COMMISSION REGULATION (EC) No 781/2003

of 7 May 2003

imposing a provisional anti-dumping duty on imports of furfuryl alcohol originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation), as last amended by Regulation (EC) No 1972/2002 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Complaint

(1) A complaint concerning imports of furfuryl alcohol originating in the People's Republic of China (PRC) was lodged on 25 June 2002 by the International Furan Chemicals BV, the Netherlands (IFC) on behalf of its related company Transfurans Chemicals BVBA (TFC), Belgium, the sole producer in the Community representing 100 % of the Community production of furfuryl alcohol.

(2) This complaint contained evidence of dumping of the product concerned, and of material injury resulting therefrom, which was considered sufficient to justify the opening of a proceeding.

2. Notice of initiation

(3) On 9 August 2002, the proceeding was opened by the publication of a notice of initiation [3] (Notice of Initiation).

3. Investigation period

(4) The investigation of dumping and injury covered the period from 1 July 2001 to 30 June 2002 (investigation period or IP). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 1998 to 30 June 2002 (period considered). The period used for the findings on undercutting, underselling and injury elimination is the aforementioned IP.

4. Parties concerned by the proceeding

(5) The Commission officially advised the complainant, the exporting producers, importers, suppliers and users known to be concerned, as well as associations known to be concerned and representatives of the Peoples Republic of China (PRC), of the opening of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(6) The complainant, the exporting producers, importers, suppliers and users made their views known. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ C 189, 9.8.2002, p. 30.

(7) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment, if they so wished, the Commission sent market economy treatment and individual treatment claim forms to the Chinese companies known to be concerned. Four companies requested MET pursuant to Article 2(7) of the basic Regulation or individual treatment should the investigation establish that they did not meet the conditions for MET.

(8) In the Notice of Initiation, the Commission indicated that sampling may be applied in this investigation. However, given the relatively small number of exporting producers in the PRC which indicated their willingness to cooperate, it was decided that sampling was not necessary for assessing the cooperating exporters.

(9) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the Notice of initiation. Replies were received from the complaining Community producer, four exporting producers, three unrelated importers and 11 unrelated users in the Community.

(10) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping and resulting injury and carried out verifications at the premises of the following companies:

(a) *Community producer and related companies*

— TransFurans Chemicals BVBA, Geel, Belgium, (TFC),

— International Furan Chemicals BV, Rotterdam, The Netherlands, (IFC),

— Central Romana Corporation, Ltd, La Romana, Dominican Republic, (CRC);

(b) *Exporting producers in the PRC*

— Gaoping Chemical Industry Co. Ltd,

— Zhucheng Huaxiang Chemical Co. Ltd,

— Linzi Organic Chemical Inc.,

— Henan Huilong Chemical Industry Co. Ltd.

(11) In light of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification to establish normal value took place at the premises of the following company:

(c) *Producer in the United States of America.*

— Penn Speciality Chemicals Inc.

5. **Product concerned and like product**

5.1. Product concerned

(12) The product concerned is furfuryl alcohol (FA) originating in the PRC currently classifiable within CN code ex 2932 13 00.

(13) FA is a chemical product. It is a member of the family of heterocyclic compounds, which are characterised by an unsaturated nucleus consisting of four carbon atoms and one oxygen atom. It is a mobile, colourless to pale yellow liquid that is soluble in many common organic solvents. The raw material for the production of FA, furfural (FF) is obtained from agricultural waste such as from corncobs, sugar cane or rice hulls.

(14) FA is a commodity product. The principal use of FA is in the production of foundry resins, which are used to make metal castings for industrial purposes. Furthermore, it is also used for the production of, *inter alia*, corrosion-resistant mortar, laminating resins, and fibreglass-reinforcement equipment.

(15) The investigation has shown, that there are two types of FA, one of more than 98 % purity as well as a high purity FA of more than 99 % purity, known as tetra hydro furfuryl alcohol (THFA). It was found that THFA represents less than 1 % of Community consumption. THFA is a speciality product used for specific applications. It was also found that FA and THFA do not share the same basic physical and technical characteristics. Accordingly, the higher quality THFA was not considered to constitute a single product together with FA for the purpose of this investigation.

5.2. Like product

(16) The investigation showed that the basic physical and technical characteristics of FA produced and sold by the Community industry in the Community, FA produced and sold on the domestic Chinese market, FA imported into the Community from the PRC as well as FA produced and sold in the United States of America are the same and that they have the same use.

(17) It was therefore provisionally concluded that all these products constitute one like product within the meaning of Article 1(4) of the basic Regulation.

B. **DUMPING**

1. **Market Economy Treatment (MET)**

(18) Four exporting producers in the PRC requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers.

(19) In order to be granted MET, companies must demonstrate that they meet all five criteria set out in Article 2(7)(c) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out in summarised form below:

1. business decisions and costs are made in response to market conditions;
2. accounting records independently audited and applied for all purposes;
3. no significant distortions in 'carry over' from former non-market economy system;
4. legal environment and stability provided by bankruptcy and property laws;
5. currency exchanges carried out at the market rate.

(20) However, none of the four Chinese exporting producers fulfilled all of these conditions for granting MET, and therefore, all claims for MET had to be rejected. The following table summarises the determination for each company against each of the five criteria as set out in Article 2(7)(c) of the basic Regulation.

TABLE 1

Summary determination against the five criteria as set out in Article 2(7)(c) of the basic Regulation

Company	Criteria				
	Article 2(7)(c) indent 1	Article 2(7)(c) indent 2	Article 2(7)(c) indent 3	Article 2(7)(c) indent 4	Article 2(7)(c) indent 5
1	Not met	Not met	Met	Met	Met
2	Not met	Not met	Met	Met	Met

Company	Criteria				
	Article 2(7)(c) indent 1	Article 2(7)(c) indent 2	Article 2(7)(c) indent 3	Article 2(7)(c) indent 4	Article 2(7)(c) indent 5
3	Met	Not met	Not met	Met	Met
4	Met	Not met	Possibly met	Met	Met

Source: verified questionnaire replies of cooperating Chinese exporters.

(21) In respect of indent 3 for Company 4, it was not possible to conclude that State-owned shares had been sold freely and at a market price during the transfer of the company into private ownership. As the company failed to establish that it met one of the other criteria, and as the burden of proof to show that all conditions are met rests with the exporter, it was decided that no decision was necessary for this criterion given that the second criterion had already not been met by that company.

(22) The companies concerned and the complainant were given an opportunity to comment on the above findings. Two companies submitted that the determination was wrong and that MET should be granted to them.

(23) One company claimed that their accounts were fully in line with international standards, and that there was no significant distortion carried over from the non-market economy system with regard to the valuation of the company. However, it was found that the auditor of the company had identified errors in the accounts which were not in compliance even with applicable accounting regulations in the PRC. Moreover, it was also established that certain errors, identified in the accounts, were in fact repeated in subsequent years, and that the company had made no correction of the errors. On the basis of these errors the auditor considered that profit figures were unreliable and that there was over-distribution of profits. It is therefore determined that the company does not have 'basic accounting records (….) in line with international accounting standards' as required by Article 2(7)(c) of the basic Regulation. The exporter's claim is accordingly rejected.

(24) In light of this conclusion, and in the absence of any new evidence, the conclusion to reject MET for this company is provisionally confirmed.

(25) A second company claimed that it met all five criteria required by the basic Regulation. In particular, it was claimed that business decisions and costs were made in response to market conditions and that their accounts were fully in line with international standards. On the first point, the company was unable to demonstrate its normal stock valuation method of its main raw material, furfural. Nor could the company explain the reasons for certain adjustments made even to this unverifiable valuation. Therefore, the company could not establish that 'costs of major inputs substantially reflect market values' as required by Article 2(7)(c) of the basic Regulation.

(26) On the second point, it was found that the company had used a higher profit figure for distributing dividends, whilst using a different lower profit figure for other purposes. The company could not satisfactorily explain how these two profit figures could be reconciled. In these circumstances it could not be concluded that the company had 'one clear set of basic accounting records (….) applied for all purposes' which is also required by Article 2(7)(c) of the basic Regulation. The company's claim is accordingly rejected.

2. **Individual treatment**

(27) Further to article 2(7)(a), a country-wide duty, if any, is established for countries falling under Article 2(7), except in those cases where companies are able to demonstrate, in accordance with Article 9(5), that their export prices and quantities as well as the conditions and terms of the sales are freely determined, that exchange rates are carried out at market rates, and that any State interference is not such as to permit circumvention of measures if exporters are given different rates of duty.

(28) The four exporting producers, as well as requesting MET, also claimed individual treatment in the event they were not granted MET. On the basis of information available it was found that for all four companies, the export prices, export quantities, conditions and terms of sale were freely determined, and that the exchange rate conversions were carried out at the market rate.

(29) For one Chinese producer it was found that, during the IP, the company had in addition to its own-produced FA, also bought and then sold a substantial quantity of the product under investigation from at least two other competing Chinese producers, none of which cooperated in the investigation. Thus, it was found that this company acted both as a producer and as a trader of FA. Considering that it is not possible to distinguish the source of production when the product is ultimately exported to the Community and the lack of cooperation by the competing producers in question and hence the lack of any information on their relationship with the Chinese producer, it is considered, in the absence of any further information, that there is a serious risk of circumvention if this Chinese producer is granted individual treatment. On the issue of State interference the company provided no explanation or evidence to substantiate its claim, except for a mere statement that there was no State interference. The Commission has thus, also considering the circumstances described above, not been provided with sufficient information to grant the request for individual examination, but it will continue to investigate this matter during the remainder of the investigation. Therefore, it is considered that the company has failed to establish that it meets the criteria set out in Article 9(5) of the basic Regulation and therefore provisionally concluded that no individual duty can be specified for this exporter.

(30) It was therefore concluded that individual treatment should only be granted to three exporting producers in the PRC, i.e. Gaoping Chemical Industry Co. Ltd, Zhucheng Huaxiang Chemical Co. Ltd, and Linzi Organic Chemical Inc.

3. **Analogue country**

(31) According to Article 2(7) of the basic Regulation, for exporting producers others than those to which MET could be granted, normal value is established on the basis of the price or constructed value in an analogue country.

(32) In the Notice of Initiation, either the United States of America or South Africa was envisaged as the analogue country for the purpose of establishing normal value for the PRC, and invited interested parties to comment on this intention.

(33) The Chinese exporters and other interested parties suggested that South Africa or even Thailand would be the most appropriate choice, mainly because competition and market conditions in these countries were more comparable to the situation in the PRC than was the United States of America. The Chinese exporters also pointed to commercial links existing between the Community producer and the sole producer in the United States of America. The Commission contacted all known exporters of FA in the countries concerned, but only one producer, in the United States of America, was prepared to cooperate with the investigation. The investigation also revealed that the American market was substantial and sufficiently representative in comparison to the volume of Chinese exports of the product concerned to the EU. In addition it was determined that there was a significant volume of imports as well as the presence of various customers on the American market. As regards the alleged commercial links between the Community producer and the American producer, it was found that any such links did not have a distorting impact on the prices, costs and profitability for the American producer used to determine the normal value. Accordingly, it is provisionally concluded that the United States of America constitutes an appropriate analogue country.

4. **Dumping**

4.1. Normal value

(34) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the Chinese producers was established on the basis of verified information received from the producer in the analogue country. It was found that the FA exported by Chinese producers was identical to that sold by the co-operating producer in the analogue country. Normal value was therefore determined on the basis of the prices of furfuryl alcohol sales made by the cooperating company in the analogue country, which were found to be made in the ordinary course of trade.

4.2. Export price

(35) The three producers which were granted individual treatment sold the product concerned to the Community either via unrelated traders in the EU, or direct to end users. For these three producers, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of the export prices actually paid or payable to the first independent customer located in the Community.

(36) The volume of exports covered by the cooperating Chinese exporters represented 59,8 % of imports into the EU during the IP. It is, therefore, considered that the level of cooperation is low. Accordingly, the export price for all other companies was based on facts available in accordance with Article 18(1) of the basic Regulation. In this case, the export price was calculated by using the prices and volumes provided by the cooperating producer to which individual treatment was not granted, i.e. Henan Huilong Chemical Industry Co. Ltd. To this was added the remaining tonnages for which no cooperation was received and at an average price equal to the lowest average transaction price provided by the cooperating exporting producers. Therefore, the 'all others' dumping margin for the PRC is established on the basis of a weighted average of the prices provided by the cooperating company to which individual treatment was not granted, as well as the lowest transaction price for any transaction where no cooperation was received.

4.3. Comparison

(37) The normal value and export prices were compared on an ex-works basis. 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. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence. Accordingly, allowances for differences in transport, insurance and credit expenses were made where applicable and supported by verified evidence.

4.4. Dumping margin

(38) The dumping margin was established on the basis of a comparison of a weighted average normal value with a weighted average of export prices, in accordance with Articles 2(11) and 2(12) of the basic Regulation.

(39) This comparison showed the existence of dumping, the dumping margin being equal to the amount by which the normal value exceeded the export price. The dumping margin was then expressed as a percentage of the CIF import price at the Community border. The provisional dumping margins so obtained are as follows:

4.4.1. Companies to which individual treatment was granted:

Gaoping:	93 %
Linzi:	78 %
Zhucheng:	81 %.

4.4.2. Residual Dumping Margin

All others: 118 %.

C. COMMUNITY INDUSTRY

1. Definition of the Community production

(40) There is only one producer of FA in the Community: TFC, Belgium which is part of the complainant. Accordingly, the production of the complainant constitutes the total Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

(41) It was found that the Community production is fully integrated in a single economic entity which consists of three companies and operates as follows:

(42) TFC transforms the raw material FF delivered by the mother company Central Romana Corporation (CRC), Dominican Republic, into the product concerned. IFC situated in the Netherlands acts as the worldwide sales agent for the product concerned produced by TFC. TFC, IFC and CRC are related through common ownership.

(43) The investigation has shown that FA produced by TFC is of Community origin and that the manufacturing operations, the technological and capital investment for the manufacturing operations and the sales operations take place in the Community.

(44) Based on the above, TFC and IFC constitute the Community industry within the meaning of Articles 5(4) and 4(1) of the basic Regulation. It should be noted, that in order to make a meaningful assessment of certain injury indicators, it was necessary to take into account also the data from CRC which forms an economic entity with the aforementioned companies.

D. INJURY

1. Preliminary remark

(45) Given that the Community industry comprises only TFC and IFC, specific data relating to the Community industry, as reported in the verified questionnaire replies, consumption and the market share of the Chinese exporting producers have been indexed in order to preserve the confidentiality of the data submitted in accordance with Article 19 of the basic Regulation.

2. Community consumption

(46) Community consumption was based on the combined volume of supplies made by the Community industry in the Community, on Eurostat information on imports from other third countries, as well as import figures for the country concerned.

(47) With regard to the import volumes from the country concerned it was decided to use the Chinese export data rather than the Eurostat import statistic, since the former appeared to be more accurate in view of data submitted by the cooperating exporting producers and other interested parties.

TABLE 2

Community consumption (based on sales volumes)

	1998	1999	2000	2001	IP
Index	100	109	122	129	128
Y/Y		+ 9 %	+ 12 %	+ 6 %	– 1 %

Source: verified questionnaire replies of Community industry, Eurostat, Chinese export statistics.

(48) The above table shows that consumption of FA in the Community increased by 28 % during the period considered. Between the year 2000 and the IP consumption increased by 5 %, whereas between the year 2001 and the IP consumption slightly decreased.

3. **Imports concerned**

3.1. Volume of the imports concerned

(49) Between 1998 and the IP imports measured in metric tonnes (MT) originating in the country concerned into the Community developed as follows:

TABLE 3

Volume of imports concerned

	1998	1999	2000	2001	IP
MT	4 958	7 915	7 091	10 540	10 362
Index	100	159	143	212	208
Y/Y trend		+ 59 %	– 10 %	+ 48 %	– 1 %

Source: Chinese export statistics.

(50) Over the period considered imports from the PRC more than doubled. Indeed, during the IP they were 108 % above 1998 levels. The above table shows that the imports concerned increased by 43 % (or around + 2 100 MT) from 1998 to 2000 and further increased by 46 % (or around + 3 300 MT) in the period 2000-IP, whilst consumption increased only by 5 % (or by around 2 000 MT) in the same period.

(51) The above table also shows that the imports from the country concerned decreased between 1999 and 2000 (- 10 % or by around 800 MT). This decrease in imports is explained by a drought in the PRC during the year 2000, which resulted in a decreased agricultural production leading to a substantial shortage of the raw material FF. This situation led to a shortage of production and supply of FA by the Chinese exporting producers. Therefore the Chinese exporting producers could not maintain the export level of the year 1999.

(52) After the drought in the PRC, which persisted until the third quarter of the year 2000, the Chinese exporting producers could re-establish the production and were able to largely exceed the export level of the year 1999. Between 2000 and the IP, the market share held by the exporting producers increased significantly in line with the development of its market share. Indeed, in the period 2000 to the IP the exports increased by 46 % (or around + 3 300 MT).

3.2. Market share of the imports concerned

(53) The market share held by imports from the country concerned developed as shown below:

TABLE 4

Market share of the imports from the country concerned (based on sales volume)

	1998	1999	2000	2001	IP
Index	100	146	117	165	163
Y/Y trend		+ 45 %	– 19 %	+ 40 %	– 0,7 %

Source: verified questionnaire replies of Community industry, Eurostat and Chinese export statistics.

(54) During the IP the market share of imports from the PRC was between 20 % and 30 %. Over the period considered, the market share of the dumped imports increased by over 9,6 percentage points (or by 63 %).

(55) Between 1999 and 2000 the exporting producers lost market share (- 4,4 percentage points or 19 %). This loss is explained by the drought in the PRC during the year 2000 mentioned in recital 51.

(56) After the drought in the PRC, the Chinese exporting producers could regain market shares exceeding the levels of 1999. Between 2000 and the IP, the market share held by the exporting producers increased significantly in line with the above development of its import volume. In the period 2000 to the IP the market share of the exporting producers increased by around 7 percentage points (or by 39 %).

3.3. Average prices of dumped imports

(57) The price evolution of Chinese FA sold on the Community market is shown below.

TABLE 5

Average price of dumped imports

(EUR/tonne)

	1998	1999	2000	2001	IP
	1 008	857	834	979	817
Index	100	85	83	97	81
Y/Y trend		– 15 %	– 2 %	+ 17 %	– 16 %

Source: verified questionnaire replies of cooperating exporting producers, Chinese export statistics and the complaint.

(58) The average sales prices shown in the table above include transport costs up to Community border level.

(59) Over the period considered, the average price of dumped imports decreased by 19 %. The price decrease was particularly evident between 1998 and the year 2000 (- 17 %). Between 2000 and 2001 prices could recover (+ 17 %) due to the shortage of Chinese FA caused by the drought in the PRC referred to in recital 51. After the drought Chinese exporting producers could re-establish production and continued to decrease prices as already done during the years 1998 and 2000. Indeed, between 2001 and the IP the prices of the Chinese exporting producers decreased again by 16 %. Between 2000 and the IP the price decrease was 2 %.

3.4. Price undercutting and price depression

(60) For the determination of price undercutting, the Commission analysed data referring to the IP. It is recalled that the price undercutting analysis concentrated on only one type of FA which is produced and sold by the Community industry on the Community market and represents around 99 % of the consumption on the Community market. Price undercutting was established on the basis of a comparison of the sales prices for that type of FA charged by the Community industry and the sales prices charged by the exporting producers concerned. For the same type all prices were compared after deducting discounts and rebates.

(61) The sales prices considered for the exporting producers concerned were those at CIF Community border level, including customs duties. The sales prices of the Community industry considered were adjusted where necessary to an ex-works level, i.e. excluding transport costs.

(62) The results of the comparison (on a weighted-average to weighted-average basis) showed that the average price undercutting margins, expressed as a percentage of the Community industry's average selling prices, were over 10 % for the PRC.

(63) This level of undercutting should also be seen in the light of the fact that over all prices decreased significantly over the period considered and can be considered to be depressed.

4. **Economic situation of the Community industry**

4.1. Preliminary remark

(64) In accordance with Article 3(5) of the basic Regulation, the Commission examined all economic factors and indices having a bearing on the state of the industry on the domestic market.

4.2. Production, production capacity and capacity utilisation

TABLE 6

Production

(MT)

	1998	1999	2000	2001	IP
Index	100	88	93	98	96
Y/Y trend		– 12 %	+ 5 %	+ 5 %	– 2 %

Source: verified questionnaire reply of Community industry.

(65) During the period considered, the Community industry production decreased by 4 %. Between 2001 and the IP, Community industry production decreased by 2 %.

TABLE 7

Production capacity

(MT)

	1998	1999	2000	2001	IP
Index	100	100	100	100	100
Y/Y trend		0 %	0 %	0 %	0 %

Source: verified questionnaire reply of the Community industry.

(66) Production capacity remained unchanged during the period considered. Contrary to the allegation made by some interested parties, it was not found that the Community industry faced production capacity problems during the period considered.

TABLE 8

Capacity utilisation

(MT)

	1998	1999	2000	2001	IP
Index	100	88	93	98	96
Y/Y trend		– 11 %	+ 5 %	+ 5 %	– 2 %

Source: verified questionnaire reply of the Community industry.

(67) The above table shows that during the period considered the capacity utilisation decreased by 4 %, in line with production. Between 2001 and the IP, the Community industry capacity utilisation decreased by 2 %.

4.3. Sales volume and sales prices

TABLE 9

Sales volume

(MT)

	1998	1999	2000	2001	IP
Index	100	102	123	111	109
Y/Y trend		+ 2 %	+ 20 %	– 10 %	– 2 %

Source: verified questionnaire reply of the Community industry.

(68) The Community industry's sales to unrelated customers in the Community increased by 9 % from 1998 to the IP. During the period 1998 to 2000, despite its decreased production, the Community industry managed to increase its Community sales volume by 23 %, mainly by selling stocks built up during the year 1999. Between 2000 and the IP a 12 % fall in sales volume coincided with an increased consumption volume (5 %).

TABLE 10

Community industry sales prices of FA

	1998	1999	2000	2001	IP
Index	100	86	80	99	89
Y/Y trend		– 14 %	– 7 %	+ 24 %	– 11 %

Source: verified questionnaire reply of the Community industry.

(69) In the period 1998 to the IP, the average sales price of FA charged by the Community industry on the Community market dropped significantly by 11 %. The price decrease was particularly evident between 1998 and 2000 (- 20 %). Between 2000 and the IP prices have increased by 11 % without ever reaching the level of 1998 again. The reason for the price increase in the year 2001 was, that the Community industry could take advantage of the production and supply difficulties of the Chinese exporting producers due to the draught in the PRC referred to in recital 51.

4.4. Market share

TABLE 11

Market share

	1998	1999	2000	2001	IP
Index	100	94	101	86	84
Y/Y trend		– 6 %	+ 8 %	– 15 %	– 1 %

Source: verified questionnaire reply of the Community industry.

(70) The market share held by the Community industry decreased substantially by 16 % during the period considered and during the period 2000 and the IP.

4.5. Stocks

TABLE 12

Stocks

(MT)

	1998	1999	2000	2001	IP
Index	100	119	101	139	183
Y/Y trend		+ 19 %	– 15 %	+ 37 %	+ 31 %

Source: verified questionnaire reply of the Community industry.

(71) The above table shows that during the period considered stocks increased by 83 %. Between 2000 and the IP stock increased by 81 %. The level of stocks was significantly higher at the end of the IP than in 2001.

(72) This development suggests that although production decreased by 2 % during the period 2001 and the IP, the part which was not sold on the Community market or to third countries increased considerably and went into stocks. During the IP the stocks represented around 70 % of the Community industry's sales volume on the Community market.

4.6. Profitability and cash flow

(73) During the period considered profitability expressed as a percentage of net sales value developed as follows:

TABLE 13

Profitability

	1998	1999	2000	2001	IP
Index	100	45	26	35	8
Y/Y trend		– 54 %	– 42 %	+ 34 %	– 77 %

Source: verified questionnaire reply of the Community industry.

(74) Between 1998 and the IP profitability deteriorated, due to a decrease in sales prices by 92 %. In the period 2000 to the IP, profitability worsened by 69 % in parallel with sales price pressure faced by the Community industry on its domestic market.

(75) In 2001, the situation improved slightly due to efforts made by the Community industry to restructure and reduce costs and due to the higher prices which could be obtained. However, at the same time the Community industry's sales volume and market share decreased, while imports from the PRC increased again considerably and took over part of the market share from the Community industry. Moreover, the price depression experienced by the Community industry during the IP, undermined the efforts of the Community industry and the slight improvements experienced in the year 2001. This suggests that without the restructuring of its activities, the decrease of profitability of the Community industry would have been even higher.

(76) Cash flow deteriorated by 91 % during the period considered, in line with the trend for profitability.

TABLE 14

Cash flow

(1 000/EUR)

	1998	1999	2000	2001	IP
Index	100	42	28	40	9
Y/Y trend		– 58 %	– 34 %	44 %	– 78 %

Source: verified questionnaire reply of the Community industry.

4.7. Investments, return on investments and ability to raise capital

TABLE 15

Investments

(1 000/EUR)

	1998	1999	2000	2001	IP
Index	100	54	25	184	276
Y/Y trend		– 46 %	– 54 %	640 %	50 %

Source: verified questionnaire reply of the Community industry.

(77) The significant increase in investments in particular during the period 2001 and the IP is explained by increased safety and environmental requirements resulting from amendments of Belgian law. Another significant investment during the period considered has been the extension of the storage facility in order to increase the storage capacity.

(78) The investigation showed that the operating return on investments during the IP deteriorated in line with the development of profitability.

TABLE 16

Return on investments

	1998	1999	2000	2001	IP
	100	55	21	51	19
Y/Y trend		– 45 %	– 61 %	142 %	– 62 %

Source: verified questionnaire reply of the Community industry.

(79) However, the Community industry was not found to be experiencing difficulties in their ability to raise capital.

4.8. Employment, productivity and wages

TABLE 17

Employment

	1998	1999	2000	2001	IP
Index	100	103	108	105	109
Y/Y trend		+ 3 %	+ 2 %	0 %	+ 2 %

Source: verified questionnaire reply of the Community industry.

(80) The above table shows that employment increased by 9 % during the period considered, despite the difficulties encountered by the Community industry, employment.

(81) Given the level of production and the increase of personnel employed, productivity decreased by 12 % during the period considered as shown in the table below:

TABLE 18

Productivity

(MT)

	1998	1999	2000	2001	IP
	100	88	89	94	88
Y/Y trend		– 12 %	1 %	6 %	– 7 %

Source: verified questionnaire reply of the Community industry.

(82) During the period considered the average wages of the employees of the Community industry increased by around 25 %. However, between 2000 and the IP the increase of wages was less than 4 %.

4.9. Magnitude of dumping margins

(83) The impact on the Community industry of the magnitude of the actual margin of dumping cannot be considered to be negligible given the volume and the prices of the imports concerned. Indeed, the investigation showed that overall the imports originating in PRC were sold at dumped prices on the Community market during the IP. Price pressure on Community prices would obviously have been lower or even non-existent without dumping.

4.10. Growth

(84) It is noted that the growth in the Community industry was particularly negative between 2000 and the IP in term of sales volume (- 12 %) and in term of loss in market share (- 16 %). At the same time the imports from the PRC increased by around 3 200 MT and the gain in market share of the low-priced dumped imports was as high as 7 percentage points.

4.11. Recovery from past dumping

(85) Although it has been found that Chinese prices have decreased by 17 % between 1998 and 2000 it is considered that recovery from past dumping was not a relevant indicator.

4.12. Conclusion on injury

(86) During the period considered the presence of low-priced dumped imports from the PRC significantly increased on the Community market and the main relevant injury indicators pertaining to the Community industry showed a negative development.

(87) The situation was particularly evident between 2000 and the IP. Indeed, the investigation showed that during that period Community consumption slightly increased by 5 % but the volume of dumped imports increased by 46 %. This allowed the Chinese exporting producer to gain a significant additional share of the Community market (7 percentage points) mainly at the expense of the Community industry. It also showed that during the IP dumped imports from the PRC were undercutting the Community industry's prices by over 10 % and that sales prices of the Community industry were depressed.

(88) It was found appropriate to focus on the period 2000-IP, i.e. the more recent part of the period considered, because in 2000 imports from the PRC developed again towards 1998 levels from which they increased in 2001 and the IP to their highest levels ever. Moreover, as far as Chinese import prices are concerned, in 2000 they were already considerably below 1998 levels but they even slightly decreased further during the IP.

(89) It was also found that the main negative development in the economic situation of the Community industry took place during the same period from 2000-IP: sales volume decreased by 12 % and stocks increased (+ 81 %). The loss in market share suffered by the Community industry was 16 %. Profitability worsened in parallel with sales price pressure faced by the Community industry on its domestic market (- 69 %). Cash flow, return on investment and productivity also deteriorated.

(90) Although some indicators such as production, capacity utilisation and sales prices of the Community industry also showed a positive development in 2000-IP this can to a large extent be explained by the production and supply difficulties of the Chinese exporters in 2000, from which the Community industry could temporarily take advantage. These positive factors therefore do not change the overall picture of the injurious situation of the Community.

(91) In the light of the foregoing, in particular the decrease in profitability and market share experienced by the Community industry, particularly in the period from 2000 to the IP, the Commission have provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

E. **CAUSATION**

1. **Introduction**

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

(93) Secondly, Known factors other than dumped imports, such as the development of consumption, the export activity of the Community industry, the trading activity of IFC and the imports into the Community from third countries, which could at the same time be injuring the Community industry, were also analysed in order to ensure that possible injury caused by other factors was not attributed to the dumped imports.

2. **Effect of the dumped imports from the country concerned**

(94) The volume of imports of Chinese FA into the Community was always significant. During the period considered, the volume of dumped imports from the PRC into the Community increased by 108 % and their market share rose by 63 %, meaning a gain of 9,6 percentage points at the expense of the producer in the Community.

(95) As shown in recital 57, Chinese prices decreased by 17 % between 1998 and 2000. Whilst Chinese prices increased between 2000 and 2001 by 17 % they saw an overall decrease of 2 % in the period 2000 to the IP. This was due to a significant price decrease between 2001 and the IP of 16 %. This situation shows that the Community industry was subject to price pressure exacerbated by dumped imports on the Community market. The price pressure is further evidenced by the price undercutting practised by the Chinese exporting producers and the prices of the Community industry, which were depressed to a considerable extent during the IP.

(96) The link between the injury suffered by the Community industry and the dumped imports is demonstrated in particular by the developments observed from 2000 until the end of the IP. During this period, dumped imports from the PRC increased by 46 % in terms of volume and the gain in the share of the Community market was as high as 7 percentage points (or 39 %).

(97) The above developments coincided with the significant declining trend of the main economic indicators pertaining to the Community industry from 2000 to the IP: sales volume decreased by 12 % and 16 % of market share were lost. As a result, the profitability of the Community industry decreased considerably by 69 %.

3. **Effect of other factors**

3.1. Development of consumption

(98) The investigation showed that consumption increased during the period considered. Overall, consumption in the Community market increased by 28 % (or by over 9 100 MT). In the period between 2000, and the IP the increase in consumption was limited to 5 %.

(99) During the period considered Chinese imports increased by 108 % (or by around 5 400 MT). The increase in imports between 2000 and the IP was as high as 48 % (or around + 3 300 MT) whilst consumption increased only by 5 % (or by around 2 000 MT) in the same period.

(100) It is therefore considered that the development of consumption did not contribute to the material injury suffered by the Community industry.

3.2. Export activity of the Community industry

(101) From 1998 up to 2001 export sales volumes of the Community industry to third countries represented around 40 % of its total sales. During the IP the export sales represented around 35 % of its total sales.

(102) On this basis, the Commission does not exclude that such a decrease in the export sales affected the overall economic situation of the Community industry. In particular the decreased export activity can explain to a certain extent the increase in stocks during the IP. However, it was found that the increase in stocks was much higher than the decrease in exports. These findings suggest that the contribution of the export activity of the Community industry to the increased stocks was limited.

(103) In addition, it is recalled that the present investigation exclusively covered the economic situation of the Community industry as regards the Community market. Accordingly, prices and revenues from export sales were excluded from the injury analysis. Any effect on the situation of the Community industry by the decreasing export volumes was therefore very limited.

(104) It is therefore provisionally considered that the export activity of the Community industry did not in any significant way contribute to the material injury suffered by the Community industry.

3.3. IFC's own trading activity

(105) The investigation has shown that IFC buys quantities of FA from third countries, *inter alia*, from the PRC and trades this FA under its own trading activity. However, the investigation has shown that these quantities were limited and that there is no indication that such FA ever entered the Community market. In this respect it should be noted that the trading activity had a positive effect on the overall financial situation of IFC. Without IFC's own trading activity the Community industry's situation would have been even worse, leading to even greater financial losses.

(106) It is therefore considered that IFC's own trading activity did not in any significant way contribute to the material injury suffered by the Community industry.

3.4. Imports into the Community from other third countries

(107) Total imports of FA into the Community and average import prices from countries other than the PRC increased by 40 % in volume terms:

TABLE 19

Imports into the Community from other third countries

Imports	1998	1999	2000	2001	IP
MT	5 920	6 674	7 083	8 293	8 310
Index	*100*	*113*	*119*	*140*	*140*
EUR/MT	1 140	1 027	939	1 171	1 081
Index	*100*	*90*	*82*	*103*	*95*

Source: Eurostat.

(108) It has been argued that injury to the Community industry has been caused by imports into the Community from other third countries, in particular given the increased import volumes between 1998 and the IP.

(109) The above table shows that imports of FA from other third countries overall increased by around 2 300 MT during the period considered. Between 2000 and the IP the increase was limited to around 1 200 MT. These developments should be seen the light of the development of consumption and the dumped imports from the PRC. As shown in recitals 47 and 48, consumption increased by 28 % (or over 9 100 MT) during the period considered but the increase of consumption was limited to 5 % (or to around 2 000 MT) between 2000 and the IP. As explained in recital 49, the imports from the PRC increased by around 5 400 MT during the period considered and it was more pronounced between 2000 and the IP (around + 3 300 MT). It should also be noted that the total market share of imports from all third countries together even after the significant increase remained still below that of imports from the PRC by around 20 % during the IP.

(110) Furthermore, it was also found that import prices from those countries were above the level of those of Chinese exporting producers (above around 32 % during the IP) and even above those of the Community industry (above around 13 % during the IP). These findings therefore suggest that the contribution of such imports to the price deterioration noticed in the market, if any, was limited.

(111) It is therefore considered that imports into the Community from other third countries did not in any significant way contribute to the material injury suffered by the Community industry.

4. **Conclusion on causation**

(112) The dumped imports which increased significantly during the period considered, as well as the price undercutting and the price depression found, had significant negative consequences on the situation of the Community industry, notably in terms of sales volumes and prices which in turn had an effect on market share and profitability. The impact of the dumped imports on the situation of the Community industry is such that they caused material injury.

(113) Given the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby confirmed that these other factors do not break the causal link between the dumped imports and the injury suffered by the Community industry.

F. COMMUNITY INTEREST

1. Preliminary remarks

(114) In accordance with Article 21 of the basic Regulation, it was provisionally examined whether the imposition of anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the interests involved, i.e. those of the Community industry, the unrelated importers/traders and the users of the product concerned to the extent that the relevant parties submitted the information requested in this respect.

(115) In order to assess the likely impact of the imposition of measures, the Commission requested information from all known interested parties. The Commission sent questionnaires in particular to the Community industry, importers and users of the product concerned.

(116) On this basis it was examined whether, despite the conclusions on dumping, injury and causation, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose anti-dumping measures in this particular case.

2. Interest of the Community industry

(117) The Community industry has been suffering from low-priced imports of FA. In view of the nature of the injury suffered by the Community industry, the Commission considers that, in the absence of anti-dumping measures, a further deterioration in the situation of the Community industry is unavoidable. This will most likely entail further injury and in the medium term, potentially the disappearance of that industry, bearing in mind the scale of profit deterioration during the period considered. Furthermore, there being only one producer of FA in the Community, should it disappear, the Community market would be totally dependent of FA from third countries.

(118) If however anti-dumping measures are taken, these would reinstate to fair trading conditions. Under these conditions the Community industry will be able to remain a viable FA producer. It has made considerable investments in order to comply with strict environmental protection and safety requirements. Furthermore the Community industry constantly improves and develops new products based on FA.

(119) The adoption of anti-dumping measures would therefore be in the interest of the Community industry.

3. Interest of unrelated importers and users and possible impact on consumers

(120) In order to evaluate the impact of taking or not taking measures, the Commission sent questionnaires to the known unrelated importers and users of FA in the Community.

(121) Three unrelated importers and 11 users submitted meaningful replies. The three importers and the 11 users represented about 74 % of Community imports and 47 % of Community consumption of FA during the IP.

4. Possible impact on importers

(122) As far as the three cooperating importers are concerned, the FA segment represented on average 28,9 % of their total turnover during the IP.

(123) The Commission also examined the likely average impact of the proposed anti-dumping duty on the importers' overall profitability. Given the share of the FA segment in their overall turnover and assuming that the measures would be fully passed on by the importers to the users the maximum negative impact of the proposed measures on the three importers is likely to be minimal.

5. **Possible impact on users**

(124) Users of the product under consideration are manufacturers of furan resin, a product which is used in the foundry casting industry. 11 users submitted a meaningful reply to the questionnaire. These 11 users represented around 31 % of total FA consumption in the Community. Submissions were also received from associations of users in the Community.

(125) As far as the 11 cooperating users are concerned, the FA segment represented on average 4,6 % (varying between 1 % and 37 %) of their total turnover during the IP.

(126) Overall it has been found that the cooperating users actually achieve an average profit margin of around 8,7 % in their overall activities during the IP. It has further been found that the part of FA in the total cost of the furan resin manufacturers is 60 % to 90 %, as FA constitutes the major part of the cost of resin. Thus, it cannot be excluded that measures will have an impact on users. However, given the fact that FA constitutes a rather low proportion in the overall cost of the foundry casting industry (less than 3 %) it can be assumed that the users will pass on the measures to the foundry casting industry. The possible impact of the proposed measures on the cost of the foundry casting industry will thus be less than 0,3 %. Consequently, some negative effects on certain users cannot be excluded. However, in view of the limited proportion of FA in their total activities, and bearing in mind the level of the measures proposed and the profitability situation of the cooperating users, it is concluded that the possible negative effects of the measures proposed on users cannot be considered such as to outweigh the expected benefits for the Community industry.

(127) On this basis it is reasonable to assume that the measures will be to a large extent, if not fully, passed on by the users to the foundry casting industry. It is therefore considered that the overall impact will be negligible.

6. **Possible impact on consumers**

(128) Given the nature of the product being an industrial commodity product it appears unlikely that the proposed measures will have any impact on individual consumers.

7. **Competition and trade distorting effects**

(129) It has been argued that the imposition of anti-dumping measures would strengthen the allegedly dominant position of the complaining Community industry, which already had a substantial market share in the Community during the IP, allowing it to gain a quasi-monopolistic position in the FA market.

(130) However, given that the level of the proposed measures is not such as, from an economic point of view, to foreclose the Community market to the exporting producers, the continued presence of FA originating in the PRC in the market will be ensured. Furthermore, competition with imports of FA from third countries will continue to exist.

(131) Some parties have further alleged that the measures would reduce users' and consumers' choice. However, as outlined above, FA originating in the PRC will most likely still be available on the Community market, as well as imports from third countries. Thus users will continue to have the choice between the competing products, albeit at fair prices. Conversely, such freedom of choice would be affected if the Community industry would be allowed to disappear which could happen in case of non-imposition of anti-dumping measures.

(132) Measures are expected to re-establish fair and effective competition on the Community market, merely correcting the distorting effects of the injurious dumping practised by the Chinese exporting producers. Not imposing measures in the present case would maintain and amplify the distortion of competition, resulting in a further deterioration of the situation of the Community industry. The disappearance of the Community industry would lead to reduced competition and reduced choice for users on the Community market.

8. **Conclusion on Community interest**

(133) On the basis of the above facts and considerations it is provisionally concluded, that there are no compelling reasons against the imposition of measures on imports of FA originating in the PRC.

G. **PROVISIONAL MEASURES**

1. **Provisional injury elimination level**

(134) Having established that the dumped imports under consideration have caused material injury to the Community industry and that there are no compelling reasons against the imposition of measures, the duties envisaged should be imposed at a level sufficient to eliminate the injury caused without exceeding the dumping margins found.

(135) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and to obtain an overall pre-tax profit that could be achieved in the absence of dumped imports on the sales of the like product in the Community.

(136) On this basis it was provisionally found that a profit margin of 10 % on total turnover could be regarded as an appropriate minimum which the Community industry could reasonably expect to obtain in the absence of injurious dumping. This profit margin is deemed to be reasonable in view of the development of profitability of the Community industry during the period considered which was on average higher in the absence of dumped imports.

(137) Accordingly, injury elimination levels were determined as the difference between the cost of production of the Community industry, increased by the abovementioned profit margin on the one hand, and the adjusted actual net sales price of the imported FA used for the price undercutting calculation on the other. This difference was then expressed as a percentage of the CIF import price at the Community frontier customs duty unpaid. As a result of these calculations, injury margins of 2,2 % to 23,0 % were found.

2. **Proposed provisional anti-dumping duty**

(138) In the light of the foregoing, and in accordance with the lesser duty rule set in Article 7(2) of the basic Regulation, the provisional anti-dumping duty should be set at the level of the injury elimination level.

(139) The exporters concerned sell a variety of other products as well as FA to the importers and users in the Community. In order to ensure the efficiency of the measures and in order to minimise the risk of the duties being evaded by price manipulation, which has been observed in some previous proceedings involving the same general category of product, i.e. FF [1], it is considered appropriate to impose the provisional duty in form of a specific amount of EUR per metric tonne. The calculation of the injury threshold related to cif import price results in duties ranging between EUR 21 and EUR 181 per metric tonne.

[1] OJ L 328, 22.12.1999, p. 1.

H. **FINAL PROVISION**

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of furfuryl alcohol currently classifiable within CN code ex 2932 13 00 (TARIC code 2932 13 00 90), originating in the People's Republic of China.

2. The provisional duty applicable for the product originating in the People's Republic of China shall be as follows:

Companies	Rate of anti-dumping duty (EUR per tonne)	TARIC additional code
Gaoping Chemical Industry Co. Ltd	96	A442
Linzi Organic Chemical Inc.	21	A440
Zhucheng Huaxiang Chemical Co. Ltd	33	A441
All other companies	181	A999

3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 the amount of anti-dumping duty, calculated on the basis of paragraph 2 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

5. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

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

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

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 7 May 2003.

For the Commission

Pascal LAMY

Member of the Commission