far as the two related importers in the Community are concerned, selling, general and administrative costs were deducted. In addition, for each related Community importer involved, a reasonable profit margin was deducted. Since no unrelated importer cooperated in the proceedings and in the absence of any other more reliable information, a profit margin of 5 % was considered reasonable.

(34) During the original investigation, the above exporting producer was not related to any importer in the Community or in third countries and therefore, the determination of the export price was originally based on prices actually paid or payable in accordance with Article 2(8) of the basic Regulation.

(d) *Comparison*

(35) In order to allow a fair comparison between normal value and export price, account was taken of differences in factors, which were found to affect prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(36) In this regard, it was found that the GOES produced and sold in Brazil had slightly different features with regard to thickness and the maximum core loss under certain specific electrical conditions. Therefore, adjustments for slight physical differences between GOES sold on the Brazilian domestic market and those exported from Russia into the Community were made. In addition, adjustments relating to export duties and, in case of the unrelated Russian exporting producer, also to credit costs, were made as they affected the export prices assessed for the exporting producers.

(e) *Dumping margin*

(37) A comparison was made between the weighted average normal value and the weighted average export price on an ex-works basis. The comparison showed that exports from Russia of GOES to the Community have been dumped at a substantial margin during the IP. The dumping margin was equal to the amount by which the normal value exceeded the prices for exports to the Community. The single countrywide weighted

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average dumping margin exceeded 80 % and was thus even slightly higher than the dumping margin found during the original investigation.

3. **Development of imports should measures expire**

(38) It was also examined how imports of GOES from Russia would develop should the measures expire. For that purpose the exports to the Community and third countries as well as on the domestic market were examined. Consideration was also given to the price behaviour of the Russian exporting producers on the different markets.

(a) *Evolution of export volume and prices to the Community*

(39) As mentioned above in recital 1, an undertaking offered by the Russian exporting producers in the original investigation had been accepted by the Commission. The undertaking consisted mainly in an annual quantitative limitation, i.e. export quantities of the product concerned after imposition of the definitive measures were limited to a ceiling fixed in the undertaking. In spite of the undertaking, and the fact that export volumes remained stable, they nevertheless continued to be made at dumped prices. There was therefore no reason to believe that, in case the measures in force were repealed, prices would increase to non-dumped levels. On the contrary, without the limitation of the quota, import volumes into the Community are likely to increase significantly, which would very likely lead to further downwards price pressure.

(b) *Evolution of sales volume and prices on the domestic market and on markets of third countries*

(40) It was found that a major part of the exports are likely to be directed to the Community for reasons of the different price levels in the respective markets. Furthermore, it was found that access to a number of potential export markets is restricted due to the existence of considerably high custom tariffs. Despite these restrictions, exports to third countries exceeded those to the Community and domestic sales during IP. In addition, the recent appreciation of the euro makes exports to the Community more attractive than those to third countries. All these factors indicate that any increased export volumes would be likely to be directed to the Community market should measures under investigation be repealed.

(41) Sales on the Russian domestic market and exports to third countries have increased since 1997, while exports to the Community decreased after the imposition of the anti-dumping measures and stayed relatively stable at a very low level due to the undertaking. Demand on the Russian domestic market, though risen since 1997, has always been far too weak to absorb the output volumes of the Russian exporting producers. The total volume of Russian domestic sales has always been clearly below the total export volume (to all countries). As mentioned below in recital 82, Russian producers increased their production capacities during the analysis period, which lead to significant spare capacities and accumulated stocks during the current investigation period. A major part of the available stocks is likely to be exported to the Community, should measures lapse. Furthermore, and given the high spare capacities, Russian producers could easily further increase their production volume to a level exceeding that which the domestic market or other potential third markets could absorb. In fact, and as mentioned below in recital 82, the capacity installed during the IP reached a level sufficient to meet the entire demand of GOES in the Community. It is therefore not unreasonable to conclude that export volumes would increase in future, in particular to the Community, should access to the market be free due to the expiry of the current measures.

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(42) As mentioned below in recital 83, the Russian GOES producers have a well developed selling organisation in the European Community, which facilitates the selling and distribution of the product concerned in the Community market.

(43) Accordingly, due to the anticipated increasing volume of imports into the Community in the absence of measures and hence of available supply, it can reasonably be expected that prices will follow a further downward trend, if the measures are allowed to lapse.

4. **Conclusion on the likelihood of a continuation of dumping**

(44) Imports of Russian GOES during the IP were still dumped, despite the measures imposed. It was established that dumping continued and that there is a strong likelihood that it would also continue should measures be allowed to lapse. Moreover, exports of Russian GOES to the Community are likely to increase significantly and prices of these additional import quantities will in all likelihood be dumped at significant levels, should the anti-dumping measures lapse.

D. **COMMUNITY INDUSTRY**

(45) The four Community producers that cooperated in the investigation represented 100 % of the Community production of GOES during the IP. Therefore, they constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

E. **SITUATION OF THE COMMUNITY INDUSTRY**

1. **Community consumption**

(46) Community consumption was calculated on the basis of the cumulated volume of sales on the Community market by the Community industry and of total import volumes reported by Eurostat or by cooperating exporting Russian producers.

(47) On this basis, Community consumption expressed in tonnes increased by 5 % between 1997 and 1999, from around 186 000 to 195 500 respectively. It then dropped by 4,9 % to reach around 186 000 in the IP. Detailed data are as follows.

Consumption	1997	1998	1999	2000 (IP)
in tonnes	186 087	183 648	195 601	186 220
indexed	100	99	105	100

2. **Imports from Russia**

Volume of imports

(48) On the basis of the information from Eurostat and submitted by cooperating exporting producers, the import volumes from Russia varied between around 3 750 tonnes and 6 701 tonnes during the analysis period. Detailed import data are as follows.

Volume	1997	1998	1999	2000 (IP)
in tonnes	5 238	6 701	5 899	3 750
indexed	100	128	113	72

Market share of imports

(49) The market share of imports from Russia was in the region of 2 % to 3,6 % during the analysis period.

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Quality improvement of Russian products and pricing behaviour of Russian exporters

(50) In the original investigation, GOES from Russia were sold in substantial quantities as second choice material on the Community market, due to quality deficiencies. This led the Commission to grant price adjustments when assessing price undercutting and injury elimination margin. As a consequence of the investments made by Russian producers to improve their facilities, the GOES now imported from Russia is first quality material in the vast majority of cases.

(51) On the basis of Eurostat figures, prices of imports, expressed in EUR/tonne, decreased sharply from 954 in 1997 to 862 in 1998 and 741 in 1999, a drop of more than 200 EUR/tonne in absolute terms within two years. Then prices partially recovered, reaching 860 in 2000, a level still below, by around 10 %, that achieved in 1997. Detailed data are as follows:

Unit prices/imports	1997	1998	1999	2000 (IP)
in EUR/tonne	954	862	741	860
indexed	100	90	78	90

(52) The Commission also compared Russian import prices, as extracted from the replies to the questionnaires (cif basis) to the prices charged by the Community industry for the same product (ex-works basis). In order to take account of the variety of GOES, the products sold by the Community industry and imported from Russia were classified into categories, according to the thickness and the maximum core loss under certain specific electrical conditions. Comparison was then made, in similar conditions of trade and on a per category basis, between the weighted average selling prices of both imported products and Community industry products. On this basis, the Russian import prices were found significantly below those of the Community industry.

3. **Imports from other third countries**

(53) The total import volumes of GOES from all third countries other than Russia decreased during the analysis period from around 44 300 tonnes in 1997 to around 38 600 tonnes in the IP. Substantial quantities of these imports either originated in Japan or were classified by Eurostat as ‘declared under secret origin’. The Commission verified that these secret imports did not originate in Russia. The remaining imports were mainly originating in Poland or the Czech Republic. Imports from Poland varied during the analysis period, between a minimum of around 1 600 tonnes in 1999 and a maximum of around 4 800 tonnes in the IP. Imports from the Czech Republic sharply decreased all over the analysis period from around 7 000 tonnes in 1997 to less than 2 000 tonnes in the IP.

(54) In the IP, the market share of imports from third countries other than Russia amounted to 20,7 %; Japan, 11,2 %; Poland, 2,6 % and the Czech Republic, 1,1 %. Market share of imports under secret origin reached 4,7 % in the IP.

(55) Prices of imports from Japan and of imports ‘declared under secret origin’ as well as imports from other sources were substantially higher than those of the Community industry.

(56) Following a trend similar to that observed for prices of the Community industry on the Community market (see recital 58), prices of imports from Poland decreased between 1997 and 1999 and then slightly increased in the IP, to reach a level still below that achieved in 1997. These prices were slightly below those of the Community industry but significantly higher than prices of imports from Russia.

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(57) Prices of imports from the Czech Republic remained more or less stable at a level below those of the Community industry and of the imports from Poland, but higher than that of imports from Russia in the same year.

(58) Detailed data on volumes (expressed in tonnes) and on prices (expressed in EUR/tonne) of imports from third countries other than Russia are as follows:

Other third imports	1997	1998	1999	2000 (IP)
Japan				
Volumes	15 357	10 730	15 109	20 859
Prices	1 324	1 428	1 362	1 348
Secret Area				
Volumes	18 774	19 303	18 200	8 801
Prices	1 386	1 471	1 390	1 359
Poland				
Volumes	2 455	3 224	1 588	4 863
Prices	1 101	1 027	994	1 070
Czech Republic				
Volumes	7 038	5 540	2 724	1 964
Prices	929	928	923	959
Others				
Volumes	676	1 718	1 800	2 121
Prices	1 739	1 577	1 481	1 484
Total				
Volumes	44 300	40 515	39 421	38 608
Prices	1 282	1 355	1 335	1 303

4. **Situation of the Community industry**

Restructuring of the Community industry

(59) It is recalled that in the original investigation, it was found that between 1990 and the end of the investigation period (end of April 1994), the Community industry suffered material injury which consisted mainly of a decline in sales with a resulting loss of market share as well as price depression. These factors together led to a decline in profits and, overall, financial losses.

(60) Since the current anti-dumping measures were imposed, the Community industry has undergone a restructuring programme aimed at improving its competitiveness. Following a merger which was approved by the Commission on 8 October 1999 ([1]), three of the four Community producers became part of the Thyssen Krupp Steel group.

Production and stocks

(61) Production of GOES slightly decreased between 1997 and 1998 and then increased to a level of around 220 000 tonnes in the IP. This represents an increase of 3 % over the analysis period. Detailed data are shown below:

([1]) See website DG COMP (http://europa.eu.int/comm/competition/mergers/cases).

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Production	1997	1998	1999	2000 (IP)
in tonnes	212 891	211 655	220 734	220 176
indexed	100	99	104	103

(62) Taking into account the fact that the Community industry generally used a production to order system which had the effect of minimising stock levels, it is therefore considered that the development of the level of stocks is not a relevant factor having a bearing on the state of the Community industry. Indeed, stocks usually consisted of merchandise which was merely to be delivered to customers which had already ordered the products.

Capacity

(63) As the production facilities used in the manufacturing of GOES are also used for producing other products, it was not possible nor meaningful to establish the capacity and utilisation of capacity that related specifically to the product concerned.

(64) However, the assessment of the total level of capacity for producing both GOES and other products showed that the Community industry continued to have spare capacity available which would have allowed it to produce GOES in greater quantities.

Sales

(65) Sales of GOES on the Community market increased by around 10 % between 1997/1998 and 1999 from a level of around 136 500 tonnes in 1997 and 1998 to around 150 000 tonnes in 1999. They fell sharply by about 5 % in the IP to less than 144 000 tonnes, in line with Community consumption. Detailed figures are reported below:

Sales	1997	1998	1999	2000 (IP)
in tonnes	136 549	136 432	150 281	143 862
indexed	100	100	110	105

Market share

(66) Community industry market share rose by 3,4 percentage points from 73,4 % in 1997 to 76,8 % in 1999 before increasing slightly again to 77,3 % in the IP, an additional gain of 0,5 percentage point in that year. Detailed data are reported below:

Market share	1997	1998	1999	2000 (IP)
in %	73,4	74,3	76,8	77,3
indexed	100	101	105	105

Prices

(67) Community industry prices on the Community market developed as follows:

unit prices	1997	1998	1999	2000 (IP)
in EUR/tonne	1 140	1 122	1 044	1 089
indexed	100	98	92	96

(68) Prices of GOES in the Community decreased by around 8 % between 1997 and 1999 from a level of 1 140 EUR/tonne in 1997 to 1 044 EUR/tonne in 1999, an overall loss of around 100 EUR/tonne in absolute terms in only two years. This decrease has to be seen in the light of the overall instability of the world steel market, which resulted in a general fall in prices

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of steel products in the years 1998/1999. However, taking account of the fact that the prices of Russian imports were the lowest during the analysis period (see recitals 51 and 58), it is clear that the prices of Russian imports also exerted a negative pressure on the prices of the Community industry in this period.

Profitability

(69) The overall profitability of the Community industry for its sales on the Community market decreased in the analysis period, as shown below:

Profitability	1997	1998	1999	2000 (IP)
in %	2,6	4,3	1,7	1,8

(70) Taking into account the degree of sophistication of the manufacturing process which is necessary to produce GOES, a level of 8 % of profit was found reasonable for this industry to maintain its viability. The level attained in 1997 cannot be considered representative as in that year it was mainly influenced by the high financial losses registered by one Community producer which experienced difficulties with its supply of raw materials. In the same year, the other Community producers all registered profits of the satisfactory level of around 8 % on average. With regard to development of profitability and its decline from 1998 to the IP, reference is also made to the explanation provided in recitals 77 and 80.

Cash flow, ability to raise capital and wages

(71) Figures for cash flow and wages developed as follows:

	1997	1998	1999	2000 (IP)
Cash flow	n.r.	100	80	103

	1997	1998	1999	2000 (IP)
Wages	100	98	94	103

No specific problems were encountered as regards ability to raise capital during the analysis period. It should also be recalled that three of the Community producers belong to a larger group.

Investments and return on investments

(72) To accompany the strong restructuring programme undertaken, the Community industry made significant investments in order to rationalise production and sales.

	1997	1998	1999	2000 (IP)
Return on investment (%)	n.r.	12,2	4,0	3,6

Productivity and employment

(73) Detailed data on productivity and employment were as follows:

Index 1997 = 100	1997	1998	1999	2000 (IP)
Productivity	100	106	115	115
Number of employees	100	94	90	90

(74) Due to the major restructuring efforts undergone by the Community industry after the imposition of the anti-dumping measures

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currently under review, productivity improved during the analysis period by 15 % overall.

(75) Restructuring also led to a reduction by 10 % in the number of employees over the same period.

Export activity of the Community industry

(76) The Community industry was very active on third country markets, exporting around one third of its production of GOES. This shows that this industry is well established and able to meet competition on a global basis. Confronted to the international steel crisis, its exports decreased by 7 % from around 78 000 tonnes in 1997 to around 73 000 tonnes in 1999 and then increased to around 76 000 tonnes in the IP. Detailed data on export volumes of the Community industry were as follows:

Export	1997	1998	1999	2000 (IP)
Volumes in tonnes	78 209	73 774	72 961	76 345
indexed	100	94	93	98

Magnitude of dumping and recovery from past dumping

(77) As concerns the impact on the situation of the Community industry of the magnitude of the actual margin of dumping found during the IP, it should be noted that the margin found for Russia is higher than that found in the original IP (see recital 37). The situation of the Community industry improved to a certain extent after the imposition of measures, but it has not completely recovered. Therefore, should measures be repealed, the impact of the dumping margin found in the current investigation would be significant.

Growth

(78) It is recalled that Community consumption increased by 5 % between 1997 and 1999 and then dropped by 4,9 % in the IP, going back to a level close to that achieved in 1997.

The sales volume of the Community industry followed a similar trend in this period, the decline between 1999 and 2000 being however less marked than the decrease in consumption in these years.

5. **Conclusion on the situation of the Community industry**

(79) In terms of volumes, the introduction of the anti-dumping measures on imports of the product concerned from Russia enabled an improvement in the economic situation of the Community industry between 1997 and 1999. This allowed the Community industry to improve its production by 3,7 % and its sales to the Community market by 10 %. It also improved its market share by 3,4 percentage points in the same period. However, this trend reversed in the IP (production – 0,3 %, deliveries to the Community – 4,3 % percentage points) while consumption decreased by 4,9 % in the same time (see recital 47).

(80) The financial situation of the Community industry initially improved after the imposition of the measures. However, in the wake of the general instability experienced by the world steel market, the Community industry's prices, which were also subject to the downward pressure of prices of imports from Russia, decreased by around 8 % between 1997 and 1998. Despite the significant restructuring efforts undertaken by the Community producers, their substantial gains in productivity as well as their improved situation in terms of sales volumes, the drop in prices resulted, from 1998 to the IP, in a steady decline in the profitability of the Community industry.

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(81) It is therefore concluded that despite the improvement observed subsequent to the imposition of anti-dumping measures, the Community industry is still in a weakened situation.

F. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF INJURY

(82) Bearing in mind that GOES production facilities can also be used to manufacture other products (see recital 63), it was not meaningful to accurately assess the production capacity for the Russian exporters in relation only to the product concerned. Nevertheless, as referred to in recital 41, the GOES producers in Russia have increased their total available capacity (destined both to the product concerned and to other products)by around 10 % in the analysis period. The level attained now far exceeds what their domestic market or other potential third markets could absorb. Indeed, the level of capacity now reached would be sufficient to meet the entire demand of GOES in the Community. As already pointed out in recital 40, Russian GOES producers have significant spare capacity available which they could use to supply export markets. Indeed, if these additional volumes were directed towards the Community market, they could very well go beyond the significant levels found in the original investigation.

(83) Since 1994, the Russian GOES producers have developed their selling organisation in the European Community. For instance, one of the exporting producers has now its own related selling organisation in the Community. Taking account of the investments made for that purpose, it is therefore clear that Russian producers intend to develop their sales on the EU market.

(84) As in the IP, the Russian producers are still selling GOES on the Community market at prices substantially below those of the Community producers, such a price behaviour combined with their capacity to sell increased quantities would likely result in price depression on the Community market, as found in the original investigation, if the measures in force were allowed to lapse.

(85) As shown in recitals 59 to 81, the Community industry is still in a precarious situation, in particular as regards its profitability. It is likely that if the Community industry was exposed to increased volumes of imports from Russia at dumped prices this would result in a deterioration of its financial situation as found in the original investigation. On this basis, it is therefore concluded, that the repeal of the measures would in all likelihood result in the continuation, and/or recurrence of injury to the Community industry.

G. COMMUNITY INTEREST

1. Introduction

(86) In accordance with Article 21 of the basic Regulation, it was examined whether a prolongation of the anti-dumping measures in force would be against the interests of the Community as a whole.

This analysis was based on an appreciation of all the various interests involved, i.e. those of the Community industry, of its suppliers of raw materials, of the importers and of the users of the product concerned. For the purpose of this analysis, the Commission requested information from all identified interested parties.

(87) It should also be noted that, in the context of an expiry review, the scrutiny of a situation in which anti-dumping measures have been in place allows assessment of any negative, undue impact of the anti-dumping measures in force on the parties concerned.

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2. **Interests of the Community industry**

(88) As shown in the analysis of its situation above, the Community industry was able at the beginning of the analysis period to improve its situation and to restore, in particular, a satisfactory level of profitability. This shows that this industry is capable of benefiting from the protection offered by anti-dumping measures against unfair trade practices.

(89) The Community industry has also shown its willingness and resolution to consolidate its competitive presence both on the Community market and worldwide. Since the original investigation, the industry has undergone a major restructuring programme and it is now controlled by two independent financial groups in order to centralise and secure the sourcing of the GOES raw material with Thyssen Krupp Group and to pool investment in higher technical grades and performance improvement (core loss reduction). Indeed, the merging of three of the complainants under the same holding company was intended to create a larger entity which could compete more effectively with other GOES producers (around 11) on the world market.

(90) It is clear that the Community industry was still in a vulnerable situation during the analysis period and that it needed to maintain an adequate volume of production and of deliveries both on its domestic market and on export markets to keep the charge of its fixed costs at a sustainable level and to remain competitive. In other words, the efforts undertaken by the Community industry both to rationalise its production and to restructure would be wasted if renewed and increased dumping would prevent it to reach a sufficient sales volume.

(91) In conclusion, taking into account the current viability of the Community industry and its strong efforts to remain competitive both at European and world level it is considered that if measures lapse the Community industry's situation would be jeopardised by a subsequent expected increase in imports of GOES from Russia.

3. **Interests of the upstream industries**

(92) Only one supplier replied to the Commission's questionnaire. This company, which belongs to the same holding company as the three Community producers mentioned above (see recital 60), produces different qualities of steel and in particular the raw material necessary for manufacturing GOES. It is now the only remaining important producer of this quality of steel in the European Community as the other large steel groups have abandoned its production.

This company has made substantial investments in order to rationalise and develop production of silicon electrical steel. This investment occurred at the same time as the merger mentioned above (see recital 60). It can be seen as part of the group overall efforts to improve its competitive position.

From the above, it is clear that this supplier of silicon-electrical steel is closely dependent on the situation of the Community industry. Moreover, as it is difficult to shift from the production of silicon-electrical steel to the production of other qualities of steel without incurring significant costs, any reduction in the production of GOES would lead to a knock-on effect on employment.

(93) It is therefore concluded that it is also in the interests of the suppliers that the measures remain in force.

4. **Interest of importers of GOES**

(94) No independent importer cooperated in this investigation. On the basis of information available, it is to be noted that the product concerned, which is in general imported by specialised steel importers/traders, represents only a small part in the diverse range

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of the steel products they handle. It is thus considered that the continuation of anti-dumping measures would have no more than a minimal impact, if any, on the overall situation of the importers/traders in question.

5. **Interests of the user industries**

(95) Around 40 users of GOES received a questionnaire tailored to their activity.

Nine responses were received by the Commission, covering less than 20 % of the total consumption of GOES in the Community.

(96) The downstream industry can be divided in two main sectors:

— the first cuts GOES according to pre-defined shapes and assembles these pieces to manufacture transformer cores which are then resold to transformer producers for further processing,

— the other produces transformers. This industry either utilises the cores manufactured by the companies mentioned above or manufactures the cores themselves before manufacturing the transformers.

(97) The sector of manufacturers of transformer cores developed recently. There are few operators and only one company, related to one of the complainants, cooperated in the investigation. Although GOES are the most significant item in cost terms in the manufacture of transformer cores, there is no indication that this sector is subject to specific pressures aimed at reducing its prices. In fact, these operators who supply the transformer manufacturers are closely dependent on the prices that transformer manufacturers can get for their final products.

(98) By contrast, the sector of transformer manufacturers is a long-established industry which traditionally supplies the large energy producers. This transformer industry in general, belongs to large industrial groups, which have a worldwide presence. Some of them have set up single purchasing organisations which concentrate all orders for the group in order to improve their negotiating position towards producers of GOES. There are also some smaller groups or companies.

GOES represent a substantial item in the total cost of the final products of this industry (from 10 % to 30 % depending on the type of transformer). The main concern expressed by this industry was to operate in a fair competitive market, which allowed it to produce and sell quality products.

(99) In this respect, certain users of GOES alleged that they had been confronted in the IP by a shortage of supply from the part of certain Community producers due to a perceived lack of available capacity. Others argued that it was not possible to import GOES from other sources. However, they did not submit any evidence supporting these allegations. In any event, this is in clear contradiction with the findings of the current investigation. Indeed, as set out at recital 64, the Community industry had available capacities in the analysis period, allowing it to produce higher quantities of GOES. In addition, it was also possible to import GOES from other sources such as Poland and the Czech Republic (see recital 58). These allegations are therefore unfounded.

(100) As regards the competitive situation on the Community market of GOES, some users argued that the continuation of measures, by limiting exports from Russia, would maintain GOES prices artificially high. This would hamper their own competitiveness on the Community market. However, on the basis of Eurostat figures, the volume of imports from third countries appeared to be rather limited so that the market share of European users did not deteriorate nor did their volume of export sales go down. Average prices of imported transformers also appeared to be almost stable.

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It therefore appears that the existing anti-dumping measures did not erode the competitiveness of this industry.

(101) In addition, the fact that the Thyssen Krupp group was both the sole producer of silicon electrical steel in the Community and owner of three of the four Community producers of GOES was also criticised.

The specific situation of the Thyssen Krupp group has been analysed in detail by the Commission with regard to provisions of the ECSC Treaty concerning competition (see recital 60 and recital 89). No new or further information was made available during the investigation which would indicate that the competitive situation had changed since the abovementioned examination by the Commission. Therefore, these criticisms are also unfounded.

(102) On the basis of the above, it appears that the situation of the users is not significantly affected by the measures. There is in addition no indication that their continuation will have a different impact in the future.

(103) If measures were to be repealed the situation of the Community industry risks to be weakened further by a continuation/recurrence of dumped imports. Indeed, as noted at recital 92 above and taking account the specific nature and the complexity of GOES manufacturing, the number of available sources of supply of GOES is rather limited at world level. Should the Community industry decrease its activity, this would make users of GOES progressively more dependent on imported materials.

(104) In this regard, it should also be noted that the product concerned can be considered as a strategic product for the user industries. In fact, GOES is a unique product which cannot, in the majority of its applications, be substituted by any alternative material. Indeed, the complicated manufacturing process makes grain oriented steel significantly different from most other steel grades. GOES are used mainly in the manufacture of power and distribution transformers. It is therefore a key element in a strategic sector underpinning the energy distribution infrastructure. It is therefore in the interest of the European user industries that the sources of supply in the Community are not further weakened by a continuation or recurrence of dumped imports.

6. **Conclusion**

(105) Taking account of the above facts and considerations, it is concluded that the prolongation of the measures is not against the interest of the Community as a whole.

H. **FORM OF THE MEASURES**

(106) The present investigation was limited to Article 11(2) of the basic Decision ([1]). As mentioned above (see recital 6), the investigations in the framework of Article 11(3) on the appropriateness of the form of the measures and the MET status will be continued. In this context, it is recalled that by Commission Decision No 303/96/ECSC of 19 February 1996 the Commission accepted an undertaking which should be maintained pending the outcome of the reviews under Article 11(3).

I. **ANTI-DUMPING MEASURES**

(107) All parties concerned were informed of the essential facts on the basis of which it is intended to recommend the maintenance of existing measures in their present form. They were also granted

([1]) Replaced by the basic Regulation (Regulation (EC) No 384/96 of 22 December 1995) after expiry ECSC Treaty.

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a period to make representations subsequent to this disclosure. No new arguments were received.

(108) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of GOES originating in Russia, imposed by Decision No 303/96/ECSC, should be maintained,

HAS ADOPTED THIS REGULATION:

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Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of grain oriented cold-rolled sheets and strips of silicon-electrical steel with a width of more than 500 mm originating in Russia and falling within CN codes 7225 11 00 (sheets of a width of 600 mm or more) and ex 7226 11 00 (TARIC code 7226 11 00 10) (sheets of a width of more than 500 mm but less than 600 mm).

2. The rate of the definitive anti-dumping duty, applicable to the net, free-at-Community frontier price, before duty, for the product manufactured by the following companies shall be:

Company	Duty rate	TARIC additional code
OOO Viz-Stal, 28, Kirov St., 620028 Yekaterinburg GSP-715	14,7 %	A516
All other companies	40,1 %	A999

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

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Article 2

1. Imports declared for release into free circulation shall be exempt from the anti-dumping duties imposed by Article 1, provided that they are produced by companies from which undertakings are accepted by the Commission and whose names are listed in the relevant Commission Regulation, as from time to time amended, and have been imported in conformity with the provisions of the same Commission Regulation.

2. The imports mentioned in paragraph 1 shall be exempt from the anti-dumping duty on condition that:

(a) the goods declared and presented to customs correspond precisely to the product described in Article 1;

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

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

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Article 3

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

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

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ANNEX

The following elements shall be indicated on the commercial invoice accompanying the company's sales of grain oriented electrical sheets to the Community which are subject to the Undertaking:

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.
2. The name of the company mentioned in Article 1 of Commission Regulation [INSERT NUMBER] issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
6. The exact description of the goods, including:
   - Product Code Number (PCN) used for the purposes of the investigation and the undertaking (e.g. PCN I, PCN 2 etc),
   - plain language description of the goods corresponding to the PCN concerned (e.g. PCN 1: PCN 2: etc),
   - company product code number (CPC) (if applicable),
   - CN code,
   - quantity (in tonnes).
7. The description of the terms of the sale, including:
   - price per tonne,
   - the applicable payment terms,
   - the applicable delivery terms,
   - total discounts and rebates.
8. Name of the company acting as an importer in the Community to which the commercial invoice accompanying goods subject to an undertaking is issued directly by the company.
9. The name of the official of the company that has issued the invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company], and accepted by the European Commission through Regulation (EC) No [INSERT NUMBER]. I declare that the information provided in this invoice is complete and correct.'