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# COUNCIL REGULATION (EC) No 1212/2005

## of 25 July 2005

## imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China

(OJ L 199, 29.7.2005, p. 1)

Amended by:

| | | Official Journal | | |
|---|---|---|---|---|
| | | No | page | date |
| ►M1 | Council Regulation (EC) No 268/2006 of 14 February 2006 | L 47 | 3 | 17.2.2006 |
| ►M2 | Council Regulation (EC) No 426/2008 of 14 May 2008 | L 129 | 1 | 17.5.2008 |
| ►M3 | Council Regulation (EC) No 282/2009 of 6 April 2009 | L 94 | 1 | 8.4.2009 |
| ►M4 | Council Regulation (EC) No 500/2009 of 11 June 2009 | L 151 | 6 | 16.6.2009 |

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# COUNCIL REGULATION (EC) No 1212/2005

## of 25 July 2005

## imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

### A. **PROCEDURE**

(1) On 30 April 2004, the Commission announced by way of a notice published in the *Official Journal of the European Union* ([2]), the initiation of an anti-dumping proceeding concerning imports of certain castings originating in the People's Republic of China ('PRC').

(2) The proceeding was initiated following a complaint lodged in March 2004 by EUROFONTE ('the complainant') on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of castings. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the complainant, the Community producers mentioned in the complaint, any other known Community producers, the authorities of the PRC, the exporting producers, importers, as well as the associations known to be concerned of the initiation of the investigation. 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) A number of Community producers represented by the applicant, other cooperating Community producers, exporting producers, importers, suppliers and user associations made their views known. All interested parties who so requested within the above time-limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard.

#### 1. **Sampling, market economy treatment and individual treatment**

(5) In view of the large number of exporting producers, Community producers and importers involved in the investigation, the application of sampling techniques was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(6) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and representatives acting on their behalf,

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004, OJ L 77, 13.3.2004, p. 12.

([2]) OJ C 104, 30.4.2004, p. 62.

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Community producers and importers were requested to make themselves known and to provide information as specified in the notice of initiation. The Commission also contacted known associations of exporting producers and the authorities of the PRC. These parties raised no objections to the use of sampling.

(7) In total, 33 exporters/producers in the PRC, 24 Community producers and 15 importers replied to the sampling questionnaire within the time-limits and provided the requested information.

(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 also sent MET and IT claim forms to the Chinese companies known to be concerned, and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. In this respect, 21 companies requested MET pursuant to Article 2(7) of the basic Regulation, and 3 companies requested only IT pursuant to Article 9(5) of the basic Regulation.

(9) The selection of the sample for the exporting producers was made after consultation of the PRC cooperating exporting producers and of the authorities of the PRC. The sample of the exporting producers was established on the basis of the largest representative volume of exports to the Community (either examined individually or examined as a group of related companies), which could reasonably be investigated within the time available and on whether the companies intended to apply for Market Economy Treatment. Only companies that intended to apply for Market Economy Treatment were included in the sample, since in an economy in transition, normal value for other companies is established on the basis of prices or constructed normal value of an analogue third country. On this basis, a representative sample of seven exporting producers was selected. The seven companies sampled represented, according to the replies to the sampling exercise, around 50 % of all cooperating producers' exports.

(10) Regarding the Community producers, in accordance with 17(1) of the basic Regulation, the sample was selected after consultation of the cooperating producers and with their consent on the basis of the largest representative volume of production and sales within the Community. As a result, five Community producers were selected in the sample. The Commission sent questionnaires to the five companies selected, and four complete replies were received within the set time-limits. One of these companies submitted its reply outside the extended time-limits set for this purpose and was therefore excluded from the proceeding.

(11) As for the importers, in accordance with 17(1) of the basic Regulation, the sample was selected after consultation of the cooperating importers and with their consent on the basis primarily of the largest representative imported volume into the Community and secondarily of the geographical distribution. Out of the 15 companies, two were found to have related manufacturing parties in the PRC and were excluded from the sampling, as they should be investigated in the framework of the sampling for the exporting producers. As a result, four importers were selected, out of which three submitted complete questionnaire replies.

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

(a) *Community producers*

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— Saint Gobain PAM, France,

— Saint Gobain, UK,

— Norford France and to its related traders Norinco, France and Norinco, UK,

— Cavanagh, Ireland,

— Fudiciones Odena, Spain,

(b) *Exporting producers in the PRC*

— Zibo Benito Metalwork Co. Ltd.;

— Benito Tianjin Metal products Co. Ltd.;

— Qingdao Benito Metal Products Co. Ltd.;

— Shandong Huijin Stock Co. Ltd.;

— Shijiazhuang Transun Metal Products Co. Ltd.;

— Changan Cast Limited Company of Yixian Hebei;

— Shanxi Yuansheng Casting and Forging Industrial Co. Ltd.

(c) *Importers in the Community related to exporting producers*

— Fundicio Ductil Benito, S.L,

— Mario Cirino Pomicino S.p.A;

(d) *Unrelated importers in the Community*

— Hydrotec, Germany,

— Peter Savage, UK.

(13) 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 visit to establish normal value on the basis of data from an analogue country took place at the premises of the following company:

— Carnation industries Ltd., India.

(14) The investigation of dumping and injury covered the period from 1 April 2003 to 31 March 2004 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2000 to the end of the IP ('period under examination').

## B. **PRODUCT CONCERNED AND LIKE PRODUCT**

### 1. **General**

(15) Castings are generally comprised of a frame, which is embedded in the ground, and either a cover or a grate, which sits flush with any surface used by pedestrians and/or vehicles and which directly withstand the weight and impact of pedestrian and/or vehicle traffic. The frame is placed directly on top of a concrete or brick chamber top. It is used to give access and/or gain entry to an underground chamber.

(16) Castings serve the purpose of covering an underground chamber and must bear load resistance of motored vehicles and/or pedestrian traffic. The cover or grate is required to remain secure within the frame in order to avoid noise pollution, human injury and vehicle damage. Castings must allow for safe and easy access to the underground chamber, may it be for the purpose of man entry or visual inspection.

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(17) Castings vary in shape and dimensions. They are designed to match the dimensions of the chamber which they cover and provide access to. The frames of the product are normally circular, square or rectangular. Cover and grates are available in any shape including but not limited to triangular, circular, square or rectangular.

(18) Castings are made of grey or ductile iron. They are produced from varying amounts of steel scrap, coke, pig iron, carbon dust, limestone, ferro-silicon and magnesium dependent upon the manufacturing process and the type of end product, i.e. ductile or grey. There are two methods used to melt the iron during the production of castings, i.e. using either an electric furnace or a cupola. The production process is similar for castings made out of grey or ductile iron. The main difference in the ductile production process is that magnesium is added to the carbon in the iron to change it from a flake form to spheroidal structure, while this is not done for grey iron. Once the melting process is complete, the melted iron is either hand poured or mechanically poured into a mould.

2. **Product concerned**

(19) The product concerned is certain articles of non-malleable cast iron of a kind used to cover and/or give access to ground or sub-surface systems, and parts thereof, whether or not machined, coated or painted or fitted with other materials originating in the PRC ('the product concerned'), normally declared within CN codes 7325 10 50 and 7325 10 92 and occasionally declared within CN code 7325 10 99. These CN codes correspond to the different presentations of the product (including manhole covers, gully tops and surface boxes). All these presentations were found to be sufficiently similar for them to constitute a single product for the purpose of the proceeding. It should be noted that sub-surface fire hydrants are deemed materially different from a surface box, due to their use and construction, and are therefore not considered the product concerned.

(20) The production of castings in the PRC uses predominantly cupolas, whilst the Community industry predominantly uses electric furnaces during the melting process. Further, the production process in the PRC differs to that of the EU in that producers in the PRC use mainly hand pouring whereas the EU producers employ machine pouring. Castings are made of grey or ductile iron. They are produced from varying amounts of steel scrap, coke, pig iron, carbon dust, limestone, ferro-silicon and magnesium dependent upon the manufacturing process and the type of end product, i.e. ductile or grey. There are two methods used to melt the iron during the production of castings, i.e. using either an electric furnace or a cupola. The production process is similar for castings made out of grey or ductile iron. The main difference in the ductile production process is that magnesium is added to the carbon in the iron to change it from a flake form to sphericoidal structure, while this is not done for grey iron. Once the melting process is complete, the melted iron is either hand poured or mechanically poured into a mould. Both grey and ductile castings are produced in the PRC.

(21) The differences between grey and ductile iron are that grey iron is made of flake graphite; this produces a more rigid material and ultimately mass secures the casting in place. Ductile iron is spheroidal graphite producing a more flexible product which has more ergonomic features but needs to be secured in place by a locking device.

(22) The investigation has shown, as mentioned above, that all types of castings despite the differences in terms of grey or ductile iron,

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have the same basic physical, chemical and technical characteristics, they are basically used for the same purposes and can be regarded as different types of the same product.

(23) Therefore, for the purpose of this investigation the product concerned is castings, as described in the general part, originating in the PRC.

3. **Like product**

(24) No differences were found between the product concerned and castings produced and sold in India, which served as analogue country for the purpose of establishing normal value with respect of the PRC.

(25) No differences were found between the product concerned and the castings produced and sold in the Community by the Community industry.

(26) Certain parties argued that castings produced by the Community industry and sold on the Community market were not alike to the product concerned. They claimed in particular that norms used at European level are specified by EN124 standards and that national norms cover EN124 but usually stipulate further details thus creating distinct differences between products sold on each national market. Additionally certain parties claimed in particular that they distribute the so-called gatic product, a commercial alternative to standard road covers which is used in a discrete niche market where engineering project specifications demand high performance standards. They argued that this product is a complementary product to the standard product, and cannot be seen as a substitute. It was therefore requested to exclude the gatic product from the definition of the product concerned.

(27) With regards to the first argument, it has to be noted that when sold on the Community market, both the like product and the product concerned need to comply with EN124 standards and national norms. This thus determines the criteria to be applied in the determination of the 'like product', which are the physical, technical and chemical characteristics, and end uses or functions of the product. Castings produced by the Community industry and sold on the Community market are made of grey iron or ductile iron and were found to have the same basic physical and technical characteristics and uses as the product concerned. Similarly, the differences in terms of national norms have no incidence on the definition of the like product, as no clear distinction can be made between the products in relation to their basic physical, technical and chemical characteristics, to the end use and to the perception of users. Regarding the physical and technical characteristics of the product, they are determined by function, installation and location, and are mainly the traffic load resistance determined by the so-called loading class, the cover and grate stability within the frame and the safe and easy access. The product can be grey or ductile cast iron and the cover and/or the frame of manhole can be filled with concrete or other materials. As for the uses of the product, castings cover and frames provide an interface between buried networks and the road or pavement surface. All of the above characteristics also apply to the so-called gatic product, which can not be distinguished from the product concerned of any of them. The argument for excluding the gatic product from the product concerned was therefore rejected.

(28) Finally, no differences were found between the product concerned as exported and castings, which were produced and sold on the exporters' domestic market.

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(29) It is therefore concluded that, in accordance with Article 1(4) of the basic Regulation and for the purpose of this investigation, all types of castings produced and sold on the domestic market of the PRC, those produced and sold in India and those produced and sold by the Community industry on the Community market are alike to the product concerned.

## C. **DUMPING**

### 1. **Sampling**

(30) It is recalled that in view of the large number of companies involved, it was decided to make use of the provisions for sampling pursuant to Article 17 of the basic Regulation, and that for this purpose, a sample of seven companies, with the largest export volumes to the EU was chosen, after consultation of the Chinese authorities.

(31) In this respect, the analysis subsequently revealed that from the seven companies originally selected, MET pursuant to Article 2 (7)(b) of the basic Regulation could be granted to one company, and that IT pursuant to Article 9(5) of the basic Regulation could be granted to three of the sampled companies.

(32) The provisions on sampling have therefore been applied as follows. The individual dumping margin established for the sole company to which MET was granted, was also attributed to the non-sampled companies being granted MET. The companies to which IT was granted and which were not sampled were granted the weighted average of the dumping margins found for the three sampled companies which were granted IT.

### 2. **Market economy treatment**

(33) 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 Article 2 for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(34) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:

1. Business decisions and costs are made in response to market conditions and without 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 is provided by bankruptcy and property laws;
5. Currency exchanges are carried out at the market rate.

(35) In the present investigation, 21 exporting producers in the PRC made themselves known and requested MET pursuant to Article 2(7)(c) of the basic Regulation. Each MET application was analysed. In view of the large number of companies concerned, on-spot investigations were carried out only at the premises of seven companies. For the remaining companies, a detailed desk analysis of all information submitted was carried out, and an extensive exchange of correspondence took place with the companies concerned, where elements in their

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submission were missing or unclear. Where a subsidiary or any other company related to the applicant in the PRC is a producer and/or involved in sales (exports or domestic) of the product concerned, the related party was also invited to complete the MET claim form. Indeed, MET can be granted only if all related companies meet the criteria set above.

(36) As regards the companies for which on-spot investigations were carried out, the investigation revealed that one of the seven Chinese exporting producers fulfilled all the conditions for MET. The remaining six applications had to be rejected on the grounds enumerated in the table below.

(37) As regards the remaining 14 companies, the analysis carried out individually for each company concluded that MET should not be granted to 10 companies. Three out of these 10 companies did not properly cooperate in the investigation, either because they did not provide in due time the requested information or because they were a trader and the related manufacturing companies did not cooperate. For the other 7 out of these 10 companies, the criteria not met are also set out in the table below. The remaining 4 companies could successfully demonstrate that they met the five relevant MET criteria.

(38) The following table summarises the determination for each company not granted MET, against each of the five criteria as set out in Article 2(7)(c) of the basic Regulation. It should be noted that although company 3 met each criteria individually, it cannot be granted MET on the grounds of its corporate relationship with companies 1 and 2 listed below that did not fulfil all MET criteria.

| 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 | Met | Met |
| 2 | Not met | Not met | Not Met | Met | Met |
| 3 | Met | Met | Met | Met | Met |
| 4 | Not met | Met | Not met | Met | Met |
| 5 | Not met | Not met | Met | Met | Met |
| 6 | Not met | Not met | Not met | Met | Met |
| 7 | Met | Not met | Not met | Met | Met |
| 8 | Not met | Not met | Met | Met | Met |
| 9 | Not met | Not met | Met | Met | Met |
| 10 | Not met | Not met | Met | Met | Met |
| 11 | Not met | Not met | Met | Met | Met |
| 12 | Met | Met | Not met | Met | Met |
| 13 | Not met | Met | Met | Met | Met |

*Source*: verified questionnaire replies of cooperating Chinese exporters.

(39) On this basis, the exporting producers in the PRC which obtained MET are the following:

1. Shijiazhuang Transun Metal Products Co. Ltd.

2. Shaoshan Huanqiu Castings Foundry

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3. Fengtai Handan Alloy Casting Co. Ltd.

4. Shanxi Jiaocheng Xinglong Casting Co. Ltd.

5. Tianjin Jinghai Chaoyue Industrial and Commercial Co. Ltd.

3. **Individual treatment**

(40) 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), except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation for receiving individual treatment.

(41) The 21 exporting producers which requested MET, also claimed individual treatment in the event of not being granted MET. Three additional exporting producers requested only individual treatment.

(42) Firstly, as regards the 16 companies that claimed but failed to obtain MET, it was found that 5 companies met all the requirements for IT set forth in Article 9(5) of the basic Regulation. As far as the other companies are concerned, 3 companies did not properly cooperate in the investigation, either because they did not provide in due time the requested information or because they were a trading company and the related manufacturing companies did not cooperate, as already indicated at recital 37 above.

(43) The 8 remaining companies that claimed but failed to obtain MET did not fulfil the criterion as set out under Article 9(5)(c), first sentence, of the basic Regulation. As a consequence, these companies cannot be granted IT.

(44) Secondly, from the three companies that only requested IT, two stopped cooperating at an early stage of the proceeding. The third applicant was found to be a trading company, and its related manufacturing companies did not cooperate. These three companies cannot therefore be granted IT.

(45) It is concluded that IT should be granted to the following 5 companies:

1. Shandong Huijin Stock Co. Ltd.

2. Changan Cast Limited Company of Yixian Hebei

3. Shanxi Yuansheng Casting and Forging Industrial Co. Ltd. and its related company Shanxi Yuansheng Industrial Co. Ltd.

4. Botou City Simencum Town Bai fo Tang Casting Factory

5. Hebei Shunda Foundry Co. Ltd.

(46) A number of exporting producers contested the determination of MES/IT. However, these parties did not submit any new information which would lead to different conclusions in this respect. Consequently, these claims were rejected.

4. **Normal value**

4.1. *Determination of normal value for the exporting producer granted MET*

(47) The Commission first established whether total domestic sales of this exporting producer were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales of the like product were considered representative when their total volume

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was at least 5 % of the total sales volume of the product concerned to the Community.

(48) It was found that the domestic sales of this exporting producer represented much less than 5 % of the corresponding export volume to the Community.

(49) Consequently, in accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the exporter's manufacturing costs of the exported types, a reasonable amount for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit. In the absence of another company being granted MET in the PRC in this particular case, it was decided to make use of the SG&A and profit determined in the analogue country pursuant to Article 2(6)(c) of the basic Regulation. Beforehand, the Commission verified that the amount for profit so established was reasonable and did not exceed the profit realised by the producer granted MET on its domestic sales.

4.2. *Determination of normal value for the exporting producers not granted MET*

(a) Analogue country

(50) Pursuant to Article 2(7) of the basic Regulation, normal value for companies to which MET could not be granted, was established on the basis of the prices or constructed value in an analogue country. In the notice of initiation, the Commission indicated its intention to use Norway as an appropriate analogue country for the purpose of establishing normal value for the PRC and interested parties were invited to comment on this. A number of exporting producers in the PRC and importers in the Community objected to this proposal and made substantiated submissions showing that Norway was not an adequate analogue country and that India should be chosen instead. After investigation, the Commission services found that in terms of variety of product types, volume of domestic sales, competition on the domestic market, access to raw materials and production process, India was indeed a more appropriate analogue country to the PRC than Norway. All interested parties were informed of this determination and no objections were raised from any side. The Commission therefore sought and found full cooperation from one producer in India.

(b) Determination of normal value

(51) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of the verified information received from a producer in a market economy third country, i.e. on the basis of prices paid or payable on the domestic market of India. It was verified that these transactions were (i) in the ordinary course of trade and (ii) were representative, in accordance with the methodology set out in recital 47. The investigation showed certain differences in the production process between Indian and Chinese manufacturers, in that the latter use less sophisticated equipment and require less use of energy. The Indian domestic selling prices were therefore adjusted downwards by an amount which reflects these differences. Where necessary, those prices were adjusted so as to ensure a fair comparison with those product types exported to the Community by the Chinese producers concerned.

(52) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the cooperating producer in India.

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5. **Export price**

(53) In those cases where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable. This was the case for the three sampled companies granted IT.

(54) In the case where export sales to the Community were made via a related importer, the export price was constructed on the basis of the resale prices of this related importer to its first independent customers, in accordance with Article 2(9) of the basic Regulation. Adjustments were made for all costs incurred between importation and resale by that related importer, including SG&A expenses, and a reasonable profit margin. This was the case for the sole company granted MET and for the three sampled companies not granted MET or IT.

6. **Comparison**

(55) 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 prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning transport and insurance, credit, commission and bank charges were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

(56) It was found that a lower level of VAT is reimbursed on export sales than that which is reimbursed for domestic sales. To take account of this difference, export prices were adjusted on the basis of the difference in the reimbursed VAT levels between export and domestic sales, i.e. 2 % in 2003 and 4 % in 2004.

7. **Dumping margin**

7.1. *For the cooperating exporting producers granted MET/IT*

(a) MET

(57) For the sole sampled company granted MET, the weighted average normal value for each type exported to the Community was compared with the weighted average export price of the corresponding type of the product concerned exported to the Community, as provided for under Article 2(11) of the basic Regulation.

(58) The 4 companies which were granted MET, but which were not selected in the sample, were attributed the dumping margin established for the above sampled company, in accordance with Article 9(6) of the basic Regulation.

(b) IT

(59) For the three sampled companies granted IT, the weighted average normal value established for the analogue country was compared with the weighted average export price to the Community, as provided for under Article 2(11) of the basic Regulation.

(60) The 2 non-sampled companies which were granted IT receive a dumping margin set at the level of the weighted average margin

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of dumping established for the above sampled companies that were granted IT.

(61) On this basis, the individual dumping margins expressed as a percentage of the CIF value at the Community frontier price duty unpaid are:

| | |
|---|---|
| Shijiazhuang Transun Metal Products Co. Ltd. | 0,0 % |
| Shaoshan Huanqiu Castings Foundry | 0,0 % |
| Fengtai Handan Alloy Casting Co. Ltd. | 0,0 % |
| Shanxi Jiaocheng Xinglong Casting Co. Ltd. | 0,0 % |
| Tianjin Jinghai Chaoyue Industrial and Commercial Co. Ltd. | 0,0 % |
| Shanxi Yuansheng Casting and Forging Industrial Co. Ltd. | 18,6 % |
| Botou City Simencum Town Bai fo Tang Casting Factory | 28,6 % |
| Hebei Shunda Foundry Co. Ltd. | 28,6 % |
| Changan Cast Limited Company of Yixian Hebei | 31,8 % |
| Shandong Huijin Stock Co. Ltd. | 37,9 % |

7.2. *Countrywide dumping margin*

(62) In order to establish the countrywide dumping margin applicable to all other exporters, the Commission first established the level of cooperation. To this end, the following ratio was calculated. The numerator is the export volume to the Community of cooperating companies that were granted neither MET nor IT. The denominator is the total export volume originating in the PRC to the Community based on Eurostat, less the export volumes of companies granted MET and IT. On this basis, it was established that the level of cooperation stood at 22 %, which is considered a low level, even for a fragmented industry like the one of the product concerned.

(63) The countrywide dumping margin for the export volume of other exporting producers was determined as follows:

(64) For the export volume of non-cooperating companies, the level of dumping was determined on the basis of the two product categories with the highest margins established for the sampled exporting producers that were granted neither MET nor IT.

(65) The cooperating companies that were granted neither MET nor IT receive, for the purpose of the current computation exercise, a notional individual margin following the methodology established under recital 55.

(66) Finally, the country wide dumping margin was calculated based on the above notional individual margins by using, as a weighing factor, the CIF value of each group of exporters, i.e. cooperating and non-cooperating.

(67) On this basis the countrywide level of dumping was established at 47,8 % of the CIF Community frontier price duty unpaid.

## D. **COMMUNITY INDUSTRY**

### (a) **Community production**

(68) In the course of the investigation it was found that castings have been manufactured by the 4 complainant Community producers

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selected in the sample and by 5 other Community producers supporting the complaint.

(b) **Definition of the Community industry**

(69) The complainant Community producers together with the Community producers supporting the complaint, which responded to the sampling exercise and cooperated with the investigation, account for more than 60 % of Community production of the like product. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the basic Regulation.

(70) One complainant company stopped cooperating immediately, after initiation of the investigation. Another company selected for the sample, submitted its reply outside the relevant time-limit. One company supporting the complaint withdrew its support immediately after initiation. Consequently, these three companies were not included in the definition of Community industry.

(71) Certain parties argued that the two main complaining companies should be excluded from the definition of the Community industry as they imported massive quantities of castings originating in the PRC. In this respect, it should be firstly noted that, whereas it is indeed a long standing practice that importing Community producers should be excluded from the Community industry if they are either shielded from dumping or benefiting from it, they are not excluded if it is found that the Community producers were forced to have a temporary and very limited recourse to imports, because of the depressed price situation in the Community market. In this case, the total imports of these two companies during the IP were below 3,5 % of their respective total production and were limited to certain regions in the Community particularly depressed by the Chinese dumped imports. Given the small quantities at stake, the two Community producers can be considered part of the definition of the Community industry within the meaning of Article 4(1) of the basic Regulation. On this basis, the argument was rejected.

## E. **INJURY**

(a) **Preliminary remarks**

(72) 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, capacity and utilisation of capacity, productivity, sales, market share, employment and growth were assessed at the level of the Community industry. In this respect, additional information was requested from all cooperating Community producers, through a questionnaire sent to all non-sampled cooperating Community producers. In total, five non-sampled companies replied and their information was taken into account. As for the others, they were excluded from the proceeding as non-cooperating. Trends concerning prices and profitability, cash flow, ability to raise capital and investments, stocks, returns on investments and wages were analysed on the basis of the information collected at the level of the sampled Community producers.

(73) The analysis of the injury has shown that the penetration of dumped imports was not even within the Community market. While the penetration of dumped imports was high in fourteen Member States, the French market was not as yet targeted by dumped imports. At the same time the weighting factor of the two sampled French producers in the overall situation of the

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Community industry was particularly high as their production and sales of castings in France represented approximately 36 % of the total production and total sales volume of the Community industry. In view of this particular situation, it was considered appropriate together with the injury analysis for the Community industry as a whole, to present an analysis of the trends of certain indicators for the targeted Community market, i.e. the Community market without France (EU-14).

(b) **Apparent Community consumption**

(74) Apparent consumption of castings in the Community was established on the basis of the production figures for the cooperating producers and the production of the other Community producers and by adding imports and deducting exports, using data derived from Eurostat and information provided by the complainant regarding the market size of each member State and its evolution throughout the period under examination.

(75) On the above basis, the apparent consumption of castings on the Community market, with the exception of a slight decrease in 2002, remained rather stable around 580 thousand tonnes throughout the period under examination. The market of castings depends on the demand influenced by the relative dynamism in the sewage or water sector which is reliant with the overall economical development in each member State.

| Apparent consumption in the Community | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Tonnes | 584 000 | 597 000 | 568 000 | 577 000 | 578 750 |
| Index 2000 = 100 | 100 | 102 | 97 | 99 | 99 |

*Source*: Questionnaire replies of the Community industry, complaint, Eurostat.

(c) **Volume of the imports from the country concerned and market share**

(76) The volume of dumped imports of the product concerned originating in the PRC was derived by deducting from Eurostat figures the volumes of non-dumped imports. The volume of dumped imports grew up from 122 511 tonnes in 2000 to 179 755 tonnes in the IP, representing a sharp increase of 47 %.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Volume of imports (tonnes) | 122 511 | 149 329 | 163 135 | 181 400 | 179 755 |
| Index 2000 = 100 | 100 | 122 | 133 | 148 | 147 |

(77) During the period under examination, the dumped imports from the PRC continuously increased their share of the Community market from 21,0 % in 2000 to 31,1 % in the IP. Therefore, there has been a significant increase in dumped imports in both absolute terms and relative to the Community consumption (more than 10 percentage points) over the period under examination.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Market share | 21,0 % | 25,0 % | 28,7 % | 31,4 % | 31,1 % |

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(d) **Apparent consumption in EU-14**

(78) Apparent consumption of castings in EU-14 was established on the same basis as consumption for the whole of the Community and by deducting the consumption in France. The apparent consumption of castings in the EU-14 remained stable slightly above 460 thousand tonnes throughout the period under examination.

| Apparent consumption in the Community | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Tonnes | 464 000 | 480 000 | 458 000 | 462 000 | 462 500 |
| Index 2000 = 100 | 100 | 103 | 99 | 100 | 100 |

*Source*: Questionnaire replies of the Community industry, complaint, Eurostat.

(e) **Volume of the imports from the country concerned and market share in the EU-14**

(79) The volume of dumped imports of the product concerned originating in the PRC was established by deducting from the Eurostat figures on total import volumes from the PRC the volumes of non-dumped imports and the volumes of imports of France. The latter deduction was considered sufficient to correctly reflect the dumped imports into the EU-14, since according to the information submitted by the complainant producers no significant volumes of dumped imports have entered the French market. The volume of dumped imports grew from 119 818 tonnes in 2000 to 171 946 tonnes in the IP, representing a sharp increase of 44 %.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Volume of imports (tonnes) | 119 818 | 145 509 | 158 323 | 172 886 | 171 946 |
| Index 2000 = 100 | 100 | 121 | 132 | 144 | 144 |

(80) During the period under examination, the dumped imports from the PRC increased their share of the EU-14 market from 25,8 % in 2000 to 37,2 % in the IP. The increase in market share is slightly higher than the one observed at total Community level over the period under examination.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Market share | 25,82 % | 30,31 % | 34,57 % | 37,42 % | 37,18 % |

(f) **Prices of the dumped imports and price undercutting**

(i) *Import prices*

(81) Price information for the imports concerned which was based on the import volumes and values derived from Eurostat data, showed that between 2000 and the IP, the average CIF prices of imports originating in the PRC decreased by 11 %. The decrease was particularly steep in 2003 and the IP.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Prices in EUR/tonne | 548 | 560 | 531 | 486 | 489 |
| Index 2000 = 100 | 100 | 102 | 97 | 89 | 89 |

*Source*: Eurostat.

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(ii) *Price undercutting and price depression*

(82) For the purpose of calculating the level of price undercutting in the IP, the prices of the like product sold by the sampled Community industry producers were compared to the prices of dumped imports of the cooperating exporting producers sold on the Community market during the IP on the basis of weighted average prices per product type of castings, net of all rebates and taxes to unrelated customers. The prices of the Community industry were adjusted to an ex-works basis. The prices of the imports concerned used were on a CIF basis with an appropriate adjustment for the customs duties and post importation costs.

(83) A certain number of cooperating importers argued that the Community producers sales of the product concerned through public tenders should be excluded from the undercutting calculations as sales to public authorities may include services and guarantees as well as other additional costs which render the products sold through a tendering procedure objectively different from the products sold through normal trade negotiation. In this respect, it should be firstly noted that this claim was not substantiated by evidence showing the difference in prices resulted from tenders and other trade negotiations. Moreover, the sales through public tenders of the sampled cooperating Community producers during the IP represented a very low percentage in volumes and as such they could not have a significant impact on the undercutting calculations. On this basis, the claim was rejected.

(84) The elements taken into account in defining the product types were mainly the raw material used for the product concerned (grey cast or ductile iron with or without added concrete), its use (manhole covers, gully tops or surface boxes), its dimensions and different accessories and its conformity with the EN124 European standards.

(85) This comparison showed that during the IP, the products concerned originating in the PRC were sold in the Community at prices which significantly undercut the Community industry's prices, when expressed as a percentage of the latter, by margins ranging from 31 % to 60 %.

(g) **Economic Situation of the Community industry**

(86) Pursuant to 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 2000 to the IP.

(i) *Production capacity, production, capacity utilisation*

(87) The Community industry's production capacity increased slightly during the period under examination reflecting a restructuring of the existent capacity rather than an increase due to new investments. Over the same period, the Community industry decreased its production by 7 percentage points and its capacity utilisation rate by more than 8 percentage points.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Production capacity in tonnes | 295 287 | 295 987 | 302 487 | 303 487 | 303 487 |
| Index 2000 = 100 | 100 | 100 | 102 | 103 | 103 |
| Production in tonnes | 244 983 | 236 042 | 211 495 | 217 151 | 227 100 |
| Index 2000 = 100 | 100 | 96 | 86 | 89 | 93 |

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| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Production capacity utilisation rates | 83,0 % | 79,7 % | 69,9 % | 71,6 % | 74,8 % |

*Source*: Questionnaire replies of the Community industry.

(88) In EU-14, the production capacity of the Community industry recorded a similar increase to the one recorded at Community level. However, its production and production capacity utilisation decreased more steeply by 14 percentage points.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Production capacity in tonnes | 188 287 | 188 987 | 191 737 | 191 987 | 191 987 |
| Index 2000 = 100 | 100 | 100 | 102 | 102 | 102 |
| Production in tonnes | 169 749 | 168 624 | 140 969 | 140 834 | 145 819 |
| Index 2000 = 100 | 100 | 99 | 83 | 83 | 86 |
| Production capacity utilisation rates | 90,2 % | 89,2 % | 73,5 % | 73,4 % | 76,0 % |

*Source*: Questionnaire replies of the Community industry.

(ii) *Sales volume, market share and growth*

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Sales in tonnes | 249 053 | 237 632 | 211 706 | 221 250 | 224 545 |
| Index 2000 = 100 | 100 | 95 | 85 | 89 | 90 |
| Market share | 42,6 % | 39,8 % | 37,3 % | 38,3 % | 38,8 % |

(89) The Community industry decreased its sales volume by 10 % and subsequently its market share went down by 3,8 percentage points over the period under examination, while the dumped imports increased their volume by 47 % and their market share by 10,1 %.

(90) In the EU-14, the Community industry suffered a higher loss in market share (5,4 %) as its sales decreased significantly (– 17 %) over the period under examination.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Sales in tonnes | 151 987 | 143 367 | 123 504 | 126 896 | 126 492 |
| Index 2000 = 100 | 100 | 94 | 81 | 83 | 83 |
| Market share | 32,76 % | 29,87 % | 26,97 % | 27,47 % | 27,35 % |

(iii) *Employment and Productivity*

(91) The level of employment of the Community industry decreased over the period under examination by 13 %. The productivity of the Community industry as measured by tonnes produced annually per employee increased from 133 tonnes in 2000 to 141 tonnes in the IP. This increase in output per person is mainly attributed to the efforts of the Community industry to rationalise its production and to cope with the raising dumped imports.

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| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Number of employees | 1 843 | 1 783 | 1 721 | 1 657 | 1 610 |
| Index 2000 = 100 | 100 | 97 | 93 | 90 | 87 |
| Productivity: production/employee | 133 | 132 | 123 | 131 | 141 |

*Source*: Questionnaire replies of the Community industry.

(92) Similarly the level of employment of the Community industry in EU-14 decreased over the period under examination, however, more steeply as it recorded a decrease of 16 %. Its productivity increased from 132 tonnes in 2000 to 135 tonnes in the IP.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Number of employees | 1 290 | 1 238 | 1 187 | 1 128 | 1 084 |
| Index 2000 = 100 | 100 | 96 | 92 | 87 | 84 |
| Productivity: production/employee | 132 | 136 | 119 | 125 | 135 |

*Source*: Questionnaire replies of the Community industry.

(iv) *Stocks*

(93) The stock levels of the Community industry increased by 16 % during the period under examination. The build-up of stocks reflects the sales level reduction at a faster pace than that of the production level.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Inventories | 33 815 | 36 964 | 37 510 | 37 455 | 39 375 |
| Index 2000 = 100 | 100 | 109 | 111 | 111 | 116 |

(v) *Sales prices and factors affecting domestic prices*

(94) The sampled Community industry producers' average net sales price remained practically stable. This stability does not however reflect the significant increase of 34 % in the steel scrap price, the main costing element in the cost of production of the product concerned between 2002 and the IP. In this respect, it should be noted that every change in the steel scrap price is directly and fully reflected in the cost of production of the product concerned since this is the main input in its production process. The Community industry could not therefore let pass this increase into the selling prices, which would have been reasonably expected in the absence of dumped imports putting pressure on them and given that the average import prices from other countries were substantially higher than those from the PRC.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Average selling price (EUR/tonne) | 1 131 | 1 157 | 1 153 | 1 141 | 1 153 |
| Index 2000 = 100 | 100 | 102 | 102 | 101 | 102 |

*Source*: Questionnaire replies of the sampled Community industry.

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(95) Similar stability was observed for the average net sales price of the Community industry producers' in EU-14.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Average selling price (EUR/tonne) | 1 056 | 1 070 | 1 053 | 1 031 | 1 048 |
| Index 2000 = 100 | 100 | 101 | 100 | 98 | 99 |

*Source*: Questionnaire replies of the sampled Community industry.

(vi) *Profitability*

(96) The sampled Community industry producers' return on net sales in the Community market to unrelated customers, before taxes, decreased from 12,1 % in 2000 to 9,9 % in the IP representing a drop of 18 percent over the period under examination. This decrease was even sharper until the year 2002. Since then the profitability developed rather positively showing at first sight a certain capacity of the Community industry to recover from a difficult financial situation. In this respect, it should be noted that the same trend was observed in several indicators, such as the production, capacity utilisation, productivity and sales volume.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Profitability | 12,1 % | 10,5 % | 8,1 % | 9,4 % | 9,9 % |
| Index 2000 = 100 | 100 | 87 | 67 | 78 | 82 |

*Source*: Questionnaire replies of the sampled Community industry producers.

(97) The profitability in the EU-14 decreased from 9,4 % in 2000 to 5,3 % in the IP representing a drop of 44 indexed points over the period under examination. Although it showed a positive development after 2002, its profitability did not recover to levels similar to the one achieved in 2000 which are considered appropriate for this type of industry.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Profitability | 9,4 % | 5,9 % | 1,0 % | 4,3 % | 5,3 % |
| Index 2000 = 100 | 100 | 63 | 11 | 46 | 56 |

*Source*: Questionnaire replies of the sampled Community industry producers.

(vii) *Investments and return on investments*

(98) The level of investments in the production of the product concerned made by the sampled Community industry producers decreased by half during the period under examination from EUR 12 million to approximately EUR 6 million.

(99) The sampled Community industry producers' return on investment, which expresses their pre-tax result as a percentage of the average opening and closing net book value of assets employed in the production of the product concerned, was positive during the period 2000 to 2001, reflecting their declining profit making situation. As for the period after 2001, similarly as with the profitability, whereas a decrease was observed in 2002, this was subsequently recovered in 2003 and the IP.

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| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Investments in EUR 000 | 12 091 | 10 989 | 6 497 | 6 496 | 6 124 |
| Index 1999 = 100 | 100 | 91 | 54 | 54 | 51 |
| Return on investments | 32,4 % | 29,0 % | 23,7 % | 30,1 % | 33,9 % |

*Source*: Questionnaire replies of the sampled Community industry.

(viii) *Ability to raise capital*

(100) There were no indications that the Community industry as a whole encountered problems in raising capital for its activities.

(ix) *Cash flow*

(101) The sampled Community industry producers recorded a declining net cash inflow from operating activities during the period under examination.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Cash flow in EUR 000 | 51 162 | 40 295 | 39 517 | 41 955 | 40 824 |
| Index 2000 = 100 | 100 | 79 | 77 | 82 | 80 |
| Cash flow expressed as percentage of turnover | 19 % | 16 % | 17 % | 18 % | 17 % |

*Source*: Questionnaire replies of the sampled Community industry producers.

(102) Also in EU-14, the sampled Community industry producers recorded a declining net cash inflow from operating activities during the period under examination. However this decline was much steeper as was the decline in the net cash inflow expressed as a percentage to turnover (4 %) in relation to their activity in the whole Community.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Cash flow in EUR 000 | 23 869 | 18 081 | 13 468 | 15 724 | 15 556 |
| Index 2000 = 100 | 100 | 76 | 56 | 66 | 65 |
| Cash flow expressed as percentage of turnover | 17 % | 13 % | 12 % | 13 % | 13 % |

*Source*: Questionnaire replies of the sampled Community industry producers.

(x) *Wages*

(103) Over the period under examination, the average wage per employee increased by 9 %. After remaining stable in 2000 and 2001, wages increased by 2 % in 2002 with a further increase of 5 % and 2 % being recorded in 2003 and the IP. However, taking into account the reduction in employment, the total wage bill of the sampled Community industry producers remained relatively stable over the period under examination.

| | 2000 | 2001 | 2002 | 2003 | IP |
|---|---|---|---|---|---|
| Wages per employee in EUR | 42 470 | 42 504 | 43 474 | 45 336 | 46 203 |
| Index 2000 = 100 | 100 | 100 | 102 | 107 | 109 |

*Source*: Questionnaire replies of the sampled Community industry.

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(xi) *Magnitude of dumping margin*

(104) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the PRC, this impact is substantial.

(xii) *Recovery from past dumping*

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

(h) **Conclusion on injury**

(106) The examination of the above-mentioned factors shows that between 2000 and the IP, the dumped imports increased sharply in terms of volume and market share. Indeed, their volume increased by 47 % during the period under examination and they achieved a market share of approximately 31 % in the IP. It is to be noted that they accounted for approximately 80 % of total imports of the product concerned into the Community in the IP, and they substantially undercut (up to a maximum of 60 %) the sales prices of the Community industry. Moreover, other injury indicators, such as production (– 7 %), capacity utilisation (– 10 %), sales in volume (– 10 %), investments (– 49 %) and employment (– 13 %) developed negatively over the period under examination.

(107) At the same time the Community industry lost part of its market share. As a matter of fact, the imports concerned picked-up a three fold additional market share than that lost by the Community industry over the period under examination. Therefore, it can be reasonably concluded that the Chinese imports have taken over on top of the market share lost by the Community industry the market share from other European foundries which either have gone out of business, or have been converted into importers/traders.

(108) The overall above negative picture was only partially reflected in the recorded profitability of the Community industry. Measured in absolute terms profits declined by 18 %. Profitability (profits as a percentage of sales revenue) went down from a level of 12,1 % to 9,9 %. Against substantial levels of undercutting, one might have expected greater injury. However, profitability measured on its own does not represent the complete picture.

(109) The Community industry had a choice of competing head-on in price with the Chinese imports, or trying to maintain prices at or near their historical levels. The degree of price decrease that would have been needed to compete directly with dumped imports would clearly have been in excess of what Community producers would have contemplated if they were to remain profitable. Although, they reduced prices to some extent, they did not seek to match the prices of dumped imports It follows that they accepted reduced volumes, and then sought to cut costs in order to compensate for the loss volume. Thus, profits as a percentage of sales revenue did not decline so sharply, but this was at the expense of a drop in sales volumes and a loss in market share.

(110) Moreover, the isolated analysis of the situation in the EU-14 revealed that the relatively high profitability at global Community level, during the IP, was mainly due to the particularly good performance of certain sampled companies in the market of one Member State, i.e. France, where the penetration of dumped imports was limited. The financial situation of the sampled companies resulting from their operations in EU-14, where the penetration of dumped imports was particularly high,

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showed a clear negative trend and profitability levels were found to have fallen below 6 %. In the EU-14, the majority of injury indicators, such as production (– 14 %), capacity utilisation (– 14 %), sales in volume (– 17 %), investments (– 56 %), employment (– 16 %), cash flow (– 45 %) developed more negatively over the period under examination.

(111) The Community industry as a whole lost market share during the period under examination at a time when the dumped imports increased substantially, both in terms of volumes and market share. Confronted with the increasing pressure from the dumped imports, the Community industry opted for improving its productivity by decreasing its employment. At the same time they had to decrease investments, which fell sharply. This was reflected in the development of certain indicators over the period under examination. Indeed, profitability, likewise sales, and production in volume after a sharp drop in the period 2000 to 2002 developed rather positively until the IP. With regard to the first period, it can be reasonably assumed that the escalating pressure from the steadily increasing dumped imports led to a lower level of activity and results for the Community industry. As for the second period, the relative improvement of these indicators shows the efforts of the Community industry to counteract the negative effects of the dumped imports on its short term financial situation by streamlining production facilities increasing thus capacity utilisation and by reducing investments and employment lowering thus production costs. This nevertheless endangers its long-term financial health since it is losing market share and renounces to investments necessary to maintain and even improve its long-term productivity and competitiveness.

(112) In the light of the foregoing, and albeit the fact that the French market appears not as yet to have been aggressively targeted by the dumped imports, it can be concluded that the Community industry as a whole has suffered material injury. It has suffered severe price pressure, it has lost sales volumes (– 10 %), market share (– 3,8 %) and has been forced to cut production (– 7 %). It has retained a certain level of profitability, but not a level which enables investment for the long term to take place. Its overall situation has shown signs of severe degradation. On that basis it is concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

## F. **CAUSATION**

### (a) **Introduction**

(113) In order to reach its conclusions on the cause of injury faced by the Community industry and in accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined the impact of all known factors and their consequences on the situation in that industry. Known factors other than the dumped imports, which at the same time could be injuring the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

### (b) **Effects of the dumped imports**

(114) Over the period under examination, dumped imports from the PRC increased considerably in volume (47 %) and in market share (from 21,0 % in 2000 to 31,1 % in the IP).

(115) The prices of the dumped imports were below those of the Community industry throughout the whole period under exami-

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nation. Moreover, they exerted a pressure, which forced the Community industry to maintain its own prices practically stable, in spite of the substantial increase in the cost of raw materials. Prices of dumped imports originating in the PRC significantly undercut Community industry prices with undercutting margins ranging from 31 % to 60 %. In this regard, it should be noted that the castings market is a competitive and transparent market. Thus, price undercutting in a market with such characteristics is a detrimental factor that diverts trade towards Chinese dumped imports.

(116) The effects of dumped imports can also be illustrated by the decision of numerous Community producers to discontinue their own production lines and become importers of castings.

(117) Overall, between 2000 and the IP, the Community industry's loss of market share of 3,8 percentage points is totally absorbed by the increase in market share of dumped imports originating in the PRC.

(118) The loss in market share experienced by the Community industry coincided with a number of other negative developments in its overall economic situation in terms of production, production capacity utilisation, sales, investment and employment.

(119) Moreover, the Community industry experienced a decrease in its profitability which dropped from 12,1 % in 2000 to 9,9 % in the IP. These factors, coupled with the fact that the Community industry was not able to increase its prices in order to counteract the negative effect of the price increase of raw materials, due to the price pressure from the dumped imports, had the effect that in spite of rationalisations and improvement of its productivity, it found itself in an injurious situation. The expansion of the dumped imports market share and the drop in the prices coincided with the sharp change in the conditions for the Community industry.

(120) A certain number of cooperating importers argued that whereas the increased volume of Chinese imports into the Community is a direct result of the growing demand for the product concerned, the market for the Community industry recorded a general negative trend due to the decline in demand of castings in the telecommunications market in 2002. This market reached its maximum development in the years before 2002, distorting thus the injury analysis, since the years 2000 and 2001 were exceptionally good. As for the period after 2002, an improvement has been registered in the results of the Community industry pointing to a healthy industry.

(121) In this respect, it should be firstly noted that the investigation did not show a growing demand but rather a stable consumption against steadily increasing imports throughout the period under examination. Regarding the impact of the telecommunications market in 2002, this was not reflected in the Chinese imports of the product concerned which continued steadily growing at dumped prices. Furthermore, the claim was not substantiated with evidence. Finally, the investigation showed that the Community industry suffered material injury over the period under examination. On this basis, the above arguments were rejected.

(c) **Effects of other factors**

*Imports from other third countries*

(122) Import volumes from other third countries decreased from 70 600 tonnes in 2000 to 49 000 tonnes in the IP, their market share

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decreased from 12 % in 2000 to 8,5 % in the IP. Most of these imports originated in Poland, the Czech Republic and India. However, on the basis of Eurostat data, the average prices of castings imported from third countries were on average considerably higher than the corresponding prices of dumped imports originating in the PRC (from 12 % difference in 2000 they reached a 55 % difference in the IP). Moreover, on average, the prices from other countries increased by 16 percentage points over the period under examination. Therefore, these imports cannot have caused injury to the Community industry.

*Performance of other Community producers*

(123) As regards the production and sales volumes of the other Community producers, they held a market share of around 18,5 % during the IP. During the period under examination, their sales have decreased steeply in terms of volume (21 %) and they have lost considerable market share (4,9 percentage points). No indication was found that the prices of other Community producers were lower than those of the cooperating Community industry. Therefore, it can be reasonably concluded that the products produced and sold by the other Community producers have not caused material injury to the Community industry.

(124) No other factors, which could at the same time cause injury to the Community industry, were raised by interested parties or identified during the course of the investigation.

(d) **Conclusion on causation**

(125) The vulnerable situation of the Community industry coincided with a sharp increase in imports from the PRC and a substantial price undercutting by these imports.

(126) As to the imports from other third countries, in view of their declining market share over the period under examination and in view of the average prices which were found to be considerably higher than those of the dumped imports during the IP, it is concluded that these factors have not contributed to the injury suffered by the Community industry.

(127) It is therefore concluded that the dumped imports originating in PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

## G. **COMMUNITY INTEREST**

(128) In accordance with Article 21 of the basic Regulation, the Commission considered whether the imposition of the anti-dumping measures would be contrary to the interests of the Community as a whole. The determination of the Community interest was based on an examination of all the various interests involved, i.e. those of the Community industry, the importers and traders, and the users of the product concerned.

(129) In order to assess the Community interest, the Commission carried out an investigation into the likely effects of the imposition/non-imposition of anti-dumping measures on the economic operators concerned. In addition to the Community producers and importers, the Commission requested information from all interested parties known to be concerned such as users and consumers associations.

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(a) **Interest of the Community industry**

(130) The Community industry is composed of large as well as small and medium-sized companies.

(131) The imposition of measures is expected to prevent a further distortion of the market and a deterioration of prices. This would enable the Community industry to recover lost market share, while still selling at cost covering prices, which again will lead to lower unit costs due to higher productivity. In conclusion, it is expected that mainly the decrease in unit costs (due to a higher capacity utilisation and subsequently the higher productivity) and to a certain extent a slight price increase, will allow the Community industry to improve its financial situation, without distorting the consumers market.

(132) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the financial situation of the Community industry will continue. The situation of the Community industry is particularly marked in the IP by a loss of revenue due to depressed prices and further decreasing market share. Indeed, in view of the decreasing revenue, it is most likely that the financial situation of the Community industry will deteriorate further in the absence of any measures. This would ultimately lead to cuts in production and more closures of production sites, which would therefore threaten employment and investments in the Community.

(133) Accordingly, it is concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the injurious dumping.

(b) **Interest of unrelated importers/traders in the Community**

(134) As mentioned in recital (11), 15 companies provided the information requested in the notice of initiation for selecting a sample within the time-limit set for this purpose. From these companies, a representative sample of four importers was selected. Questionnaires were sent to all four companies.

— sampled unrelated importers/traders in the Community

(135) Out of the four sampled companies, one did not reply to the questionnaire and was therefore excluded from the proceeding. All other selected companies provided full and complete questionnaire replies. These companies accounted for 19 % of total imports of castings in volume originating in the PRC during the IP.

(136) A certain number of cooperating importers claimed that one sampled importer should not have been selected as it is a subsidiary of another company, which is allegedly the largest individual customer of a complainant company, and a supplier of that complainant company. This alleged relationship was claimed to be sufficient to exclude this importer from the sample as it constitutes a conflict of interest. In this respect, it should be noted that the alleged relationship between that importer and the complainant company does not go beyond that of a commercial relationship between independent economic operators and as such could not justify a conflict of interest. Furthermore, the claim was not substantiated. This argument was therefore rejected.

(137) They further argued that the imposition of measures would most likely have an impact on employment in the Community user industry and the importers. It was alleged that, since the latter have no margin to absorb any duty, they would be immediately forced out of business causing them to lay off their personnel at

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once. In addition, it was argued that there is a substantial increase in demand in the Community, especially account being taken of the 10 new Member States which in a process of rapid development will further boost it. In this context, the imposition of duties could also lead to a shortage in supplies on the European market and, consequently, a major price increase. Furthermore, the Community producers would then be free to control the market in the absence of any significant competition.

(138) In respect of the negative impact of measures on employment in the Community user industry and the importers, this was not substantiated. Regarding the negative impact for users in the Community, as stated below (140), no user or user association made itself known in the framework of the proceeding. Regarding the negative impact on importers, contrary to the allegations, the strong position established by them in the Community market reflects their healthy and steadfast situation rather than a frail state. Furthermore, it should be noted that the absorption of the duty would render void the very purpose of its imposition, which is to restore a fair playing field in the market found to be distorted from uncompetitive behaviour of operators having adopted dumping practices. As for the alleged shortage in supplies due to the increased demand of the 10 new Member States, it should be firstly noted that the Community industry does not produce at full capacity and therefore any shortage could be covered by increasing its capacity utilisation and reducing stocks. In addition, existing production in certain new Member States together with imports from third countries will continue to supply the market at reasonable prices contributing to a transparent and competitive environment.

(139) Therefore, it can be concluded that the likely effects of the imposition of anti-dumping measures on unrelated importers/traders would not be significant.

(c) **Interest of users and consumers**

(140) No user or consumer associations made themselves known within the time-limit set in the notice of initiation. Given the non-cooperation of these parties, it can be concluded that the imposition of any anti-dumping measure would not unduly affect their situation.

(d) **Competition and trade distorting effects**

(141) With respect to the effects of possible measures on competition in the Community, it appears likely that the exporting producers concerned will be able to continue to sell castings, albeit at non-injurious prices, as they have a strong market position. This taken with the large number of producers in the Community and imports from other third countries will ensure that users and retailers will continue to have a wide choice of different suppliers of castings at reasonable prices. A certain number of cooperating importers argued that the Community industry is not competitive and that it is characterised by the presence of local and regional markets which are dominated by monopolies/duopolies. They further submitted that one of the Community cooperating producers had been condemned in the past for an abuse of dominant position to impede the access of the product concerned to the French market.

(142) In this respect, it should be firstly noted that the argument concerning the alleged presence of local and regional markets, dominated by monopolies/duopolies, was not substantiated by any evidence and was therefore rejected. Concerning the decision on the abuse of dominant position, it refers to a situation in the past, fully outside the period under examination

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and to product outside the product scope of this investigation. In addition, a subsequent relevant decision within the period under examination on a complaint lodged by an importer against the same producer regarding its anti-competitive behaviour on the French market did not condemn the producer and the procedure was terminated. On this basis, the above argument was rejected.

(143) Thus, there will be an important number of actors in the market, which will be able to satisfy the demand. On the basis of the above, it is therefore concluded that competition will most likely remain strong after the imposition of anti-dumping measures.

(e) **Conclusion on Community interest**

(144) In the light of the above, it is concluded that no compelling reasons exist against imposing measures in the present case and that the application of measures would be in the interest of the Community.

## H. **DEFINITIVE ANTI-DUMPING MEASURES**

### 1. **Injury elimination level**

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

(146) For this purpose, first the import prices were compared with the Community industry's prices without making an adjustment for an adequate profit margin. The comparison was made with regard to comparable product types. The difference was expressed as a percentage of the corresponding export turnover. This analysis showed for all exporting producers' margins which were already above their dumping margins. Thus, in order to apply the lesser-duty-rule, it was not considered necessary to determine a profit margin which the Community industry could have achieved in the absence of dumped imports, as the corresponding injury margin would have been higher than the dumping margin.

(147) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, definitive anti-dumping duties should be imposed in respect of imports of castings originating in the PRC at the level of the dumping margins found as these would, in all cases, be lower than the injury margins.

(148) The individual anti-dumping duty rate for the companies granted market economy status specified in this Regulation was established on the basis of the findings of the present investigation. Therefore, it reflects the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to ‘all other companies’) are thus exclusively applicable to imports of products originating in the PRC and produced by these 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 this specifically mentioned, cannot benefit from this rate and shall be subject to the countrywide duty.

(149) Any claim requesting the application of an individual company anti-dumping duty rate (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

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sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duties.

(150) In view of the findings above, the anti-dumping duty rates are as follows:

| Country | Company | Anti-dumping duty |
|---|---|---|
| The PRC | Shijiazhuang Transun Metal Products Co. Ltd. | 0,0 % |
| | Shaoshan Huanqiu Castings Foundry | 0,0 % |
| | Fengtai Handan Alloy Casting Co. Ltd. | 0,0 % |
| | Shanxi Jiaocheng Xinglong Casting Co. Ltd. | 0,0 % |
| | Tianjin Jinghai Chaoyue Industrial and Commercial Co. Ltd. | 0,0 % |
| | Shanxi Yuansheng Casting and Forging Industrial Co. Ltd. | 18,6 % |
| | Botou City Simencum Town Bai fo Tang Casting Factory | 28,6 % |
| | Hebei Shunda Foundry Co. Ltd. | 28,6 % |
| | Changan Cast Limited Company of Yixian Hebei | 31,8 % |
| | Shandong Huijin Stock Co. Ltd. | 37,9 % |
| | All other companies | 47,8 % |

(151) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties. They were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were duly considered, and, where appropriate, the findings have been modified accordingly. All parties were given detail responses to the comments they have submitted.

## I. **FORM OF MEASURES**

(152) Four exporting producers having obtained individual treatment indicated that would offer a price undertaking but failed to submit a sufficiently substantiated undertaking offer within the deadlines set in Article 8(2) of the basic Regulation. Consequently no undertaking offers could be accepted by the Commission. Nevertheless, the Council in view of the complexity of the issue for the economic operators in question (predominantly small and medium-sized enterprises) and given that the definitive disclosure was not preceded by a provisional disclosure, considers that they should exceptionally be allowed to complete their undertaking offers beyond the above-mentioned deadline.

(153) The Chinese authorities also requested that consideration be given to finding a comparable solution for the numerous cooperating Chinese exporting producers concerned by the proceeding, as for the four exporting producers mentioned in the previous recital. Should it be found, following discussion to that end, that a change in the form of the measures other than the acceptance

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of undertakings, is appropriate an interim review will be carried out as expeditiously as possible,

HAS ADOPTED THIS REGULATION:

*Article 1*

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1. A definitive anti-dumping duty is hereby imposed on imports of castings of non-malleable cast iron and spheroidal graphite cast iron (ductile iron) of a kind used to cover and/or to give access to ground or sub-surface systems, and parts thereof, whether or not machined, coated or painted or fitted with other materials, excluding fire hydrants, originating in the People's Republic of China, currently classifiable within CN codes 7325 10 50, 7325 10 92, ex 7325 10 99 (Taric code 7325 10 99 10), and ex 7325 99 10 (Taric code 7325 99 10 10).

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2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products described in paragraph 1 and produced in the People's Republic of China by the companies listed below shall be as follows:

| Company | Anti-dumping duty (%) | Taric additional code |
|---|---|---|
| Shijiazhuang Transun Metal Products Co. Ltd, Xinongcheng<br>Liulintun, Luancheng County, Shijiazhuang City<br>Hebei Province, 051430 PRC | 0 | A675 |
| Shaoshan Huanqiu Castings Foundry, Fengjia Village<br>Yingtian Township, Shaoshan, Hunan, PRC | 0 | A676 |
| Fengtai Handan Alloy Casting Co. Ltd<br>Beizhangzhuang Town, Handan County, Hebei, PRC | 0 | A677 |
| Shanxi Jiaocheng Xinglong Casting Co. Ltd<br>Jiaocheng County, Shanxi Province, PRC | 0 | A678 |
| Tianjin Jinghai Chaoyue Industrial and Commercial Co. Ltd<br>Guan Pu Tou Village, Yang Cheng Zhuang Town<br>Jinghai District, 301617 Tianjin, PRC | 0 | A679 |
| Baoding City Maikesaier Casting Ltd<br>Xin'anli Town, Tang County<br>Hebei; Baoding 072350, PRC | 0 | A867 |
| Baoding Yuehai Machine Manufacturing Co. Ltd<br>No 333 Building A Tian E West Road<br>Baoding, Hebei, PRC | 0 | A868 |
| Shanxi Yuansheng Casting and Forging Industrial Co. Ltd<br>No. 8 DiZangAn, Taiyuan, Shanxi, 030002, PRC | 18,6 | A680 |
| Botou City Simencum Town Bai fo Tang Casting Factory<br>Bai Fo Tang Village, Si Men Cum Town, Bo Tou City<br>062159, Hebei Province, PRC | 28,6 | A681 |

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| Company | Anti-dumping duty (%) | Taric additional code |
|---|---|---|
| Hebei Shunda Foundry Co. Ltd, Qufu Road, Quyang<br>073100, PRC | 28,6 | A682 |
| Xianxian Guozhuang Precision Casting Co., Ltd<br>Guli Village, Xian County<br>Hebei, Gouzhuang, PRC | 28,6 | A869 |
| Wuxi Norlong Foundry Co. Ltd<br>Wuxi New District<br>Jiangsu, PRC | 28,6 | A870 |
| HanDan County Yan Yuan Smelting and Casting Co. Ltd<br>South of Hu Cun Village, Hu Cun Town<br>Han Dan County, Hebei, PRC | 28,6 | A871 |
| Tianjin Loiselet Art Casting Co. Ltd<br>Dongzhuangke, Yangchenzhuang<br>Jinghai, Tianjin, PRC | 28,6 | A872 |
| Weifang Stable Casting Co. Ltd<br>Fangzi District, Weifang City, Shandong Province, PRC | 28,6 | A931 |
| Changan Cast Limited Company of Yixian Hebei<br>Taiyuan main street, Yi County, Hebei Province<br>074200, PRC | 31,8 | A683 |
| Shandong Huijin Stock Co. Ltd, North of Kouzhen Town<br>Laiwu City, Shandong Province, 271114, PRC | 37,9 | A684 |
| All other companies | 47,8 | A999 |

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

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4. Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

— it did not export to the Community the product described in paragraph 1 during the investigation period (1 April 2003 to 31 March 2004),

— it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by this Regulation,

— it has actually exported to the Community the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

— it operates under market economy conditions defined in Article 2(7)(c) of the basic Regulation or alternatively that it fulfils the requirements to have an individual duty in accordance with Article 9(5) of the basic Regulation,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend paragraph 2 by adding the new exporting producer (i) to the companies subject to the duty rate of 0 % applicable to companies to

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whom market economy treatment was granted in accordance with Article 2(7)(c) of the basic Regulation or (ii) to the companies subject to the weighted average duty rate of 28,6 % applicable to companies to whom individual treatment was granted in accordance with Article 9(5) of the basic Regulation respectively.

*Article 2*

1. Imports declared for release into free circulation which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in Commission Decision 2006/109/EC ([1]), as from time to time amended shall be exempt from the anti-dumping duty imposed by Article 1, on condition that:

— they are manufactured, shipped and invoiced directly by the said companies to the first independent customer in the Community, and

— such imports are accompanied by a valid undertaking invoice. An undertaking invoice is a commercial invoice containing at least the elements and the declaration stipulated in the Annex, and

— the goods declared and presented to customs correspond precisely to the description on the undertaking invoice.

2. A customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation whenever it is established, in respect of goods described in Article 1 and exempt from anti-dumping duty under the conditions listed in paragraph 1, that one or more of such conditions are not fulfilled. The second condition set out in paragraph 1 shall be considered as not being fulfilled where the undertaking invoice is found not to comply with the provisions of the Annex. It shall also be considered as not fulfilled where the undertaking invoice is found not to be authentic and where the Commission has withdrawn the acceptance of the undertaking pursuant to Article 8(9) of the basic Regulation in a Regulation or Decision which refers to (a) particular transaction(s) and declares the relevant undertaking invoice(s) as invalid.

3. Importers shall accept as a normal trade risk, that the non-fulfilment, by any party, of one or more of the conditions listed in paragraph 1 and further defined in paragraph 2 may give rise to a customs debt incurred pursuant to Article 201 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([2]). The customs debt incurred shall be recovered upon withdrawal by the Commission of the acceptance of the undertaking.

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*Article* ►M1 *3* ◄

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

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

([1]) OJ L 47, 17.2.2006, p. 59.
([2]) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

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*ANNEX*

The following elements shall be indicated in the commercial invoice accompanying the company's sales of certain castings to the Community which are subject to an undertaking.

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.
2. The name of the company mentioned in Article 1 of the Commission Decision 2006/109/EC accepting the undertaking issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier.
6. The exact description of the goods, including:
   - product code number (PCN) used for the purposes of the investigation and the undertaking (e.g. PCN 1, PCN 2, etc.),
   - plain language description of the goods corresponding to the PCN concerned,
   - company product code (CPC) (if applicable),
   - CN code,
   - quantity (to be given in tonnes).
7. The description of the terms of the sale, including:
   - price per tonne,
   - the applicable payment terms,
   - the applicable delivery terms,
   - total discounts and rebates.
8. Name of the company acting as an importer in the Community to which the commercial invoice accompanying goods subject to an undertaking is issued directly by the company.
9. The name of the official of the company that has issued the invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by (COMPANY), and accepted by the European Commission through Decision 2006/109/EC, I declare that the information provided in this invoice is complete and correct.'