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COUNCIL REGULATION (EC) No 1371/2005

of 19 August 2005

imposing a definitive anti-dumping duty on imports of grain oriented flat-rolled products of silicon-electrical steel originating in the United States of America and Russia and repealing Regulation (EC) No 151/2003 imposing a definitive anti-dumping duty on imports of certain grain oriented electrical sheets originating in Russia

(OJ L 223, 27.8.2005, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 41/2008 of 14 January 2008	L 16	1	19.1.2008
►**M2**	Council Regulation (EC) No 435/2008 of 19 May 2008	L 132	1	22.5.2008

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THE COUNCIL OF THE EUROPEAN UNION, [1]

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ('basic Regulation'), and in particular Articles 9 and 11(3) thereof,

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

Whereas:

A. PROCEDURE

1. Initiation

(1) On 28 May 2004, the Commission announced by a notice ('notice of initiation'), published in the *Official Journal of the European Union* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of grain oriented flat-rolled products of silicon-electrical steel originating in the United States of America ('USA') and Russia and the initiation of an interim review of the anti-dumping duty on imports of certain grain oriented electrical sheets with a width of more than 500 mm originating in Russia.

(2) The anti-dumping proceeding was initiated following a complaint lodged on 13 April 2004 by the European Confederation of Iron and Steel Industries ('Eurofer' or 'the complainant') on behalf of producers representing a major proportion, in this case more than 90 %, of the total Community production of grain oriented flat-rolled products of silicon-electrical steel. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

(3) The interim review was initiated by the Commission on its own initiative, pursuant to Article 11(3) of the basic Regulation, in order to allow for any necessary amendment or repeal of the definitive anti-dumping measures imposed by Council Regulation (EC) No 151/2003 [3] on imports from Russia of grain oriented electrical sheets with a width of more than 500 mm. The necessary amendment or repeal may arise due to the fact that the products upon which measures have been imposed by Regulation (EC) No 151/2003 fall within the scope of the products subject to the proceeding concerning imports into the Community of grain oriented flat-rolled products of silicon-electrical steel originating in the USA and Russia.

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[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 144, 28.5.2004, p. 2.
[3] OJ L 25, 30.1.2003, p. 7. Regulation as last amended by Regulation (EC) No 990/2004 (OJ L 182, 19.5.2004, p. 5).

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2. **Parties concerned by the proceeding**

(4) The Commission officially advised the exporting producers in Russia and the USA and the importers/traders and users known to be concerned, the representatives of the exporting countries concerned and the complainant Community producers of the initiation of the proceeding. The 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.

(5) The exporting producers in Russia and the USA, as well as Community producers, importers/traders and users made their views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard were granted an opportunity to be heard.

3. **Questionnaires**

(6) The Commission sent questionnaires to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notice of initiation.

(7) Replies were received from one US exporting producer and its related subsidiaries in the Community and from two Russian exporting producers and their related subsidiaries in the Community. Replies were also received from four Community producers, 16 users and one importer not related to an exporting producer in the countries concerned.

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

Community producers

— ThyssenKrupp Electrical Steel UGO, Isbergues, France

— ThyssenKrupp Electrical Steel AST, Terni, Italy

— ThyssenKrupp Electrical Steel GmbH, Gelsenkirchen, Germany

— Orb Electrical Steels Limited, Newport, United Kingdom

Users in the Community

— Areva S.A., Paris, France

— Specialacciai srl, Novi Ligure, Italy

Exporting producers in Russia

— Novolipetsky Iron & Steel Corporation (‘NLMK’), Lipetsk

— VIZ Stal, Ekaterinburg

Exporting producers in the USA

— AK Steel Corporation, Butler, Pennsylvania

Related importers in the Community

— AK Steel BV, Oosterhout, The Netherlands

— AK Steel GmbH, Köln, Germany

— AK Steel Ltd., Baldock, United Kingdom

— AK Steel s.r.l., Genova, Italy

— Duferco Commerciale SpA, Genova, Italy

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— Duferco GmbH, Mülheim, Germany

Related importers outside the Community

— Duferco SA, Lugano, Switzerland

— Stinol AG, Lugano, Switzerland

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

4. **Measures in force**

(10) By Council Regulation (EC) No 151/2003, definitive anti-dumping duties were imposed on imports from Russia of grain oriented electrical sheets with a width of more than 500 mm ('large GOES'), following an investigation that was initiated pursuant to Article 11(2) of the basic Regulation. By that Regulation, anti-dumping duty rates were set for imports from VIZ-Stal at 14,7 % and for imports from NLMK at 40,1 %, the latter rate at the same time being the residual duty rate for imports of these products from other companies in Russia.

(11) By Commission Regulation (EC) No 1000/2004 ([1]), undertakings, in connection with the anti-dumping proceeding concerning imports of large GOES originating in Russia, were accepted from NLMK and Viz Stal and their related sales companies for a period of six months until 20 November 2004. These undertakings were intended to provide a temporary way of adapting the anti-dumping measures which were extended to imports into the 10 new Member States following the enlargement of the European Union on 1 May 2004. The purpose was to avoid a sudden and excessively negative effect for importers and users caused by the sudden full application of the extended measures in those 10 countries. Undertakings were accepted for a further period of six months until 20 May 2005, by Commission Regulation (EC) No 1995/2004 ([2]), because the conditions for their acceptance were considered to be still in existence.

5. **Provisional measures**

(12) Given the need to further examine certain aspects of the investigation and also because of the interrelation with the interim review mentioned in recital (3), it was decided to continue the investigation without the imposition of provisional measures.

(13) All interested parties were nevertheless informed of the preliminary findings of the investigation and were granted a period within which they could comment on those findings. The comments submitted by the parties were considered and, where appropriate, any relevant claim was addressed and the findings were modified where necessary.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(14) The product concerned is grain oriented flat-rolled products of silicon electrical steel ('GOES') of all widths, declared under CN codes 7225 11 00 (of a width of 600 mm or more) and 7226 11 00 (of a width of less than 600 mm). These CN codes are only given for information.

(15) GOES are produced from hot-rolled coils of silicon alloyed steel of different thicknesses of which the grain structure is uniformly directed in order to allow for magnetic conductivity with a high

([1]) OJ L 183, 20.5.2004, p. 10.
([2]) OJ L 344, 20.11.2004, p. 21.

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degree of efficiency. Inefficiencies with regard to this conductivity are called 'core loss', which is the prime indicator of the quality of the product. The market is typically divided into 'high-permeability', or high conductivity grades, and regular grades. The high-permeability grades allow achieving lower core losses for any given thickness of the sheets. The grain oriented steel sheets are then, if needed, cut to certain widths according to customer specifications. This process is called slitting. The product concerned is used by manufacturers of electromagnetic appliances and transformers for use by power generators and distributors.

(16) In spite of the differences in permeability, thickness and width, all types of GOES share the same basic physical and technical characteristics and have essentially the same basic use.

(17) In reference to the review investigation on large GOES, mentioned in paragraph (3) above, it should be noted that on a number of occasions it was observed that the anti-dumping measures in force, mentioned in paragraph (10), were avoided by cutting the coils of grain-oriented electrical steel before they were exported to the Community. Indeed, often Community users bought large GOES and then slit them to the required measure. After the imposition of measures, GOES were cut by the producers or exporters in parts not exceeding 500 mm before being exported, so that the product fell outside the scope of the measures.

(18) One exporting producer claimed that narrow GOES (defined by this company as less than 500 mm width) should be distinguished from large GOES (of a width of 500 mm or more), because large GOES cannot be substituted by narrow ones and narrow and large GOES are subject to different competitive conditions. The argument regarding different competitive conditions is based on the observation that end-users order and purchase directly GOES with a width that meets their exact requirements in order to avoid the cost of slitting, as opposed to purchasing coils of a larger width than used in their own production processes and having to take care of slitting themselves, moreover in most cases by having recourse to specialised subcontractors.

(19) The argument of the lack of interchangeability is based on the fact that, although narrow GOES can be substituted by large GOES which are subsequently slit, the reverse situation is of course impossible. Reference has been made by the exporter concerned to the anti dumping proceeding concerning *Certain footwear with textile uppers from China and Indonesia* [1] where it was considered that indoor shoes cannot be used outside, and therefore should form a separate product.

(20) With reference to the above mentioned anti-dumping proceeding, it was concluded that indoor and outdoor shoes should form a separate product because indoor shoes have different basic physical characteristics, which make them not suitable for outdoor uses. The situation is therefore different in the present case since the investigation concluded that, irrespective of their width, GOES are made from the same basic material, have the same basic characteristics and have comparable end-uses. Moreover, it should be noted that even partial interchangeability between products suffices in order to consider them as a single product for the purpose of an anti-dumping investigation and, in the case of GOES, as explained under recital (17), interchangeability occurs.

(21) The second argument raised by this exporting producer is based on the observation that end-users will preferentially make use of

[1] Council Regulation (EC) No 2155/97 (OJ L 298, 1.11.1997, p. 1).

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GOES with widths that meet their technical requirements for production purposes. However, it has been found that certain end-users, as a standard way of working, slit the material themselves or acquire roughly-cut narrow GOES from Russia free of any anti-dumping duties and subsequently slit the imported material to their exact specifications. Moreover, the widespread existence of slitting companies and steel service centres in the Community illustrates the fact that the GOES do not always leave the factories of the producers in dimensions specifically required by the end-user. Consequently, the claims made by this exporting producer were rejected.

(22) It is therefore concluded that, for the purpose of the present anti-dumping proceeding, all types of the product concerned are regarded as one product.

2. **Like product**

(23) The product exported to the Community from Russia and the USA, the product produced and sold domestically in Russia and the USA, as well as the one manufactured and sold in the Community by the Community producers were found to have the same basic physical and technical characteristics as well as the same basic uses and are therefore considered as like products within the meaning of Article 1(4) of the basic Regulation.

C. **DUMPING**

1. **General Methodology**

(24) In order to determine the normal value, the Commission first established, for each exporting producer, whether its total domestic sales of the product concerned were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

(25) For each type sold by the exporting producers on their domestic markets and found to be directly comparable with the type of the product concerned sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of GOES were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of GOES exported to the Community.

(26) Subsequently it was examined whether the domestic sales of each type of the product of each exporting producer could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers of the type in question.

(27) In cases where the sales volume of the GOES type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of a GOES type represented 80 % or less of the total sales volume of that type or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only,

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provided that these sales represented 10 % or more of the total sales volume of that type. In cases where the volume of profitable sales of any type of GOES represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(28) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value. In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the exporter's manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit.

2. **United States of America**

Normal value

(29) For the one cooperating exporting producer it was found that domestic sales of the product concerned could not be considered as being made in the ordinary course of trade since such sales were made in substantial quantities below per unit cost, in this case more than 90 % of the volume sold on the domestic market. Moreover, it was established that the weighted average selling price of the domestic transactions was below the weighted average per unit cost of production during the IP.

(30) As a consequence, domestic prices of the product concerned sold by the exporting producer could not be used in order to establish normal value. Normal value had to be constructed, in accordance with Article 2(3) of the basic Regulation.

(31) Normal value was constructed on the basis of the exporting producer's costs of manufacturing plus an amount for SG&A costs and profit. The amounts established for SG&A costs and profit were those applicable to production and sales, in the ordinary course of trade, of the same general category of steel products for the exporting producer in question in the domestic market, in accordance with Article 2(6)(b) of the basic Regulation.

(32) The full cost of production was determined for each relevant product type, according to steel grade, thickness and the fact whether the product concerned was sold as a full coil or as a slit coil. In the latter case slitting costs had to be taken into account.

Export price

(33) The export prices were determined on the basis of the prices paid or payable for the product concerned when sold for consumption in the Community in accordance with Article 2(8) of the basic Regulation.

(34) The exporting producer did not sell any quantity of the product concerned directly to independent customers in the Community. All sales were made through related subsidiaries in the Community. Consequently, a constructed export price has been established pursuant to Article 2(9) of the basic Regulation on the basis of the resale prices to independent customers in the Community. Adjustments were made for all costs incurred between importation and resale by the related importers, including SG&A expenses and a reasonable profit margin.

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Comparison

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

(36) The adjustment for slitting costs was necessary in order to allow for the proper comparison of GOES according to whether they were imported as full width coils and subsequently sold as such in the Community or imported as full width coils and sold after slitting in the Community or imported as slit material and sold as such or after further slitting in the Community, in accordance with Article 2(10)(k) of the basic Regulation.

Dumping margin

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

(38) On that basis, a dumping margin expressed as a percentage of the CIF Community frontier price duty unpaid was established as follows:

AK Steel Corporation, Middletown: 47,6 %

(39) For USA, since there was evidence of a known exporter that deliberately did not cooperate to the investigation, the residual dumping margin for this non-cooperating exporting producer should be set at the level of the highest margin measured for sales of representative product types by the cooperating producer in the Community i.e. 60,6 %.

3. **Russia**

NLMK

Normal value

(40) Normal value was established in line with the general methodology as explained under paragraphs (24) to (28).

(41) For the sole type of GOES where 80 % or less but at least 10 % of the domestic sales made in sufficient quantities, were in the ordinary course of trade, normal value was based on the actual domestic price, calculated as a weighted average of the prices of the domestic sales of that type made in the ordinary course of trade during the IP.

(42) For the remaining product types, where domestic sales were not representative, normal value was constructed in accordance with Article 2(3) of the basic Regulation. Normal value was constructed by adding to the manufacturing costs of the exported types, adjusted with a reasonable percentage for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit, on the basis of actual data pertaining to production and sales, in the ordinary course of trade, of the like product, by the exporting producer under investigation in accordance with the first sentence of Article 2(6) of the basic Regulation.

Export price

(43) Export sales to the Community were made both directly to independent customers and via a related company in Switzerland. For

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the latter, the export price has been established on the basis of the resale prices to the first independent buyer in the Community.

Comparison

(44) The exporting producer claimed that products imported into the Community originating in Russia cannot be compared to products produced in the Community because of quality differences: the exporting producer's GOES are claimed to have higher surface defects and higher core losses and are to a certain extent of different grades. This exporting producer therefore requested an adjustment for quality differences.

(45) For the calculation of the dumping margins, comparison is made at the level of product types corresponding to steel grades with specific ranges for core losses. American and Russian standards have been compared to European ones taking into account all relevant product characteristics. Moreover, comparisons were made at the level of production and sales of prime grade material. The claim for an adjustment for quality differences made by one exporting producer was therefore rejected. The same methodological approach was followed for the calculation of undercutting commented upon in recitals (78) to (83).

(46) The normal value and export prices were compared on an ex-works basis and at the same level of trade. For the purpose of ensuring a fair comparison between the normal value and the export price, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability. On this basis, allowances for differences in freight, insurance, package, credit costs and related bank charges and indirect taxes have been granted. Adjustments were also made where the export sales were made via a related company located in a country other than the Community, pursuant to Article 2(10)(i) of the basic Regulation.

(47) The exporting producer claimed that clerical errors occurred in the calculations and, after verification, the claims were accepted and the calculations duly corrected.

Dumping margin

(48) As provided by Article 2(11) of the basic Regulation, the weighted average normal value of each type of the product concerned exported to the Community was compared to the weighted average export price of each corresponding type of the product concerned.

(49) The comparison showed the existence of dumping in respect of the cooperating exporting producer. A dumping margin expressed as a percentage of the CIF import price at the Community border, duty unpaid is the following:

NLMK, Lipetsk: 11,5 %

VIZ STAL

Normal value

(50) It was found that domestic sales of the product concerned were overall representative, but not made in the ordinary course of trade since such sales were made in substantial quantities below per unit cost, in this case more than 90 % of the volume sold in the transactions under consideration. Moreover, it was established that the weighted average selling price of the domestic transactions was below the weighted average per unit cost of production during the IP.

(51) Because domestic prices of the product concerned sold by the exporting producer could not be used in order to establish normal

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value, normal value had to be constructed, in accordance with Article 2(3) of the basic Regulation.

(52) Normal value was constructed on the basis of the exporting producer's own full cost of production, i.e. manufacturing cost plus selling, general and administrative costs ('SG&A' costs) and a reasonable margin for profit, on the basis of the actual data pertaining to production and sales by the exporting producer under investigation, in accordance with the first sentence of Article 2(6) of the basic Regulation.

(53) It should be noted that during the IP, Viz Stal purchased its main raw materials, i.e. hot-rolled coils or hot-rolled band, from two suppliers: US Steel Kosice and the Russian company Magnitogorsk. In the investigation on large GOES, referred to in recital (10), it was found that the relation between the latter company and Viz Stal was particularly close, and that the purchase prices from that supplier could not be considered reliable. In this respect, the establishment of the cost of manufacturing, and more specifically the cost of the main raw materials, was exclusively based on the price of coils purchased from the unrelated Slovak producer/supplier US Steel Kosice. To the DAF price Slovak border was added the transport cost to Ekaterinburg, the insurance costs and the credit costs based on the payment conditions. Calculated in this way, hot-rolled coils represented 61,4 % of the total cost of production of GOES for this exporting producer.

(54) The full cost of production was determined for each relevant product type, according to steel grade, thickness and the fact whether the product concerned was sold as a full coil or as a slit coil, in which latter case slitting costs had to be taken into account.

Export price

(55) Viz Stal did not sell the product concerned directly to independent customers in the Community. All sales were made to related subsidiaries in the Community. Consequently, a constructed export price has been established pursuant to Article 2(9) of the basic Regulation i.e. based upon the resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale by those related importers, including selling, general and administrative expenses and a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation,

Comparison

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

(57) The adjustment for slitting costs was necessary in order to allow for the proper comparison of GOES according to whether they were imported as full width coils and subsequently sold as such in the Community or imported as full width coils and sold after slitting in the Community or imported as slit material and sold as such or after further slitting in the Community, in accordance with Article 2(10)(k) of the basic Regulation.

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Dumping margin

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

(59) Regarding the exports made by this exporting producer to the Community, the investigation did not lead to a finding of dumping.

(60) The conclusion of non-dumped imports into the Community was reached for both full coils and slit coils of all different product types and consequently covered both large and narrow GOES.

CONCLUSION ON DUMPING REGARDING RUSSIAN IMPORTS

(61) Cooperation by the exporting producers was high since they covered the entirety of known imports into the Community. For one Russian exporting producer dumping of 11,5 % was found during the IP, whereas for the other cooperating exporting producer the investigation did not lead to any finding of dumped imports into the Community. The residual dumping margin was set at the level of the margin for the exporting producer for whom dumping was found.

D. **COMMUNITY INDUSTRY**

1. **Community production**

(62) Within the Community, six producers manufacture GOES. The three complainant Community producers are located in Germany, France and Italy. It should be noted that these three producers belong to the same group. The other producers are located in Poland, the Czech Republic and the United Kingdom.

(63) The investigation concluded that these six producers constitute the total Community production within the meaning of Article 4(1) of the Basic Regulation.

2. **Definition of the Community industry**

(64) In addition to the three (related) complaining Community producers, another Community producer also fully cooperated with the investigation. The total production of these four companies was found to represent around 90 % of the total Community production of the product concerned.

(65) It is therefore considered that these four Community producers constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereafter be referred to as the ‘Community industry’.

(66) As to the two remaining Community producers, one remained silent and the other one, although supporting the proceeding, could not be considered part of the Community industry since it only provided some basic information on its production and sales volume.

E. **INJURY**

1. **Community consumption**

(67) Community consumption was established on the basis of the sales on the Community market of (a) the Community industry, (b) the other Community producers, which also provided some general information, and (c) the imports into the Community market from all third countries as reported by Eurostat and also considering the data submitted by the cooperating exporting producers in the countries concerned.

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(68) On this basis, the Community consumption developed as follows:

	2000	2001	2002	2003	IP
Community Consumption (metric tonnes)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	108	96	92	92

Source: verified questionnaire replies, information provided by one other Community producer, information contained in the complaint and Eurostat

(69) The Community consumption firstly increased by 8 % between 2000 and 2001, but then significantly and continuously dropped by 15 %. During the overall period under examination, the decrease in consumption was 8 %. The continuous drop in consumption is explained by a decreasing demand from the downstream industry, i.e. the transformer producers, namely due to reduction of new industrial projects for which electrical transformers are needed.

2. **Imports from the countries concerned**

Cumulative assessment of the effects of the dumped imports concerned

(70) The Commission considered whether the effects of dumped imports from the countries concerned should be assessed cumulatively, on the basis of the criteria set out in Article 3(4) of the basic Regulation. This Article provides that imports shall be cumulatively assessed when the margin of dumping established in relation to the imports from each country is more than de *minimis* as defined in Article 9(3) of the basic Regulation, the volume of imports from each country is not negligible and the conditions of competition between the imported products and the conditions of competition between the imported products and the like Community product make such an assessment appropriate.

(71) It should be noted that one Russian exporting producer was found not to be dumping. Accordingly, imports from that exporting producer have not been taken into consideration in the examination as to whether or not a cumulative assessment of imports is appropriate.

(72) It was found that the dumping margins established for each of the countries concerned were more than *de minimis.* In addition, the volume of the dumped imports from each of those countries was not negligible, i.e. they represented for the USA and Russia respectively around 10 % and 3 % of the Community consumption during the IP.

(73) In regard to the conditions of competition both between the dumped imports and between the dumped imports and the like Community product, it was found that GOES sold by the countries concerned and those sold by the Community industry were alike in all respects and distributed via the same trade channels. The investigation showed that the import prices in the case of both countries followed a similar decreasing trend, especially during the second part of the period under examination, and those prices were found to undercut the Community industry's prices. This led to an overall price depression of GOES sold by the Community industry.

(74) It is therefore concluded that the dumped imports originating in the countries concerned should be assessed cumulatively.

Volume and market share of the dumped imports concerned

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Dumped Import volume

	2000	2001	2002	2003	IP
Import volume (metric tonnes)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	161	191	323	357

Source: Eurostat and cooperating exporting producer

(75) The above table shows that the imports of GOES from the countries concerned into the Community more than tripled during the period under examination.

Market share of dumped imports

	2000	2001	2002	2003	IP
Market share	3,3 %	5,0 %	6,6 %	11,8 %	13,0 %

Source: Eurostat and cooperating exporting producer

(76) The constant increase in market share took place in the context of an overall decreasing Community consumption. This was especially the case as from 2002, a period when, in spite of a significant decline of the Community consumption, the market share increased from 6,6 % to 13 %. The most significant increase in the market share took place in the period 2002/2003, when dumped imports gained more than 5 percentage points. This corresponded to an increase in absolute import volume of 65 %.

Price evolution of the dumped imports

	2000	2001	2002	2003	IP
EUR/metric tonne	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	124	121	99	98

Source: Eurostat and cooperating exporting producer

(77) The price of the dumped imports firstly rose by 24 % between 2000 and 2001. This was especially due to an increasing demand for GOES at that time. Thereafter prices continuously decreased from [...] EUR/tonne in 2001 to [...] EUR/tonne during the investigation period, i.e. a decrease of 20 %. The average price decrease was especially marked between 2002 and 2003 (–20 %). During the overall period under examination the decrease of the average unit price of the dumped imports was 2 %.

Undercutting

(78) The Commission has examined whether the exporting producers in the countries concerned undercut the prices of the Community industry during the IP. For the purposes of this analysis, the CIF prices of the exporting producers have been adjusted to a Community frontier, duty paid, level. These prices have then been compared to the Community industry's ex-works prices at the same level of trade, and at the level of comparable product types.

(79) One Russian exporting producer claimed that when assessing price undercutting (and injury elimination margin), adjustments should be made with respect to quality differences between GOES produced and sold by this exporting producer and those produced by the Community industry. This claim is based on the fact that, for the same types, the quality of GOES produced by

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this exporting producer would be considerably lower than the quality of GOES produced by the Community industry.

(80) In this respect, it should firstly be noted that such an adjustment was indeed granted in the original investigation, i.e. in 1996, but the investigation concerning the review and prolongation of those measures following an expiry review in 2003 already concluded that any quality adjustment was no longer warranted in view of the improved Russian facilities ([1]).

(81) Furthermore, the users were asked to comment on the comparability of GOES imported from Russia, with that purchased from the Community industry, and none of the cooperating users mentioned any significant quality difference. Only one user mentioned that the quality of Russian products is slightly inferior to that of the Community made products, but this user did not substantiate its claim. Moreover, this user further mentioned that both products are completely substitutable and that they have switched to Russian products due to the significant price difference. The claim was therefore rejected.

(82) On the basis of the cooperating exporting producers' prices, the undercutting margins found, by country, and expressed as a percentage of the Community industry's prices, are as follows:

Country	Price Undercutting
USA	14,4 %
Russia	Between 6,1 % and 26,6 %

(83) As far as Russia is concerned, the undercutting margin of 6,1 % was established for the exporting producer for which no dumping margin was found. The other percentage refers to the other cooperating exporting producer.

3. **Situation of the Community industry**

(84) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all economic factors and indices having a bearing on the state of the Community industry.

(85) In view of the limited number of Community producers belonging to two groups and exporting producers concerned, figures concerning them have only been given in indexed form and ranges.

Production, production capacity and capacity utilisation

	2000	2001	2002	2003	IP
Production (metric tonnes)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	104	101	99	98
Capacity (metric tonnes)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	104	107	104	104
Capacity utilisation	86 %	86 %	81 %	82 %	81 %

Source: verified questionnaire replies

(86) During the overall period under examination, the Community industry's production volume decreased by 2 %. More specifically, the production firstly increased by 4 %, between 2000

([1]) OJ L 25, 30.1.2003, p. 12, recital (50).

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and 2001, and then continuously declined between 2001 and the IP, i.e. a decrease of around 5 %.

(87) The reported capacity figures refer to technical capacity, as opposed to theoretical capacity, which implies that adjustments, considered as standards by the industry, for normal holidays, set-up time, maintenance and other normal stoppages have been taken into consideration. The increase in production capacity in the years 2001/2002 was designed to match the surge in demand in 2001. Capacity fell back in 2003 and the IP because one producer slightly modified its production process, which had the effect of reducing the technical capacity. On this basis, the production capacity increased by 4 % over the period under examination. As showed below in recital (102), such an increase is related to investments made in order to modernise the existing production tool, thus improving its efficiency, and therefore mainly consists of purchases of replacement equipment. It should also be noted that the increase in capacity occurred at a time when the Community industry was still profitable. Moreover, these investments have to be seen as a response to the increased demand in 2001 and in the light of the cash flow available to the Community at that time.

(88) The decrease of the capacity utilisation rate resulted from a slight increase in the production capacity combined with a fall in the production volume. This decrease was 5 percentage points during the period under examination.

Stocks

	2000	2001	2002	2003	IP
metric tonnes	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	109	160	182	122

Source: verified questionnaire replies

(89) Certain types of the like product are specifically produced by the Community industry to order and are therefore not destined for stocks. Other, more standardised, types of GOES are however produced on a regular basis and their sale depends on the evolution of the market in terms of demand and prices. It is therefore clear that the overall increase of stocks during the period under examination indicates that the Community industry faced difficulties to sell the more standardised types of the like product especially during 2002, when stocks increased by 46 % compared to 2001, and in 2003 when they further increased by 3,5 % as compared to the previous year.

(90) The decrease of the stocks (23,5 %) between 2003 and the IP is explained by an overall increase of sales during that period. It should however be kept in mind that the IP does not correspond to a calendar year, which may affect the comparability of the stocks level as compared to the other years. At the end of the period under examination, the level of stocks was 22 % higher than in 2000.

Sales volume

	2000	2001	2002	2003	IP
metric tonnes	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	109	90	76	81

Source: verified questionnaire replies

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(91) The Community industry's sales volume on the Community market decreased by 19 % during the period under examination, from around [...] tonnes in 2000 to around [...] tonnes in the IP. The sales volume first increased by [...] tonnes between 2000 and 2001 i.e. by 9 %, but thereafter declined by [...] tonnes (or by 26 %) in the subsequent period up to the end of the IP. The increase between 2003 and the IP can be explained by the fact that the Community industry decreased its sales prices (see below) in order regain market share.

Market share

	2000	2001	2002	2003	IP
In % Community consumption	68,6 %	69,1 %	63,8 %	56,5 %	60,4 %

Source: verified questionnaire replies and Eurostat

(92) During the overall period under examination, the Community industry faced a drop of market share of 8,2 percentage points. More specifically, in spite of a 9 % increase in sales volume between 2000 and 2001, the Community industry could barely maintain its level of market share which only increased by 0,5 percentage point during those years. In the period from 2001 to the IP, the Community industry's market share dropped by 8,7 percentage points. This loss of market share occurred at a time when consumption decreased by 15 %, thus indicating that the Community industry's sales decreased more than consumption. At the same time, the market shares of the countries concerned continuously increased.

Sales prices

	2000	2001	2002	2003	IP
EUR/metric tonne	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	109	111	106	99

Source: verified questionnaire replies

(93) The average unit sales price first increased by 8,6 % in 2001, then rose by 2,6 % in 2002. Thereafter, the Community industry faced a significant and continuous drop in prices, which was especially marked between 2003 and the IP when prices fell by 6,3 %. This price decrease was necessary in order to allow the Community industry to maintain its market share.

(94) The trend which emerges from the above table clearly shows an important depression of the Community industry sales prices as from the year 2002. This coincided with a period when dumped import prices significantly decreased, which allowed them to benefit from a major increase in market share.

(95) The pressure on the Community industry's sales prices was such that they were not profitable in 2003 and during the IP, as explained below.

(96) The table below shows the evolution of the Community unit sales price as compared to the corresponding cost of production, which mainly consists of raw material, i.e. hot rolled coils representing on average around 70 % of the total cost of production of the product concerned:

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Index: 2000 = 100	2000	2001	2002	2003	IP
unit price	100	109	111	106	99
unit full cost of production	100	103	107	105	106

Source: verified questionnaire replies

(97) In the period 2001/2002, sales prices have on average increased more than their corresponding costs. During that period prices were in line with costs and this resulted in a profitable situation, as shown below. In 2003, prices significantly dropped, and profitability became negative, in spite of a decrease of the average cost during that year. During the IP, the slight increase in production cost, mainly raw material, could not be passed on to the prices that dramatically further decreased, thus causing significant losses. The price depression was therefore coupled with price suppression, i.e. the incapacity of the Community industry to increase its prices in order to reflect the increase in costs.

Profitability and return on investments

	2000	2001	2002	2003	IP
% Profit on net turnover	Around 0 %	Around 5 %	Around 3 %	Around 0 %	Around –5 %
Return on investments	Around 0 %	Around 25 %	Around 20 %	Around –5 %	Around –30 %

Source: verified questionnaire replies

(98) The financial results of certain Community producers in 2000 were significantly affected by start-up costs and also technical problems related to a significant investment in 1999, concerning the production tool. The overall Community industry's profitability was affected accordingly. Since the year 2000 was untypical, it can thus not be considered as a representative starting point for examining a trend. The Community industry's sales on the Community market became profitable during the years 2001 and 2002, also in view of a higher demand from the downstream industry and a satisfactory price level. Thereafter, the significant drop in prices had a direct negative effect on the profitability. Indeed, sales on the Community market became loss making as from the year 2003 and losses even reached around –5 % of turnover during the IP.

(99) For the purpose of this investigation, the return on investments ('ROI') is expressed as the profit in percent of the net book value of investments. Since the companies constituting the Community industry are mainly, if not exclusively, active in the production and sales of the like product, the ROI has been established with respect to their overall situation. On that basis, the ROI broadly followed the above profitability trend over the whole period under examination. It went up from around 0 % in 2000 to around 20 % in 2002 and then decreased continuously to around –30 % in the IP.

Cash flow and ability to raise capital

	2000	2001	2002	2003	IP
'000 EUR	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	181	141	7	–83

Source: verified questionnaire replies

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(100) The net cash in(out) flow from operating activities, developed from around XX million EUR in 2000 to around -XX million EUR in the IP. It peaked in 2001 and 2002, but subsequently dropped sharply in 2003 and reached a low during the IP. As a consequence, the Community industry is, on average, increasingly resorting to debt in order to help finance its current activity and investment.

(101) The investigation has shown that capital requirements of several Community producers have been adversely affected by their difficult financial situation. Although most of these companies are part of large steel companies, capital requirements are not always met to the desired level, as financial resources are generally allocated within these groups to the most profitable entities.

Investments

	2000	2001	2002	2003	IP
'000 EUR	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	137	105	76	49

Source: verified questionnaire replies

(102) The Community industry's total investments related to the like product decreased by around 50 % between 2000 and the IP. The investigation showed that it is vital for this industry to maintain a certain level of investment in order to stay competitive. Most of the investments were made for modernisation purposes, and little for increasing capacity. However, it should be noted that modernisation of investments normally tends to raise slightly the technical capacity, simply because an improved equipment is more efficient and productive than the previous one.

Growth

(103) Between 2000 and the IP, Community consumption decreased by 8 %, while the sales volume of the Community industry decreased by 20 %. The Community industry thus significantly lost market share, whereas the market share of the imports concerned increased by 12,8 percentage points during the same period.

Employment

	2000	2001	2002	2003	IP
Total employees	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	100	99	97	95

Source: verified questionnaire replies

(104) The level of employment of the Community industry remained stable between 2000 and the 2001. It was reduced in the following years resulting in a total reduction of 5 % compared to the beginning of the period under examination.

Wages

	2000	2001	2002	2003	IP
Wages (000 EUR)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	99	102	97	94

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	2000	2001	2002	2003	IP
Avg. Wages per employee (EUR)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	100	103	100	99

Source: verified questionnaire replies

(105) During the period under examination the average wage per employee remained stable and thus below the rate of inflation. Given that employment was reduced during that period, as shown in the previous table, the total cost of wages also decreased.

Productivity

	2000	2001	2002	2003	IP
Production (m tonnes) (a)	[...]	[...]	[...]	[...]	[...]
Employment (b)	[...]	[...]	[...]	[...]	[...]
Productivity (a)/(b)	160,4	166,9	163,9	164,2	166
Index 2000 = 100	100	104	102	102	103

Source: verified questionnaire replies

(106) Productivity of the Community industry's workforce, measured as output per person employed per year, first increased by 4 % from 2000 to 2001, then dropped by around 2 % between 2001 and 2002, and rose again in 2003 and the IP. At the end of the period under examination, the productivity was 3 % higher than that observed at the start of the period. The increase in productivity may be partially explained by the investments aimed at improving efficiency of existing equipments as stated in recital (102) above.

Magnitude of dumping margin

(107) 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 countries concerned, this impact cannot be considered to be negligible, especially in transparent and thus highly price sensitive markets like the one of the product concerned.

Recovery from the effects of past dumping or subsidisation

(108) As previously explained, measures on imports of GOES with a width of more than 500 mm, originating in Russia, have been in place during the whole period under examination. However, it is recalled that this concerns only a portion of the product concerned by the current investigation since the present proceeding concerns GOES of all widths from Russia, but also those originating in the USA. Thus, the Community industry only partially recovered since it subsequently also faced the increased of dumped imports of all width of GOES from Russia and the USA.

4. **Developments after the investigation period**

(109) Certain interested parties claimed that important developments took place after the investigation period and that those developments should be taken into consideration in the analysis since they would allegedly make the imposition of measures manifestly inappropriate. More specifically those claims relate to the increase of the Community industry's sales prices of the like product, as well as the plant closure of one of the complainants after the end of the investigation period.

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(110) It should firstly be noted that in accordance with Article 6(1) of the basic Regulation, information relating to a period subsequent to the investigation period shall, normally, not be taken into account. The reason for this is that the relevant facts need to be established, and verified, during a limited and specified time period in order to ensure that the results of the investigation are representative and reliable, and also because otherwise the investigation could be prolonged unnecessarily on the grounds that the facts gathered for a particular period, i.e. the investigation period, are not reflecting the situation prevailing at a later stage.

(111) It follows from the wording of the basic Regulation that developments occurring after the investigation period should be taken into consideration only if they are of an exceptional nature, and would indeed make the imposition of measures manifestly inappropriate. Such approach was also confirmed by the European Court of First Instance ([1]).

Community industry price increase

(112) It was argued that the Community industry announced a price increase after the investigation period, and that this price increase was of an exceptional nature since it is described in the press as unusually large.

(113) Actual data have been gathered by the Commission services and the evolution of the average Community sales price on the Community market are presented in the table below:

Average sales price	2000	2001	2002	2003	IP	Apr-Dec 2004
EUR/metric tonne	[...]	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	109	111	106	99	104

(114) From the above table it can be seen that if prices indeed increased after the investigation period, this price increase is far from being unusually large. Indeed, the average price for the 3 last quarters of 2004 increased by only 5 % as compared to their IP level, but prices did certainly not recover as compared to the previous years' level.

(115) In addition, even if it was considered that the price increase was indeed of an exceptional nature — which it is recalled is not the case here — consideration should also be taken of the evolution, after the investigation period, of the price level of the other operators on the Community market, and especially that of the countries concerned, as well as the fluctuation of the raw material price, in order to verify whether the increase of prices would indeed make the imposition of the anti-dumping duties manifestly inappropriate. Any detailed analysis in that respect is not warranted in view of the only partial recovery of prices as shown above. Furthermore, it is unknown whether any price increase would be of a lasting nature.

(116) More importantly, it is recalled that the injury suffered by the Community industry is not exclusively based on price levels, but is characterised by a deterioration of a combination of various indicators. Therefore, any possible price increases, even if they were of an exceptional and lasting nature, would not, taken in isolation, make the imposition of measures inappropriate, if they were not accompanied by similar developments of other injury indicators in such a way that the complete injury picture were affected.

([1]) Sinochem case (T-161/94).

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(117) For the above reasons, it is considered that the Community industry price increase that might have occurred after the investigation period does not make the imposition of measures inappropriate.

Closure of one producer of the Community industry

(118) Certain interested parties claimed that the closure of one of the producers that is part of the Community industry calls for the non imposition of measures since it would result in a significant decrease of the production capacity in the Community, thus possibly generating a shortage of GOES on the Community market.

(119) In that respect, it is noted that Article 6(1) of the basic Regulation concerning events occurring after the investigation period does not apply to the determination of the Community interest which is dealt with by Article 21 of the basic Regulation. Reference is therefore made to recital (174) where the issue related to production capacity is addressed in the framework of the Community interest analysis.

(120) It should nevertheless be confirmed that the plant closure of the producer located in Italy has been announced, and that production there will continue at reduced level as from June 2005 and is expected to completely cease in September of the same year.

(121) Moreover, even if the envisaged closure of a plant might constitute an exceptional event, of a lasting nature, and were therefore considered in the context of the analysis, it would only reinforce the above findings that the Community industry was suffering injury during the investigation period, and that this precarious situation continued after the investigation period.

5. **Conclusion on injury**

(122) In spite of the existing anti-dumping measures concerning imports of large GOES from Russia, the economic situation of the Community industry significantly deteriorated between 2000 and the IP. The positive impact of the measures imposed on large GOES from Russia has indeed been diluted by the emergence of the dumped imports of all widths of GOES from Russia and the USA. Those imports were significantly less important at the beginning of the period under examination. In addition, reference is also made to the recital (17), where it is explained that the anti-dumping measures in force against large GOES from Russia were avoided by cutting the coils of grain-oriented electrical steel in two halves not exceeding 500 mm.

(123) Over this period under examination sales volume decreased by 19 %, production decreased by 2 %, stocks significantly increased by 18 %, and market shares dropped by 8 percentage points. Community producers' prices on the Community market were undercut by dumped imports and could not be increased to reflect the increased cost of production during the IP. As a result, the industry made losses in 2003 and in the IP. Employment and investments respectively decreased by 5 % and 50 % over the period under examination.

(124) More specifically, the economic situation of the Community industry developed as follows. During the year 2001, the Community market saw a higher demand and increasing prices. During this period, the Community industry could also raise its sales volumes to the same extent as the increases in consumption and sales prices. This resulted in a profitable situation and the industry was therefore in a position to invest and slightly increase its production capacity. Even if sales volume and market shares dropped in 2002, the Community industry managed to maintain its price level, and to remain profitable, albeit at a level below that of 2001 in view also of the increasing cost of production at that time.

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(125) As from 2003, the Community industry could no longer maintain its prices, which significantly dropped, in conjunction with a strong fall in sales volume and market shares. Prices further decreased during the IP, while costs remained relatively stable. As a consequence, profitability reached a dramatically low level. At this level of losses, the further existence of the industry is at risk. Indeed, after the investigation period, the production plant of one of the Community producers will have to close down.

(126) In the light of the foregoing it is concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

F. **CAUSATION**

1. **Introduction**

(127) In accordance with Articles 3(6) and 3(7) of the basic Regulation, the Commission examined whether the dumped imports of the product concerned originating in the countries concerned have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined in order to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. **Effects of the dumped imports**

(128) The significant increase of the volume of the dumped imports, which more than tripled during the period under examination, coincided with the deterioration of the economic situation of the Community industry, which materialised amongst others by a drop in sales volume of around 20 % during the same period. Since they only concern large GOES from Russia, the existing measures could not sufficiently shield the Community industry from the effect of the imports concerned. This is especially true when considering the above mentioned significant increase of imports of all widths of GOES, thus also including those originating in the USA, and the fact that measures on large GOES were sometimes avoided by cutting the sheets, as explained in recital (17).

(129) The negative effect of the continuously increasing volume of dumped imports was even reinforced as from the year 2002, when Community consumption decreased. As a matter of fact, in the period 2002/2003, the dumped imports gained more than 5 percentage points of market shares, while the Community industry's share dropped by around 7 points. This sudden surge of dumped imports is explained by a dramatic decrease of the corresponding prices during the same period. Indeed, in only one year, prices decreased from 1 282 to 1 049 EUR/tonne, i.e. a decrease of around 15 %. This resulted in an important drop in the Community industry's sales volume during the corresponding period. While the Community industry first tried to maintain its average price level, prices nevertheless decreased from 1 254 EUR/t in 2002 to 1 189 EUR/t in 2003. Thereafter the industry had no choice but to further decrease its prices in order to maintain sales volume and market shares during the IP. This had however a direct negative impact on its profitability which became negative and reached –7,4 % of turnover during the IP.

(130) In view of the clearly established coincidence in time between, on the one hand, the surge of dumped imports at continuously decreasing prices and, on the other hand, the Community industry's loss of sales volume, market shares and price depression resulting in a loss-making situation, it is concluded that the dumped imports played a determining role in the injurious situation of the Community industry.

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3. **Effects of other factors**

Exchange rate effect

(131) One interested party claimed that the injury suffered by the Community industry was caused by the development of the USD/EUR exchange rate, which had a decreasing impact on the prices of imports from the USA. This situation thus favoured the USA imports which were able to increase their market shares.

(132) The table below compares the development of the USD/EUR exchange rate with the average import prices of the product concerned originating in the US.

	2000	2001	2002	2003	IP
USD/EUR exchange rate	1,082	1,116	1,068	0,894	0,860
Index 2000 = 100	100	103	99	83	79
Import price US (EUR)	1 945	1 741	1 543	1 171	1 133
Index 2000 = 100	100	90	79	60	58

(133) It appears from the above data that there is no clear correlation between the development of the USD/EUR exchange rate and the average import prices of the product concerned originating in the USA. Indeed, during the period 2000-2002 import prices already decreased by 21 %, while exchange rates remained stable. Moreover, the above data clearly indicates that, over the period under examination, the decrease of the relevant average import prices (–42 %) was much stronger than the negative development of the exchange rate (–21 %). This was especially the case in the period 2002/2003 when the unit average import prices showed its strongest decrease. It is therefore concluded that the effect of exchange rates, if any, cannot be considered as a substantial cause of the injurious situation of the Community industry.

Performance of other Community producers

	2000	2001	2002	2003	IP
Sales volume (metric tonnes)	[...]	[...]	[...]	[...]	[...]
market shares	9,2 %	8,8 %	8,3 %	8,2 %	8,3 %

Source: questionnaire reply, complaint, Eurostat

(134) The above table shows that the sales of the other Community producers on the Community market decreased by almost 20 % during the period under examination. The corresponding market shares have also decreased from 9,2 % in 2000 to 8,3 % during the investigation period. Based on the information available it is therefore concluded that the other Community producers were in a situation similar to that of the Community industry and did not cause any injury to the Community industry.

Export performance of the Community industry

	2000	2001	2002	2003	IP
Sales volume export (tonnes)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	92	117	145	141

Source: verified questionnaire replies

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(135) One interested party claimed that part of the injury suffered by the Community industry could be attributed to the export performance of the Community industry. It was argued that the Community industry deliberately decreased its domestic sales in favour of profitable exports to non EU-countries.

(136) The above table shows that indeed the Community industry increased its exports during the period under examination and especially from 2002 onwards. However, this increase should rather be seen in the light of the surge of dumped imports on the Community market, at a time when the consumption decreased and Community prices were depressed to a significant extent. Under these circumstances the Community industry reacted, in order to limit the damage, by an attempt to increase their exports.

(137) It is also recalled that the Community market remains the Community industry's natural market. In fact, in the year 2001, when the situation on the Community market became favourable, the Community industry increased its domestic sales volume, and exports sales were reduced.

(138) In addition, it should be noted that the injury suffered by the Community industry did not only consist in a loss of sales volume and market shares on the Community market. It was also characterised by a strong price depression caused by the dumped imports, and significant undercutting of the Community industry's prices, which resulted in considerable financial losses. Such negative effect on prices can certainly not be attributed to an increase of the export sales of the product concerned. On the contrary, it is considered that increased export sales volume may have allowed the Community industry to benefit from economies of scale and thus a leverage in the overall costs of the like product. In the absence of such increasing exports, it is expected that losses would have been even more significant. It is therefore concluded that the injury suffered by the Community industry cannot be attributed to its increasing exports.

Non-dumped imports from the countries concerned

	2000	2001	2002	2003	IP
Import volume (metric tonnes)	[...]	[...]	[...]	[...]	[...]
Index: 2000 = 100	100	124	142	223	166
Market shares	3,3 %	3,8 %	4,9 %	8,1 %	6,0 %

(139) Non-dumped imports from Russia increased by 66 % during the period under examination, corresponding to a market share gain of almost 3 percentage points.

(140) In that respect, it should firstly be noted that this increase of imports was less marked than that of the dumped imports, as stated in recital 75 above. Secondly, it was also established that the price level of the non-dumped imports was higher than that of the dumped imports. Indeed, whilst an undercutting margin of 6,1 % was established in the case of the non-dumped imports, the undercutting margin for the dumped imports ranged between 14,4 % and 26,6 %.

(141) For those reasons it is concluded that any impact of non-dumped imports on the situation of the Community industry was limited and could not be considered as a determining reason for the injurious situation of the Community industry.

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Imports from other third countries

	2000	2001	2002	2003	IP
Import volume (metric tonnes)	[...]	[...]	[...]	[...]	[...]
Market shares	15,6 %	13,3 %	16,4 %	15,4 %	12,2 %
Average unit price	1 370	1 477	1 581	1 525	1 509

Source: Eurostat

(142) The table above indicates that imports from other third countries decreased in absolute and relative terms. At the same time, the corresponding average sales price increased. It is therefore concluded that the imports from other third countries did not contribute to the injury suffered by the Community industry.

Decline in demand

(143) In a market where demand is decreasing, it is expected that all operators face a diminution of their sales. This was the case of the Community industry. However those sales decreased more than the consumption during the period under examination. Whilst the Community industry, the other Community producers and the other third countries lost sales volume and market share during the period under examination, the volume of dumped imports more than tripled and gained significant market share during the same period. As shown in the injury analysis, the demand declined by around 25 000 tonnes during the period under examination, the Community industry's sales dropped by around 40 000 tonnes but the imports from the countries concerned increased by around 30 000 tonnes.

(144) In this context, even if the decline in demand may have contributed to the sales decrease of the Community industry, it is concluded that the injury consisting mainly in a loss of market shares, price depression and a loss-making situation, can only be attributed, if at all, to a minor extent to that factor.

4. **Conclusion on causation**

(145) In conclusion, it is confirmed that the material injury suffered by the Community industry, which is characterised especially by a decline in sales volume, market shares and unit sales price resulting in a deterioration of the profitability indicators, was caused by the dumped imports concerned.

(146) Indeed, there is a clear coincidence in time between the surge of dumped imports and the drop of the Community industry's sales volume and market share. The price depression caused by the dumped imports was especially remarkable as from 2002. The Community industry tried to maintain its level of prices in 2003, but had no other choice than to follow the price level set by the dumped imports in order to maintain a certain level of sales. This resulted in a loss-making situation.

(147) The other identified factors were not found to break the causal link established above, even considering their possible combined effect. The decrease in consumption may have contributed to a decrease in the Community industry's sales volume. It can however be reasonably stated that in the absence of the surge of low-priced dumped imports, the situation of the Community industry would certainly not have been affected to such an extent, since there would not have been a decrease in market share. It is also considered that the non-dumped imports from Russia only had a limited negative impact. Finally, the development of the USD/EUR exchange rate did not explain the high level of

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dumping established for the USA and the injury suffered by the Community industry.

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

G. **COMMUNITY INTEREST**

(149) It has been examined whether, despite the conclusions on dumping, injury and causation, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to adopt any measures in this particular case. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the likely impact of the imposition and non-imposition of measures for all parties concerned in the investigation was considered.

1. **Interest of the Community industry**

(150) The injury analysis has demonstrated that under fair trade circumstances the Community industry is viable and profitable and the industry has also invested in order to stay competitive. This was the case in the years 2001 and 2002, when the Community industry also benefited from the anti-dumping measures in force against large GOES from Russia, and the level of the dumped imports concerned was not yet as significant as it was during the IP.

(151) It is also recalled that this industry has undergone a major restructuring programme in the Community in 1999. The merging of the three complainants at that time was intended to create a larger entity which could compete more effectively and increase investments.

(152) As from the year 2002, the continuous increase of low priced dumped imports caused a general price depression on the Community market, which also faced a declining consumption. The Community industry became loss-making and therefore extremely vulnerable. Losses became so heavy that the Italian producer announced the phased closure of its factory. The market development in Italy clearly shows to what extent dumped imports negatively affected the economic situation of the Community industry.

(153) It is therefore important that prices be restored to a non-dumped or at least a non-injurious level in order to allow all various producers to operate on the Community market under normal fair trade circumstances. This will allow the Community industry to regain a satisfactorily volume of profitable. In the absence of the imposition of measures, it cannot be excluded that the Community industry will face further plant closures.

(154) In conclusion, any imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping found.

2. **Interest of users in the Community**

(155) GOES are mainly used in the manufacture of power and distribution transformers. The transformer manufacturers constitute a long-established industry which traditionally supplies large energy producers. The transformer industry, in general, belongs to large industrial groups, which have a worldwide presence. Some smaller independent companies however also operate on the market.

(156) The product concerned is considered a significant cost item for the users since GOES represents on average between 10 % and 30 % of the total cost of production of transformers.

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(157) Substantiated questionnaire replies, i.e. including all the requested financial information, were received from 16 users. Some other users also submitted comments in writing, but without providing detailed information. According to the financial information they submitted, cooperating users would represent around 30 % of the overall Community consumption.

(158) Users generally expressed their opposition to the imposition of measures. Firstly, they claimed that the imposition of anti-dumping measures would result in the cessation of imports from the countries concerned and therefore make them dependent on the Community industry, which would arguably also find itself in a monopolistic situation. They further claimed that the imposition of measures would result in a significant price increase, thus negatively affecting their competitiveness vis-à-vis the non-Community transformer industry. Finally, they claimed that, should measures be imposed, the Community industry would not have sufficient capacity to supply the user industry.

(159) Before specifically addressing the issues raised by the user industry, certain background information should be mentioned at this stage, in order to properly assess the situation on the Community market.

(160) It should be noted that the number of producers of the product concerned worldwide is rather limited. Indeed, only 13 producers worldwide operate in the GOES business. There are two producers each in Japan, the USA and Russia, one each in South Korea, China and Brazil and six in the European Community (from which three are related). The European Community is therefore the market with the highest number of producers. The distribution network of the Japanese and the US producers is particularly well organised on the Community market since they have their own service-centres and/or related importers in the EU. Furthermore, it appears that only three producers worldwide are able to supply certain high permeable (laser treated) types of the product concerned. Those producers are located in the EU, the USA and Japan.

(161) It is recalled that in 1999, three Community producers merged their activities under the same holding company (ThyssenKrupp) in order to create a larger entity which could compete more effectively with the other GOES producers on the world market. At that time, this merger was analysed in detail by the European Commission, and was approved.

(162) Finally, the investigation revealed that cooperating users purchased overall during the IP respectively 10 % and 15 % of their GOES from the Russian and American producers for which dumping was established. In other words, cooperating users overall relied mainly on other sources of supply: 75 % of their purchases were from non-dumped sources, from which around 60 % was purchased from the Community industry. Only one user exclusively purchased GOES from dumped sources, but it recently switched to Community industry supply.

(163) Against this background, and considering the first claim made by the users that they would become dependent exclusively on the Community industry supplies, it should firstly be recalled that the objective of anti-dumping duties is not to close off the Community market from any imports, but to restore a situation of fair trade by removing the effect of injurious dumping. Imports from the countries concerned are therefore not expected to come to an end, but to continue, albeit at non-dumped or non-injurious price levels.

(164) This is certainly the case for Russia since no dumping margin was established for the major Russian exporting producer, representing around 75 % of the Russian imports during the IP, and

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since only a relatively limited margin of dumping, i.e. 11,5 % as established for the other exporting producer. Reference is also made to heading I. below, where it is suggested that the measures based on the findings of the present investigation should replace those currently in place concerning large GOES from Russia, which range between 14,7 % and 40,1 %. In other words, in the case of Russia, the overall weight of the anti-dumping measures established by the present investigation would be significantly less important than the measures currently in force.

(165) In the case of the USA, imports are also expected to continue in view of the continuous demand on the Community market for specific types of the product concerned, which are only produced by a limited number of suppliers worldwide.

(166) Furthermore, reference is made to recitals (190) to (193) concerning the price undertakings offered by the two exporting producers concerned. By those undertakings, the exporting producers undertake to sell their product on the Community market above a certain price level which will remove the injurious effect of dumping. It is therefore expected that imports from the countries concerned will not cease.

(167) Because the imports from the countries concerned are expected to continue, and since alternative sources of supply still exist, the claim that the imposition of anti-dumping duties would result in the Community industry being in a monopolistic situation is unfounded. Indeed, not only imports from the countries concerned are expected to continue, but also those from other third countries. In addition, the Community industry consists of more than one producer, and other Community producers (not part of the Community industry) are also active on the market.

(168) Certain parties claimed that the monopolistic situation of the Community industry would specifically arise with respect to certain specific types of the product concerned, i.e. certain high permeable types, that can only be produced by a very limited number of producers worldwide. In that respect, it should firstly be noted that the investigation concluded that for the purpose of the present anti-dumping proceeding, all types of the product concerned should be regarded as one single product. The investigation, including the Community interest analysis, should therefore be carried out with respect to the product concerned overall, and not individually for certain specific types.

(169) Notwithstanding the above, it is true that high permeable types of the product concerned are indeed only produced by a limited number of producers worldwide, i.e. one producer in the US, two in Japan and one in the Community (see above). In that respect, it is recalled that those sources of supply are expected to remain available after the imposition of the measures, including those imports from the USA, albeit at a non dumped or injurious prices. Therefore, a sufficient level of competition can be expected to remain also with regard to these specific product types.

(170) In addition, the claim that it would be against the Community interest to impose measures because only few companies produce those specific types cannot be considered a valid reason for accepting that one of those producers, in this case the US producer, sells its products at dumped and injurious prices on the Community market. It is recalled that a substantial margin of dumping of 47,6 % was established with respect to this company. The investigation revealed that users purchased a significant portion of their products, including the high permeable types, from the Community industry and that the continuous price pressure caused by the dumped imports may

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lead to plant closures in the Community. In the absence of anti-dumping measures removing the negative impact of injurious dumping, it could not be excluded that users would become exclusively dependent on imports, which would certainly also be detrimental to competition and to the user industry.

(171) As concerns the claim that prices of the product concerned will increase on the Community market if anti-dumping measures are imposed, it should be acknowledged that since the objective of the measures is to remove injurious dumping, it can also be expected that any imposition of measures would indeed have an overall increasing effect on prices. This effect is however expected to remain moderate.

(172) Indeed, there would remain various sources of supply that will not be hit by measures and ensure competition. Also, as already mentioned above, as far as Russia is concerned, in view of the level of the measures established by the present investigation and since those measures would replace the existing measures concerning large GOES (see recital 194, 195), anti-dumping measures based on the current findings would overall have a lesser impact than the measures in force during the IP. Indeed, when applying a level of measures as established by the present investigation on Russian imports of the product concerned into the Community during the IP, the anti-dumping duties would overall be four times less that the actual duties paid.

(173) As to the imports from the USA, in application of the lesser duty rule, only the injurious part of the dumping margin will be removed, which would on average bring back the price of the US imports to a level that is still below its 2002 level.

(174) The allegation that the imposition of anti-dumping measures would result in a shortage should also be refuted. Indeed, as set out above, imports are in any event expected to continue if anti-dumping measures are imposed. Moreover, the Community industry's production capacity is larger than the overall Community consumption during the IP. In addition, if Community prices are restored to a fair level, it can be expected that the Community industry will shift back sales on its domestic market by decreasing export sales.

(175) Some interested parties claimed that the closure of the Italian plant would decrease the Community industry's overall production capacity of the product concerned, thus possibly resulting in shortages on the Community market. This argument is however ambiguous since it would, rather call for protection of the Community industry against dumped imports, in order to prevent further plant closures thus maintaining production capacity.

(176) Moreover, it should be noted that even after the announced plant closure, the overall Community industry's production capacity will still be larger than the Community demand during the IP, and that it is the intention of the remaining producers to invest in their production capacities in order to further guarantee a sufficient supply on the Community market. A situation whereby fair competition and price level are restored on the Community market, thus ensuring a satisfactory return for the Community industry, would certainly favour such investments and a shift back of sales on the Community market.

(177) Finally, it should be noted that most of the above claims were already made by the users in the framework of the previous investigations that led to the imposition of anti-dumping measures on large GOES from Russia. In spite of those claims, which at that time were all rejected because they were either considered unfounded or they were not found to be against the interest of the Community as a whole, the users did not provide

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any evidence, in framework of the current investigation, that those measures indeed had the negative impact that was claimed at the time. This gives an indication that any measures based on the current findings are also expected not to have a significant negative impact on the user industry.

(178) For all the above reasons it can be concluded that, in case of imposition of measures, users of the product concerned overall would not exclusively depend on the Community industry, that in many circumstances the purchase price of the users would not be directly affected by the imposition of any measures, or only in a moderate way, and that there would be no shortage of GOES supply overall in the future on the Community market.

3. **Interest of the unrelated importers**

(179) Only one unrelated importer cooperated with the investigation and opposed the imposition of measures on the grounds that measures would allegedly make an end to their trading operations with respect to the product concerned. Since this company exclusively imported GOES from one of the countries concerned, it can be expected that it will be directly affected by the imposition of measures. This importer would nevertheless still have the possibility to also import from other suppliers not subject to measures. Furthermore, it appears that around 75 % of this importer's turnover does not relate to the product concerned. Considering those elements, it is considered that the negative impact of imposition of measures would be expected to remain relatively limited. In view of the fact that no other importer claimed any adverse effect resulting from the possible imposition of measures, it can be concluded that importers would overall not be significantly affected.

(180) It should be noted that the low level of cooperation of importers is explained by the fact that users mostly import GOES themselves, and reference is therefore also made to the above conclusions.

4. **Conclusion on Community interest**

(181) The effects of the imposition of measures are expected to give the Community industry the opportunity to regain profitable sales volumes on the Community market and a higher market share. It was established that dumped imports highly contributed to the phased plant closure of one company that is part of the Community industry and, in view of the deteriorated situation of the Community industry overall, there is a risk that in the absence of measures, other Community producers will have to close down some production lines or even their whole production facilities and lay-off part of their workforce. Whilst some negative effects are likely to result in the form of price increases for the users, it is considered that such effect will remain limited. It should also be considered that it is also in the interest of the users that viable and competitive Community producers remain active on a market that is no longer distorted by unfair trade practices.

(182) Indeed, in view of the limited sources of supply worldwide, it is also in the interest of the Community users that sources of supply in the Community are not further weakened by dumped imports which could result in a further decrease of the Community industry's activity, thus make users of GOES progressively more dependent on imported material.

H. **DEFINITIVE ANTI-DUMPING MEASURES**

(183) In view of the conclusions reached with regard to dumping, resulting injury and Community interest, measures on imports of the product concerned from the USA and Russia should be imposed.

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1. **Injury Elimination Level**

(184) The level of the definitive anti-dumping measures should be sufficient to eliminate the injury to the Community industry caused by the dumped imports, without exceeding the dumping margins found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs and obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.

(185) On the basis of the information available, it was preliminarily found that a profit margin of 5 % of turnover, which the Community industry achieved in 2001, could be regarded as an appropriate level that the Community industry could be expected to obtain in the absence of injurious dumping. It is to be noted that this level of profit was also used for the determination of the injury margin in the framework of the investigation that led to the imposition of the measures currently in place concerning GOES with a width of more than 500 mm. The necessary price increase was then determined on the basis of a comparison, at the same level of trade, of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of each company composing the Community industry to a break-even point and by adding the above-mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.

2. **Definitive duties**

(186) In the light of the foregoing, and in accordance with Article 9(4) of the basic Regulation, it is considered that definitive anti-dumping measures should be imposed in respect of imports originating in Russia and the USA at the level of the lowest of the dumping and injury margins, in accordance with the lesser duty rule.

(187) On the basis of the above, the proposed definitive duties are as follows:

Country	Company	Anti-dumping duty
United States of America	AK Steel Corporation	31,5 %
	All other companies	37,8 %
Russia	Novolipetsk Iron & Steel Corporation (NLMK)	11,5 %
	Viz Stal	0 %
	All other companies	11,5 %

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

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from these rates and shall be subject to the duty rate applicable to 'all other companies'.

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

3. **Undertakings**

(190) One exporting producer in the USA and one in Russia offered a price undertaking in accordance with Article 8(1) of the basic Regulation.

(191) The Commission considers that the undertakings offered by AK Steel Corporation and NMLK can be accepted since they will eliminate the injurious effect of dumping. Moreover, the regular and detailed reports which the companies undertook to provide to the Commission will allow effective monitoring and the structure of the companies is such that the Commission considers that the risk of circumvention of the undertakings is minimised.

(192) In order to ensure the effective respect and monitoring of the undertakings, when the request for release for free circulation pursuant to the undertakings is presented, exemption from the duty is conditional upon presentation of a commercial invoice containing the information listed in the Annex, which is necessary for customs to ascertain that shipments correspond to the commercial document at the required level of detail. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of the anti-dumping duty should be payable.

(193) In the event of a suspected breach, breach or withdrawal of the undertaking, and anti-dumping duty may be imposed, pursuant to Articles 8(9) and (10) of the basic Regulation.

I. CONCLUSION WITH RESPECT TO THE INTERIM REVIEW INVESTIGATION CONCERNING RUSSIA

(194) It is recalled that, as mentioned in recital (3) of this regulation, an interim review was initiated in order to allow for any amendment or repeal necessary of the definitive anti-dumping measures imposed on imports from Russia of large GOES. This was due to the fact that those products fall within the scope of the products subject to the proceeding concerning imports into the Community of grain oriented flat-rolled products of silicon-electrical steel originating in the USA and Russia

(195) On the basis of the above findings and conclusions, the investigation established that measures should be imposed on GOES of all widths, as described in recital (3), originating, *inter alia*, in Russia. It is therefore considered that because those measures also cover large GOES, the continued imposition of those measures imposed by Council Regulation (EC) No 151/2003, are no longer appropriate and should accordingly be repealed.

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HAS ADOPTED THIS REGULATION:

Article 1

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1. A definitive anti-dumping duty is hereby imposed on imports of grain-oriented flat-rolled products of silicon-electrical steel of a thickness of more than 0,16 mm, originating in the United States of America, falling within CN codes ex 7225 11 00 (products of a width of 600 mm or more) (TARIC code 7225 11 00 10) and ex 7226 11 00 (products of a width of less than 600 mm) (TARIC codes 7226 11 00 11 and 7226 11 00 91).

2. The rate of the definitive anti-dumping duty applicable, before duty, to the net free-at-Community-frontier price of the products described in paragraph 1 and manufactured by the companies below shall be as follows:

Country	Company	Anti-dumping duty	TARIC additional code
United States of America	AK Steel Corporation, 703 Curtis Street, Middletown, Ohio	31,5 %	A669
	All other companies	37,8 %	A999

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

Article 2

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

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

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

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

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

Article 3

Council Regulation (EC) No 151/2003 is hereby repealed.

Article 4

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.

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ANNEX

The following elements shall be indicated in the Commercial Invoice accompanying the Company's sales to the Community of goods which are subject to the Undertaking:

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'
2. The name of the Company 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 (as specified in the Regulation imposing the definitive anti-dumping duty),
6. The exact plain language description of the goods and:
   - — the product code number (PCN),
   - — technical specifications of the PCN as described in Annex I,
   - — the company product code number (CPC),
   - — CN code,
   - — quantity (to be given in kg/ton)
7. The description of the terms of the sale, including:
   - — price per units (kg/ton)
   - — the applicable payment terms,
   - — the applicable delivery terms,
   - — Total discounts and rebates.
8. Name of the Company acting as an importer to which the invoice is issued directly by the Company.
9. The name of the official of the Company that has issued the Commercial 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 2005/622/EC. I declare that the information provided on this invoice is complete and correct.'