COMMISSION REGULATION (EC) No 988/2004

of 17 May 2004

imposing provisional anti-dumping duties on imports of okoumé plywood 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] ('basic Regulation'), as last amended by Regulation (EC) No 461/2004 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. **PROCEDURE**

1. INITIATION

(1) On 19 August 2003, the Commission announced by a notice ('notice of initiation') published in the Official Journal of the European Union [3], the initiation of an anti-dumping proceeding with regard to imports into the Community of okoumé plywood originating in the People's Republic of China ('PRC').

(2) The anti-dumping proceeding was initiated following a complaint lodged on 7 July 2003 by the European Federation of the Plywood Industry (FEIC) ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the Community production of okoumé plywood. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

2. PARTIES CONCERNED BY THE PROCEEDING

(3) The Commission officially advised the exporting producers in the PRC, importers/traders and their associations, suppliers and users known to be concerned, the representatives of the exporting country concerned and the complainant Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) In view of the large number of Chinese exporting producers listed in the complaint, and the large number of Community producers of the like product, sampling was envisaged in the notice of initiation for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation.

(5) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers and Community producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period (1 July 2002 to 30 June 2003).

(6) After examination of the information submitted by exporting producers and due to the low number of replies to the sampling questions, it was decided that sampling was not necessary with regard to exporters.

(7) With regard to the Community producers, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of production and sales of the Community industry which could be reasonably investigated within the time available. On the basis of the replies received from the Community producers, the Commission selected five companies in three Member States. The selection was based on both production and sales volume. The sample chosen on the basis of the aforementioned criteria is also representative in terms of geographic coverage.

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[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 77, 13.3.2004, p. 12.
[3] OJ C 195, 19.8.2003, p. 3.

(8) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned. Claims for MET, or for IT in case the investigation establishes that they do not meet the conditions for MET, were received from eight exporting producers.

(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 six Chinese exporting producers, from the five sampled Community producers, and from one producer in the analogue country, Morocco.

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

(a) *Community producers*

— Indústrias Jomar – Madeiras e Derivados SA, Portugal;

— Joubert SAS, France;

— Plysorol SAS, France;

— Reni Ettore spa., Italy;

— Schauman Wood SA, France

(b) *Exporting producers in the People's Republic of China*

— Zhejiang Deren Bamboo-Wood Technologies Co., Ltd.

— Jiaxing Jinlin Lumber Co., Ltd.

— Nantong Zongyi Plywood Co., Ltd.

— Zhonglin Enterprise (Dangshan) Co., Ltd.

(c) *Producer in the analogue country*

(11) In view of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification visit to establish normal value on the basis of data from an analogue country, Morocco, took place at the premises of the following company:

— CEMA Bois de l'Atlas, Casablanca, Morocco.

3. INVESTIGATION PERIOD

(12) The investigation of dumping and injury covered the period from 1 July 2002 to 30 June 2003 ('investigation period' or 'IP'). The examination of trends in the context of the injury analysis covered the period from 1 January 1999 to the end of the IP ('period under consideration').

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. GENERAL

(13) Plywood is a wood based panel, which has at the same time good mechanical strength and a light weight. It consists of sheets (plies) of wood veneer, which are glued together. It is constructed with an odd number of plies, which are cross-bonded. The outer plies usually have the grain direction going parallel to the long dimension of the panel. This construction guarantees the strength and stability of plywood.

(14) Plywood can be made of different species of wood. The main wood species used for the production of European plywood are beech, birch, spruce, poplar and okoumé.

(15) Okoumé wood only grows in Gabon, Equatorial Guinea and Cameroon, and has therefore to be imported by European as well as Chinese plywood manufacturers. Okoumé gives the plywood an excellent, smooth surface quality, and also good mechanical properties mainly due to the absence of knots. Okoumé plywood has therefore specific features relating to its appearance and to its mechanical properties, which means that the product can be distinguished from other types of plywood.

(16) Okoumé plywood has a large range of end-uses. It is used in the building industry in exterior joinery and carpentry applications for boarding, shutter boards, exterior basements and balustrades and riverside panelling. It is also used for more decorative purposes in, inter alia, road transports (e.g. cars, coaches, caravans, camping cars), maritime transports (yachts), furniture industry and doors.

(17) There are two types of okoumé plywood, plywood made solely with okoumé ('full okoumé') and plywood with at least one of the outer faces made of okoumé ('faced okoumé'), the rest being made of other wood. Both okoumé plywoods have the same external appearance. Despite differences in mechanical properties, they all share the same basic physical characteristics, and are basically used for the same purposes.

2. PRODUCT CONCERNED

(18) The product concerned is plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé, originating in the PRC, currently classifiable within CN code ex 4412 13 10. This definition covers full okoumé and faced okoumé as defined above.

(19) During the verification visit, it was found that one company exported film faced okoumé plywood to the Community during the IP. This product is faced okoumé (with layers of other wood inside) covered by a plastic film. It was considered that this product was not the product concerned, as it did not consist only of sheets of wood and does not present the same external appearance as other okoumé plywood. It therefore did not share the same physical and technical characteristics. It is consequently not covered by the present proceeding.

3. LIKE PRODUCT

(20) The product concerned and the okoumé plywood manufactured in the PRC and sold domestically, the product produced and sold on the domestic market of the analogue country (Morocco) as well as the one manufactured and sold in the Community by the Community industry were found to have basically the same physical and technical characteristics and the same uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. **DUMPING**

1. MARKET ECONOMY TREATMENT (MET)

(21) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(22) Briefly, and for ease of reference only, these criteria, fulfilment of which the applicant companies have to demonstrate, are set out in summarised form below:

(1) business decisions and costs are made in response to market conditions, and without significant State interference;

(2) accounting records are independently audited in line with international accounting standards and applied for all purposes;

(3) there are no significant distortions carried over from the former non-market economy system;

(4) legal certainty and stability are provided by bankruptcy and property laws;

(5) currency exchanges are carried out at the market rate.

(23) Eight 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.

(24) The application of one company (company 2 in table below) was rejected on the basis of a first analysis of the reply to the MET claim form which failed to show that all the criteria were met. The application of another company (company 4 in table below) was rejected because it withdrew its co-operation before the verification visit took place. It was therefore not possible to verify whether the company fulfilled the criteria set in Article 2(7)(c) of the basic Regulation.

(25) For the six remaining companies, the Commission sought and verified at the premises of these companies all information submitted in the MET applications and deemed necessary.

(26) The investigation showed that four of the six companies mentioned above fulfilled all the criteria required and they were therefore granted MET. These four exporting producers in the PRC which were granted MET are:

— Zhejiang Deren Bamboo-Wood Technologies Co., Ltd.

— Jiaxing Jinlin Lumber Co., Ltd.

— Nantong Zongyi Plywood Co., Ltd.

— Zhonglin Enterprise (Dangshan) Co., Ltd.

(27) The remaining two claims had to be rejected. The following table summarizes the determination for the four companies for which MET was not granted against each of 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	Not met	Not met	Met
2	Not met				
3	Non co-operation				
4	Non co-operation				

Source: Verified questionnaire replies of co-operating Chinese exporters

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

(29) Concerning the first criterion, company 1 submitted that, contrary to the Commission's conclusions, the source of the paid-in capital was clear and the domestic sales were made at market prices. However the company was unable to provide further evidence to rebut the Commission's conclusions. As far as the domestic sales are concerned, it was shown that the pricing policy of the company was not in accordance with market economy principles, as okoumé plywood with higher quality was sold at the same price as plain plywood. Therefore, these two claims were rejected.

(30) The same company claimed that its accounts were audited independently and in line with international standards. However, the verification visit showed that the auditors had not made the comments demanded by international standards (mainly different balance sheets for the same year without further explanation and loss of almost all of the paid-in capital without any comment). Since these problems seriously put into question the reliability of the accounts, they could not be considered to be audited in line with international standards. Therefore, this claim was also rejected.

(31) Company 1 also claimed that there was no State intervention or distortions carried over from the non-market economy system. However, payments for land use rights, which were due to the local authorities, remained unpaid for several years without explanation. Therefore, State or local government interference cannot be excluded and the company could not demonstrate that it is free from State interference. This claim was therefore rejected.

(32) Finally, company 1 claimed that it benefited from legal certainty and stability provided by bankruptcy and property laws. However, it was noted during the verification visit that in a certain financial year the losses were higher than the capital. Therefore, it was found that, whilst the company may in theory be subject to the bankruptcy laws, these de facto did not apply to it, since under those circumstances a proceeding for bankruptcy should have been launched. It is worth noting that the auditors made also no comments in this respect. Hence, the company failed to demonstrate that it operates under a legal framework which guarantees legal certainty. Therefore, this claim was rejected.

(33) Company 3 argued that it had co-operated with the Commission. This company had two related companies that produced the product concerned and exported it to the Community during the IP. However, neither of these two companies made itself known within the deadlines set in the notice of initiation of the proceeding. Therefore they were considered as non-cooperating exporting producers.

(34) It is the Commission's consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET, which means that each related company producing and/or selling the product concerned should fulfil the MET criteria. Taking into account the non co-operation of the related companies in this case, it was not possible to establish that the group as a whole fulfilled the MET criteria, and therefore company 3 could not be granted MET.

(35) The Community industry was given the opportunity to comment, but no objections were raised. The Advisory Committee was consulted and did not object to the Commission's conclusions.

2. INDIVIDUAL TREATMENT (IT)

(36) Further to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under Article 2(7) of the basic Regulation, except in those cases where companies are able to demonstrate, in accordance with Article 9(5) of the basic Regulation, that their export prices and quantities, as well as the conditions and terms of the sales are freely determined, that exchange rate conversions 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.

(37) The eight exporting producers, as well as requesting MET, also claimed individual treatment in the event of not being granted MET. However, none of the companies for which MET was rejected could be granted IT.

(38) Indeed, for the two companies that did not co-operate, IT could not be granted, as it could not be verified whether they fulfilled the criteria set out in Article 9(5) of the basic Regulation.

(39) The on-spot investigation showed that the accounting and export documents of company 1 were unreliable and presented serious deficiencies. In view of the considerable degree of uncertainty with regard to this company, it was considered impracticable to establish an individual dumping margin. Indeed, the export sales being unreliable, the calculation of an individual margin is de facto not possible since the export data from the company cannot be used. Moreover, since the company could not provide any assurance that measures would not be circumvented should this exporter be granted an individual margin, an individual margin would not be warranted in this case. Therefore, IT was not granted to this company.

(40) Finally, company 2, which is State owned, could not demonstrate that State interference would not lead to circumvention of measures if exporters were given different rates of duty.

3. NORMAL VALUE

3.1. **Determination of normal value for co-operating exporting producers granted MET**

(41) In accordance with Article 2(2) of the basic Regulation, the Commission first examined for each co-operating exporting producer whether its domestic sales of okoumé plywood were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume of the producer to the Community. The investigation showed that domestic sales were representative for only two of the four exporting producers.

(42) The Commission subsequently identified those types of okoumé plywood sold domestically by the companies having overall representative domestic sales and that were identical or directly comparable with the types sold for export to the Community.

(43) For each type sold by the exporting producers on their domestic markets and found to be directly comparable with the type of okoumé plywood sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of okoumé plywood were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of okoumé plywood exported to the Community. For one of the two companies with representative domestic sales, four product types fulfilled this condition, whereas for the other company no product type was found to be sufficiently representative.

(44) The Commission subsequently examined whether the four product types identified above could be considered as being sold in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the okoumé plywood type in question. In cases where the sales volume of the okoumé plywood type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of the okoumé plywood type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type. Only for one product type could the domestic prices be used to determine the normal value. For the remaining three product types, less than 10 % of the domestic sales of these product types were profitable during the IP.

(45) In cases where the volume of profitable sales of any product type represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value. Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value, in accordance with Article 2(3) of the basic Regulation.

(46) In accordance with Article 2(3) of the basic Regulation, normal value was constructed on the basis of each exporting producer's own cost of manufacturing plus a reasonable amount for selling, general and administrative ('SG&A') costs and for profit. The Commission was able to use the own SG&A costs of two companies for which the domestic sales of the like product were representative as defined in Article 2(2) of the basic Regulation. For the profit margin, in accordance with the first sentence of Article 2(6) of the basic Regulation, the profit in the ordinary course of trade of each of the above-mentioned two companies was used.

(47) For the two companies without representative domestic sales, the weighted average of the SG&A costs and profit of the two companies with representative domestic sales could be used in accordance with Article 2(6)(a) of the basic Regulation.

(48) For one of the companies, the Commission was unable to establish with a reasonable degree of certainty that the cost allocation declared in the questionnaire reply reasonably reflected the costs associated with the production and sales of the product concerned. The company was given the possibility to comment on this during the verification visit, but it was unable to clarify the inconsistencies concerning the allocation of costs. Therefore, and in accordance with the provisions of Article 2(5) of the basic Regulation, the allocation of costs was made on a turnover basis when determining the cost of manufacturing.

(49) One company purchased poplar veneers from local producers. These producers are not registered as VAT payers, and therefore do not pay VAT. The company, however, reduced the cost of the veneers by 13 % VAT. This was argued to be in accordance with the VAT authorities. However, as the company could not show that the reimbursement of VAT effectively took place, it was considered that this alleged reduction of VAT should be rejected, as the costs that should be taken into account should be the costs actually incurred.

(50) One company suggested that the Commission should take into account the cost of production over a longer period than the IP. The company claimed that this would better reflect the real costs incurred given the existence of certain corrections in the accounts and a low production volume. As the company was unable to show any evidence of these alleged corrections, the Commission used the data for the IP provided by the company.

(51) One company purchased veneers from a related company. Since the transfer prices of these transactions did not reasonably reflect the costs associated with the production of these veneers, they had to be replaced with a non-related transaction price, which was set at the price of other transactions of the company with unrelated suppliers.

3.2. **Determination of normal value for all exporting producers not granted MET**

3.2.1. *Analogue country*

(52) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted market economy treatment has to be established on the basis of the prices or constructed value of the analogue country.

(53) In the notice of initiation of this proceeding, Morocco was envisaged as an appropriate market economy third country for the purpose of establishing normal value for the PRC and interested parties were invited to comment on this. Three exporting producers contested this choice within the deadlines and proposed Brazil and Indonesia as analogue countries.

(54) In order to establish whether the envisaged choice of Morocco as analogue country was appropriate, the Commission first contacted all known producers of okoumé plywood outside the European Community and the PRC, namely in Morocco, Brazil and Indonesia. However, only one Moroccan company co-operated in the proceeding and its data were verified.

(55) The investigation then showed that other countries, namely Malaysia and Turkey, could also have producers of okoumé plywood. The known producers in these countries were contacted, and only one Turkish company accepted to cooperate in the proceeding. However, given the statutory deadlines for reaching a provisional determination, and given that the data from the Turkish producer were provided at a late stage and the analysis is not yet completed, the Commission decided to use Morocco as an appropriate analogue country in the framework of this provisional determination.

(56) Three exporting producers opposed this proposal with the main arguments that the cost structure of the Moroccan producer was not similar to the cost structure of the Chinese producers, and that the Moroccan market lacked internal competition.

(57) In this respect, the investigation has provisionally confirmed that there is only one Moroccan producer on the domestic market and that a high customs duty exists. However the Moroccan producer's sales were deemed substantial and sufficiently representative in comparison to the volume of Chinese exports of the product concerned originating in the PRC to the Community during the IP. Therefore, the arguments made were not considered to be as such sufficient to prevent the Commission from calculating a reasonable provisional normal value, duly adjusted by taking into account the customs duty. Should it be found in the further course of the investigation, on the basis of the on-going analysis of the data provided by the Turkish company that Turkey is more suitable as an analogue country, these new elements will be duly considered.

3.2.2. *Determination of normal value in the analogue country*

(58) In order to establish whether sales on the Moroccan market of the products comparable with those sold by the Chinese exporting producers to the Community were made in the ordinary course of trade, the domestic selling price was compared to the full cost of production (i.e. the cost of manufacturing plus SG&A expenses). Since the large majority of the sales volume of the types sold on the domestic market were sold at a loss and since the weighted average cost of production was higher than the weighted average selling price, normal value had to be constructed.

(59) In accordance with Article 2(3) of the basic Regulation, normal value was constructed on the basis of the producer's own cost of manufacturing plus a reasonable amount for selling, general and administrative ('SG&A') costs and for profit. It was possible to use its own SG&A costs as the domestic sales of the like product were representative. For the profit, it was decided to provisionally use a reasonable profit margin reflecting the average company's global profit margin, in accordance with Article 2(6)(c) of the basic Regulation.

4. EXPORT PRICE

(60) The export prices for the co-operating exporting producers were established on the basis of the prices paid or payable for the product concerned when sold for consumption in the Community to the first independent customer in accordance with Article 2(8) of the basic Regulation.

(61) For the non-cooperating producers, the export prices were established in accordance with Article 18 of the basic Regulation. Export prices were therefore calculated on the basis of the lowest verified export price of the co-operating exporting producer for which MET and IT were not granted.

5. COMPARISON

(62) For the purposes of ensuring a fair comparison between the normal value and the export price at an ex-works level and at the same level of trade, due allowance in the form of adjustments was made for differences that were claimed and demonstrated to affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made in respect of transport, insurance and handling, packing and credit costs, bank charges and commissions where applicable and justified.

(63) It was found that one company made all its export sales through a Chinese trader. This trader was in charge of customer relations, finding new orders, invoicing to the final customer, and even, through a second company, forwarding the VAT reimbursement for exports to the producer. In return the trader received a commission on sales, and a discount on the purchase of a certain quantity of products. It was considered that this latter discount could be allocated only to export sales. The total amount of the discount was therefore allocated on the basis of the export turnover during the IP and the amount corresponding to the EC sales of the product concerned was taken into account when calculating the export prices of the company.

(64) When Chinese companies export the product concerned they are entitled to a VAT reimbursement of 13 % of the turnover on an FOB basis. However, the VAT that the companies have to charge on their accounts is 17 % of the turnover on an FOB basis. An allowance to reflect this difference of 4 % was therefore taken into account when calculating the export price.

6. DUMPING MARGIN

6.1. **For the co-operating exporting producers granted MET**

(65) In accordance with Article 2(11) and 2(12) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices per product type, as determined above.

(66) The provisional dumping margins expressed as a percentage of the CIF Community frontier price duty unpaid are:

Company	Provisional dumping margin
Zhejiang Deren Bamboo-Wood Technologies Co., Ltd.	23,9 %
Jiaxing Jinlin Lumber Co., Ltd.	18,5 %
Nantong Zongyi Plywood Co., Ltd.	12,0 %
Zhonglin Enterprise (Dangshan) Co., Ltd.	8,5 %

6.2. **For all other exporting producers**

(67) In order to calculate the country-wide dumping margin applicable to all other exporters in the PRC, the Commission first established the level of co-operation. A comparison was made between the data available, mainly the complaint, and the actual questionnaire replies received from the exporters in the PRC. This comparison showed that the level of cooperation was extremely low (20 %).

(68) The dumping margin was calculated by comparing the weighted average normal value established for the analogue country and the weighted average export price estimated on the basis of the facts available described above under 'export price'.

(69) On this basis, the country-wide level of dumping was provisionally established at 48,5 % of the CIF Community frontier price duty unpaid.

D. **COMMUNITY INDUSTRY**

1. COMMUNITY PRODUCTION

(70) Within the Community, the product concerned is known to be manufactured in France, Italy, Portugal, Greece, Spain and Germany, as follows:

— Ten producers on behalf of which the complaint was lodged; the five which were selected in the sample ('the sampled Community producers'), representing 57 % of the Community production, were also complainants;

— One producer which supported the proceeding and provided some general information;

— Other Community producers which were not complainants and did not co-operate, but did not oppose the present proceeding.

(71) The Commission has found that all the above companies could be considered as Community producers within the meaning of Article 4(1) of the basic Regulation. The output of all the above companies constitutes the Community production.

2. COMMUNITY INDUSTRY

(72) The accumulated production of the ten Community producers which co-operated with the Commission, which includes the five sampled Community producers, represents 85 % of the total production of okoumé plywood in the Community as estimated in the complaint. They are therefore deemed to constitute 'the Community industry' within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

E. **INJURY**

1. PRELIMINARY REMARK

(73) In view of the fact that sampling had been used with regard to the Community industry, injury has been assessed on the basis of the information collected. Trends concerning production, productivity, sales, market share, employment and growth were assessed at the level of the Community industry, and trends concerning prices and profitability, cash flow, ability to raise capital and investments, stocks, capacity and utilisation of capacity, return on investment and wages were analysed on the basis of the information collected at the level of the sampled Community producers.

2. COMMUNITY CONSUMPTION

(74) Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, plus the estimated sales of the other Community producers, plus all the imports from the PRC, Morocco and Gabon and an estimated proportion of imports of the product concerned from the other third countries under CN code 4412 13 10, as the product concerned only represents a part of this customs code. This proportion and the estimation of all imports were based on the methodology followed in the complaint.

(75) Between 1999 and the IP, the apparent Community consumption increased from 394 663 m^3 to 447 979 m^3, i.e. by 14 %.

	1999	2000	2001	2002	IP
Community consumption (m^3)	394 663	401 096	400 966	424 131	447 979

3. IMPORTS FROM THE COUNTRY CONCERNED

3.1. **Volume and market share**

(76) Imports of the product concerned from the PRC into the Community increased from 1 093 m^3 in 1999 to 83 606 m^3 in the IP. The imports were not very significant until 2001, but increased sharply from then until the end of the IP.

	1999	2000	2001	2002	IP
Imports from the PRC (m^3)	1 093	1 540	9 531	43 082	83 606

(77) The corresponding market share increased from 0,3 % in 1999 to 18,7 % in the IP. The increase was particularly sharp, from 2,4 % to 18,7 %, between 2001 and the IP.

	1999	2000	2001	2002	IP
Market share of imports from PRC	0,3 %	0,4 %	2,4 %	10,2 %	18,7 %

3.2. **Prices**

(78) Average prices of imports of the product concerned from the PRC decreased from EUR 469/m^3 in 1999 to EUR 393/m^3 in the IP, i.e. a decrease of 16,2 %. Given the very low volumes of imports in 1999 and 2000, data on corresponding prices are not very meaningful. However, an overall decreasing trend emerges throughout the period under consideration, in spite of the small rise between 2000 and 2001.

	1999	2000	2001	2002	IP
Average price of imports from PRC (EUR/m^3)	469	361	431	434	393

3.3. **Price undercutting**

(79) For the purposes of analysing price undercutting, the weighted average sales prices per product type of the sampled Community industry to unrelated customers on the Community market were compared with the corresponding weighted average export prices of the imports concerned. The comparison was made after deduction of rebates and discounts. The prices of the Community industry were adjusted to an ex-works basis. The prices of the imports concerned were on a CIF basis with an appropriate adjustment for the customs duties and post importation costs.

(80) It has been pointed out to the Commission that the quality of the products manufactured by the Community industry is generally higher than that of the like product imported from the PRC. Based on the evidence found, it was considered that this quality difference justified an estimated adjustment of 10 %, which was added to the CIF Community frontier price of the co-operating exporting producers.

(81) This comparison showed that during the IP the products concerned originating in the PRC were sold in the Community at prices which undercut the Community industry's prices by margins ranging from 11 % to 52 % when expressed as a percentage of the latter's prices.

4. SITUATION OF THE COMMUNITY INDUSTRY

(82) In accordance with Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry from 1999 to the IP.

4.1. **Data relating to the Community industry as a whole**

4.1.1. *Production, employment and productivity*

(83) The production volume of the Community industry decreased by 10 % between 1999 and the IP, from 295 915 m^3 to 267 591 m^3.

	1999	2000	2001	2002	IP
Production (m^3)	295 915	293 320	309 933	283 265	267 591

(84) Employment decreased by 9 % between 1999 and the IP. Moreover, during the IP one of the companies decided to reduce its staff by 66, although for legal reasons this will only take effect officially after the IP. Productivity increased between 1999 and 2001, and then decreased again between 2001 and the IP, due to the reduction in output.

	1999	2000	2001	2002	IP
Employment	1 608	1 642	1 600	1 489	1 462
Production per employee	184	179	194	190	183

4.1.2. *Sales volume and market share*

(85) Over the period under consideration, the EC sales volume of the Community industry decreased by 10 %, from 283 121 m^3 in 1999 to 255 943 m^3 during the IP. The decrease was particularly sharp between 2001 and the IP (-12 %).

	1999	2000	2001	2002	IP
EC sales (m^3)	283 121	291 562	292 264	272 488	255 943

(86) The Community industry's market share decreased in volume from 71,7 % in 1999 to 57,1 % in the IP. It declined particularly sharply during the 18 months after the surge of imports from China, from 72,9 % in 2001 to 57,1 % in the IP.

	1999	2000	2001	2002	IP
EC market share	71,7 %	72,7 %	72,9 %	64,2 %	57,1 %

4.1.3. *Growth*

(87) While Community consumption grew by 14 % between 1999 and the IP, the sales volume of the Community industry declined by 10 %. On the other hand, the volume of imports from the PRC, increased sharply in the same period. While the market share of imports from the PRC increased by more than 16 percentage points, the market share of the Community industry dropped by 15 percentage points. The increase in imports therefore meant that the European industry did not participate in the growth of the market between 1999 and the IP.

4.2. **Data relating to the sampled Community producers**

4.2.1. *Stocks, capacity and capacity utilisation*

(88) Stock levels in this industry are usually not very significant since most production takes place to order. For the sake of completeness it is noted that the stock levels of the Community industry declined during the period under consideration. This was mainly due to rationalisation efforts by one of the largest Community producers. However, it is considered that in this case stocks were not a relevant indicator of injury for the above reasons.

(89) The production capacity was established on the basis of the number and capacity of plywood presses, working two daily shifts. The determination of production capacity had to be estimated as some producers manufacture okoumé plywood using the same facilities and equipment as for other types of plywood. In those cases, the production capacity for the product concerned was estimated by establishing the proportion of okoumé plywood actually produced in comparison to the total plywood produced by the given producer, and then applying this proportion to the total production capacity of the production facility in question.

(90) Bearing in mind the above, it was found that during the period under consideration the production capacity of the Community industry decreased by 5 %. The decrease in 2001 is due to the closure of one production unit. During the same period, the capacity utilisation of the Community industry decreased from 87 % to 74 %, i.e. by 15 %.

	1999	2000	2001	2002	IP
Production capacity (m^3)	255 774	262 420	236 348	242 835	242 668
Capacity utilisation	87,4 %	82,0 %	93,1 %	80,4 %	74,2 %

4.2.2. *Prices and factors affecting domestic prices*

(91) Average prices per m^3 of the Community industry have remained relatively stable, with a nominal increase of 3 % between 1999 and the IP. The absence of price declines despite the competition from low-priced Chinese imports may be explained by the decision of Community producers to make some shift in their product mix.

	1999	2000	2001	2002	IP
Average selling price (EUR/m^3)	695	697	723	717	717

4.2.3. *Investments and ability to raise capital*

(92) Between 1999 and the 2001, the industry made significant investments, from EUR 6,5 million to EUR 10,4 million annually. After 2001, when imports from the PRC increased steeply, investments decreased sharply to only EUR 1,3 million in the IP.

	1999	2000	2001	2002	IP
Investments (in EUR '000)	6 536	7 500	10 406	3 093	1 327

(93) In the recent past, including the period under consideration, the Community okoumé plywood producers, which are part of the broader wood products industry, have undergone significant re-structuring and consolidation movements. These movements involved changes of ownership and re-grouping of the companies, sometimes within broader industrial groups, as well as considerable modernization investments as shown above.

(94) As to ability to raise capital, there was no claim from the Community industry, nor indication, that the Community industry encountered problems in raising capital for its activities. This may be attributed to the effects of the above-mentioned consolidation of the industry, through which the financial resources of large industrial groups were made available to some of the Community producers.

4.2.4. *Profitability, return on investment and cash flow*

(95) Over the period under consideration, the profitability of the sampled Community producers dropped significantly from 3,5 % in 1999 to -8,9 % in the IP. The return on investment followed the same trend, falling from 15,6 % in 1999 to -27,5 % during the IP.

	1999	2000	2001	2002	IP
Profitability	3,5 %	0,8 %	-2,7 %	-7,6 %	-8,9 %
Return on investment	15,6 %	3,4 %	-9,4 %	-23,8 %	-27,5 %

(96) The cash flow generated by the like product diminished considerably from EUR 7,6 million in 1999 to EUR 0,059 million during the IP. During the same period, there were some substantial short-term cash flow variations which were due to stock level variations and non-cash expenses related to the above-mentioned restructuring of the industry.

	1999	2000	2001	2002	IP
Cash flow (in EUR'000)	7 594	- 876	-2 050	591	59

4.2.5. *Wages*

(97) Labour costs decreased by 7 % over the period under consideration, from EUR 32,2 million in 1999 to EUR 29,9 million during the IP due to the reduction in the number of people employed. Average labour costs per employee actually increased by 7 %, from EUR 26 770 to EUR 28 638, i.e. in line with consumer prices.

	1999	2000	2001	2002	IP
Labour costs per employee (EUR)	26 770	27 661	27 649	28 641	28 638

4.2.6. *Magnitude of the dumping margin*

(98) Given the volume and the price of the dumped imports, the impact of the actual margin of dumping, which is also significant, cannot be considered negligible.

4.2.7. *Recovery from past dumping*

(99) The Community industry was not in a situation where it had to recover from the past effects of injurious dumping.

5. CONCLUSION ON INJURY

(100) Between 1999 and the IP the volume of dumped imports of the product concerned originating in the PRC increased from 1 093 m^3 to 83 606 m^3. The corresponding market share increased from 0,3 % in 1999 to 18,7 % during the IP. Most of the increase took place between 2002 and the IP. The average prices of the dumped imports decreased over the period under consideration by 16,2 % and were consistently lower than those of the Community industry, undercutting the latter by 11 % to 52 %.

(101) An examination of the above factors shows that between 1999 and the IP, the situation of the Community industry deteriorated. Over the period under consideration, the Community industry's sales volume decreased by 10 % and its market share decreased by 14,6 percentage points. Employment was also reduced from 2001 onwards. For the sampled Community producers investments dropped significantly and profitability, return on investment as well as cash flow decreased dramatically. The deterioration in the situation of the Community industry mainly took place through a sales volume effect (which is reflected in the reduction of the capacity utilisation). Price levels, from 1999 until the IP, declined only slightly in real terms.

(102) In the light of the foregoing, it is provisionally concluded that the Community industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

F. **CAUSATION**

1. INTRODUCTION

(103) In accordance with Article 3(6) and (7) of the basic Regulation, it was examined whether the dumped imports originating in the PRC have caused injury to the Community industry to a degree that may be considered as material. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

2. EFFECT OF THE DUMPED IMPORTS

(104) Between 1999 and the IP, the volume of imports of the product concerned from the PRC into the Community increased from insignificant levels to 83 606 m^3. Its corresponding share of the Community market went from 0,3 % in 1999 to reach 18,7 % during the IP. The greatest increase took place between 2001 and the IP.

(105) The substantial increase in the volume of imports originating in the country concerned and their gain in market share in 2002 and during the IP, at prices which decreased and remained well below those of the Community industry, coincided with the deterioration of the situation of the Community industry during the very same period, in particular in terms of sales volume, market share, profitability, cash flow and employment. As mentioned above, the imports originating in the PRC undercut the average sales price of the Community industry by significant amounts, with undercutting margins ranging from 11 % to 52 %.

(106) In the analysis of the effect of the dumped imports, it was found that price is an important element of competition, given the relatively standardised characteristics of okoumé plywood products. Moreover, even taking into account the differences in quality, prices of dumped imports were considerably below both those of the Community industry as well as those of other third country exporters. Finally, it was also found that the Community industry had lost some major customers, which had shifted to Chinese plywood suppliers.

(107) It is therefore provisionally concluded that the pressure exerted by the imports concerned, which significantly increased their volume and market share from 2001 onwards, and which were made at low, dumped prices, played a determining role in causing the loss of market share for the Community industry and, as a consequence, a deterioration in its financial situation.

3. EFFECTS OF OTHER FACTORS

3.1. **Imports originating in third countries other than PRC**

(108) According to Eurostat, imports originating in third countries other than the PRC increased slightly, from 60 975 m^3 in 1999 to 62 430 m^3 during the IP. However, their market share decreased overall from 15,4 % in 1999 to 13,9 % in the IP. The main individual countries exporting the product concerned to the Community are Gabon and Morocco. Gabon maintained a market share at an overall stable level of 5 %, while Morocco's market share increased from 1,1 % to 2,4 %.

(109) According to Eurostat, the average price of imports originating in countries other than the PRC remained virtually unchanged between 1999 and the IP. Throughout this period prices of imports from other countries were nearly 50 % higher than the prices of imports from the PRC. Consequently, imports from other third countries did not exert a competitive pressure on the Community industry to the extent that imports from the PRC did. Also, the market share of any individual country in that group was not greater than 5 %.

(110) It is therefore provisionally concluded that imports from other third countries could not be a determining reason for the injurious situation of the Community industry.

3.2. **Export performance by the Community industry**

(111) It was claimed that the declining exports of the European industry due to a loss of competitiveness, are also a cause of the deterioration in its financial situation. Non-EC sales of the sampled Community producers did indeed decline from 9 522 m^3 in 1999 to 7 374 m^3 in the IP. However, the magnitude of this decrease, and the fact that non-EC sales represented less than 5 % of the EC sales during the IP, mean that such a development could not be a determining reason for the injurious situation of the Community industry.

3.3. **Performance of other Community producers**

(112) As regards the sales volume of other Community producers, it declined from an estimated 49 474 m^3 in 1999 to 46 000 in the IP. Their share of the Community market fell from 12,5 % to 10,3 % over the same period, and no indication was found that their prices were lower than those of the co-operating Community industry. Therefore, it is provisionally concluded that the products produced and sold by the other Community producers did not contribute to the injury suffered by the Community industry.

3.4. **Increase in the costs of the Community industry**

(113) It was claimed that the degradation of the Community industry's profitability can be attributed to the rise in the industry's costs, in particular those of raw materials. However, the data collected during the on-spot investigation showed that the rise in total average costs between 1999 and the IP was not higher than the rise in the overall price level in the Community over the same period, i.e. 8 %. Given the decrease in production volume, part of that increase is due to rising fixed costs per unit, and variable costs are likely to have increased even less than total average costs.

(114) It is therefore provisionally concluded that, under normal economic conditions and in the absence of strong price pressure, the industry would have had no difficulty in coping with whatever increase in cost it experienced between 1999 and the IP and that this increase does not break the causal link between the dumped imports from the PRC and the material injury suffered by the Community industry.

4. CONCLUSION

(115) The substantial increase in volume and market share of the imports originating in the PRC, especially between 2001 and the IP, as well as the considerable decrease in their sales prices and the level of price undercutting found during the IP coincided with the material injury suffered by the Community industry.

(116) The imports from other third countries, exports of the Community industry, the performance of other producers and development of costs were analysed but found not to be a determining reason for the injury suffered by the Community industry.

(117) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Community industry, from the injurious effect of the dumped imports, it is therefore provisionally concluded that the imports from the PRC have caused material injury to the Community within the meaning of Article 3(6) of the basic Regulation.

G. **COMMUNITY INTEREST**

(118) In accordance with Article 21 of the basic Regulation, it was examined whether, despite the conclusion on injurious dumping, compelling reasons existed for concluding that it is not in the Community interest to adopt measures in this particular case. The impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered.

1. INTERESTS OF THE COMMUNITY INDUSTRY

(119) Okoumé plywood is part of the broader overall Community wood products industry. Some of the companies investigated are totally or partially specialised in okoumé products, which have distinct characteristics in terms of production process, quality, applications, marketing channels etc. These companies account for over 1 400 direct jobs in the Community.

(120) The imposition of measures is expected to prevent further distortions and restore fair competition on the market. The Community industry should then be able to increase its sales, thereby generating the necessary profit level to justify continued investment in its production facilities. This should lead to increased productivity, lower unit costs and an improvement in the Community industry's financial situation.

(121) On the other hand, should anti-dumping measures not be imposed, it is likely that the deterioration in the situation of the Community industry would continue. It would not be able to carry out the necessary investments in order to compete effectively with dumped imports from third countries. Indeed, in view of the decreasing revenue and the material injury suffered, it is most likely that the financial situation of the Community industry would deteriorate further in the absence of measures. This would in all likelihood force some companies to cease production and lay off their employees in the short term future.

(122) Accordingly, it is provisionally concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping suffered and is in the interest of the Community industry.

2. INTEREST OF UNRELATED IMPORTERS AND USERS IN THE COMMUNITY

(123) The Commission sent questionnaires to all known importers, traders and users. In all, 27 questionnaires were sent out to importers and traders and their associations, and 12 to users. No replies to those questionnaires were received.

(124) It was submitted by the representatives of the exporting producers that the European construction and furniture industries require an abundant and cheap supply of okoumé plywood in order to remain competitive in the European and export markets. Although exporters do not have standing in the context of the examination of Community interest, the substance of the argument was nevertheless examined. Given the absence of cooperation from users and the fact that the known applications of okoumé plywood are spread across a wide variety of sectors, it was not possible to make an estimate on the possible impact of any duty on the costs of users.

(125) Moreover, it should be recalled that measures are not intended to prevent imports into the Community but to ensure that they are not made at injuriously dumped prices. It should also be pointed out that the five sampled Community producers still have unused production capacity. This together with exports from other third countries provides alternative sources of supply for users.

(126) In addition, none of those user industries has taken a position with respect to the proceeding. Therefore it may be provisionally concluded that their competitive position will not be substantially affected by its outcome.

3. CONCLUSION ON COMMUNITY INTEREST

(127) On the basis of the above, it is provisionally concluded that no compelling reasons exist for not imposing measures and that the application of measures would be in the interest of the Community.

H. **PROVISIONAL ANTI-DUMPING MEASURES**

1. INJURY ELIMINATION LEVEL

(128) In order to prevent further injury being caused by the dumped imports, it is considered appropriate to adopt provisional anti-dumping measures.

(129) For the purpose of determining the level of these duties, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.

(130) Taking into account the level of profitability obtained by the Community industry as a whole in 1999, a year which according to the industry can be considered as representative mid-point of the business cycle, it was found that a profit margin of 5 % of turnover could be regarded as an appropriate minimum which the Community industry could have expected to obtain in the absence of injurious dumping.

(131) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the sampled Community producers by the actual profit/loss made during the IP and by adding the above-mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.

(132) As the injury elimination level was higher than the dumping margin established, the provisional measures should be based on the latter.

2. PROVISIONAL MEASURES

(133) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed in respect of imports originating in the PRC at the level of the lowest of the dumping and the injury margins, in accordance with the lesser duty rule. In this case, all duty rates should accordingly be set at the level of the dumping margins found.

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

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

I. **FINAL PROVISION**

(136) In the interests of sound administration, a period should be fixed within which the interested parties, which made themselves known within the time limit specified in the notice of initiation, may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive measures.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé, falling within CN code ex 4412 13 10 (TARIC code 4412 13 10 10) and originating in the People's Republic of China.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following manufacturers shall be as follows:

Manufacturer	Rate of duty %	Taric additional code
Nantong Zongyi Plywood Co., Ltd. Xingdong Town, Tongzhou City, Jiangsu Province, People's Republic of China	12,0	A526
Zhejiang Deren Bamboo-Wood Technologies Co., Ltd. Linhai Economic Development Zone, Zhejiang, People's Republic of China	23,9	A527
Zhonglin Enterprise (Dangshan) Co., Ltd. Xue Lou Miao Pu, Dangshan County, Anhui Province 235323, People's Republic of China	8,5	A528
Jiaxing Jinlin Lumber Co., Ltd. North of Ganyao Town, Jiashan, Zhejiang Province, People's Republic of China	18,5	A529
All other companies	48,5	A999

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

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

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, the interested parties 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.

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 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, 17 May 2004.

For the Commission

Pascal LAMY

Member of the Commission