COUNCIL REGULATION (EC) No 258/2005

of 14 February 2005

amending the anti-dumping measures imposed by Regulation (EC) No 348/2000 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the 'basic Regulation') and in particular Articles 11(3) and 11(7) thereof,

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

Whereas:

A. PROCEDURE

1. Previous investigation and existing measures

(1) The measures currently in force on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine are definitive anti-dumping duties imposed by Council Regulation (EC) No 348/2000 [2] and one undertaking accepted from an exporter in Croatia by Commission Decision 2000/137/EC [3]. The rate of duty applicable to imports from Croatia is 23 %, while the duty rate applicable to imports from Ukraine is 38,5 %.

2. Initiation

(2) On 23 November 2002, the Commission announced by a notice of initiation published in the *Official Journal of the European Communities* [4], the initiation of an interim review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes, of iron or non-alloy steel originating in Croatia and Ukraine and commenced an investigation.

(3) The investigation was initiated at the request lodged by the Defence Committee of the Seamless Steel Tube Industry of the European Union on behalf of producers representing more than 75 % of the total Community production.

(4) It is to be noted that on the same date, 23 November 2002, another review was initiated concerning the measures in force on imports of the same product, i.e. certain seamless pipes and tubes of iron or non-alloy steel, originating in Poland, Russia, the Czech Republic, Romania and the Slovak Republic [5]. The measures against Poland, the Czech Republic and the Slovak Republic have lapsed as a result of the enlargement of the European Union on 1 May 2004. Further to Regulation (EC) No 1322/2004 [6], the existing measures on imports of certain seamless pipes and tubes originating in Russia and Romania are temporarily not applied as from 21 July 2004. The review on these measures is still ongoing.

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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 L 45, 17.2.2000, p. 1. Regulation as amended by Regulation (EC) No 1515/2002 (OJ L 228, 24.8.2002, p. 8).
[3] OJ L 46, 18.2.2000, p. 34. Decision as amended by Decision 2002/669/EC (OJ L 228, 24.8.2002, p. 20.)
[4] OJ C 288, 23.11.2002, p. 11.
[5] OJ C 288, 23.11.2002, p. 2.
[6] OJ L 246, 20.7.2004, p. 10.

3. **Parties concerned by the proceeding**

(5) The Commission officially advised the exporting producers in Croatia and Ukraine, the producers, importers, suppliers and users in the Community known to be concerned and the authorities of Croatia and Ukraine of the opening of the investigation. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(6) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from five Community producers, one importer, one exporting producer in Croatia, three exporting producers in Ukraine and three traders related to the Ukrainian producers.

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

(a) Community producers:

— Dalmine Spa, Italy,

— Productos Tubulares SA, Spain,

— Tubos Reunidos SA, Spain,

— Vallourec & Mannesmann, Germany,

— Vallourec & Mannesmann, France;

(b) Unrelated importers in the Community:

— Comercial de Tubos SA, Spain;

(c) Exporting producer in Croatia:

— Mechel Željezara Ltd, Sisak;

(d) Exporting producers in Ukraine:

— CJSC Nikopolsky seamless tubes plant Nikotube, Nikopol,

— Dnipropetrovsk Tube Works (DTW), Dnipropetrovsk,

— OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnipropetrovsk;

(e) Related traders in Ukraine:

— Time Ltd, Dnipropetrovsk,

— SGIP Interpipe, Dnipropetrovsk;

(f) Related trader in Switzerland:

— SEPCO, Lugano.

4. **Investigation period**

(8) The investigation of dumping and injury covered the period from 1 October 2001 to 30 September 2002 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 1999 to the end of the investigation period (the period considered).

5. **Product concerned and like product**

5.1. *Product concerned*

(9) The products under review are:

(a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm;

(b) seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes;

(c) other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm, originating in Croatia and Ukraine (the product concerned), falling within CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93.

(10) The investigation has shown that all these categories were sufficiently similar for them to constitute a single product, as in the original investigation. Therefore, and for the purpose of the present anti-dumping investigation, all types of the product concerned are regarded as one product.

5.2. *Like product*

(11) As in the previous investigation, no differences were found between the product concerned and the seamless pipes and tubes produced and sold on the domestic market in Croatia.

(12) Likewise, no differences were found between the product concerned and the seamless pipes and tubes produced by the Community producers and sold on the Community market. They both share the same physical and chemical characteristics and uses. Furthermore, they both conform to industry standards such as DIN, API or ASTM. Therefore, they are considered as like products within the meaning of Article 1(4) of the basic Regulation.

B. **DUMPING**

1. **Croatia**

1.1. *Cooperation*

(13) As concerns Croatia, one exporting producer, Mechel Željezara Ltd, accounted for all exports of the product concerned to the Community. Mechel Željezara Ltd is the new name of the company which cooperated with the original investigation under the name Željezara Sisak d.d., but which had officially changed its name twice since the imposition of the existing measures, due to subsequent changes in ownership [1].

(14) During the original investigation, an undertaking had been accepted from Mechel Željezara Ltd under its original name [2]. As the investigation was initiated to review the level and form of the measures, the undertaking was also subject to this review investigation (see recitals 135 to 137).

[1] Notice 246/02 (OJ C 246, 12.10.2002, p. 2) and Notice 68/06 (OJ C 68, 18.3.2004, p. 8).
[2] Commission Decision 2000/137/EC (OJ L 46, 18.2.2000, p. 34).

1.2. *Normal value*

(15) It was first established whether Mechel Željezara Ltd's total domestic sales of the like product 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 since the total domestic sales volume represented at least 5 % of its total export sales volume to the Community.

(16) Subsequently, by defining the product types in accordance with the CN codes under which the product is classified, it was examined whether the domestic sales of each product type were representative. Domestic sales of a particular product type 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 product type exported to the Community. It was found that all product types sold by the company for export to the Community had representative domestic sales.

(17) An examination was also made as to whether the domestic sales of each product type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume of a product type, sold at a net sales price equal to or above the unit cost, 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 unit cost, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that product type made during the IP, irrespective of whether these sales were profitable or not. This was the case for two product types.

(18) In the case where the volume of profitable sales of a product type represented 80 % or less but at least 10 % of the total sales volume of that type, or where the weighted average price of such sales was below the unit cost, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of those types only. This was the case for one product type.

(19) For the fourth product type, less than 10 % of the domestic sales volume was profitable during the IP. It was therefore considered that this particular product type was sold in insufficient quantities for the domestic prices to provide an appropriate basis for the establishment of the normal value and another method had to be applied. In this case, constructed normal value was used, in accordance with Article 2(3) of the basic Regulation. Normal value was constructed by adding to the manufacturing cost of the exported type, adjusted where necessary, 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.

1.3. *Export price*

(20) The investigation showed that the export sales of Mechel Željezara Ltd were solely made directly to unrelated customers in the Community.

(21) Therefore, the export price was established on the basis of export prices actually paid or payable for the product concerned when sold to the first independent customer in the Community, in accordance with Article 2(8) of the basic Regulation.

1.4. *Comparison*

(22) The normal value and export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.

(23) Accordingly, allowances claimed for differences in transport costs, handling, loading and ancillary costs, credit costs and commissions were granted where applicable and supported by verified evidence.

1.5. *Dumping margin*

(24) In accordance with Article 2(11) of the basic Regulation, the adjusted weighted average normal value by product type was compared with the adjusted weighted average export price of each corresponding type of the product concerned.

(25) This comparison showed the existence of dumping. The dumping margin expressed as a percentage to the cif Community frontier price, duty unpaid, is as follows:

Mechel Željezara Ltd. 38,9 %.

(26) This dumping margin is below the dumping margin found during the original investigation. Since the level of cooperation was high (all exports of the product concerned from Croatia to the Community), the residual dumping margin was set at the same level as the one established for Mechel Željezara Ltd, namely 38,9 %.

2. **Ukraine**

2.1. *Market economy treatment (MET)*

(27) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in Ukraine, normal value is to be determined in accordance with paragraphs 1 to 6 of the said Article for those exporting producers which can show that they meet the criteria laid down in Article 2(7)(c) of that Regulation, i.e. that market economy conditions prevail in respect of the manufacture and sale of the like product.

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

1. business decisions and costs are made in response to market signals, and without significant State interference;

2. firms have one clear set of accounting records which are independently audited in line with international accounting standards (IAS) and are applied for all purposes;

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

4. legal certainty and stability is provided by bankruptcy and property laws;

5. currency exchanges are carried out at market rate.

(29) Claims for MET pursuant to Article 2(7)(b) of the basic Regulation were received from two groups of companies:

(a) the producing company Dnipropetrovsk Tube Works (DTW) and its related trader in Ukraine, Time Ltd.;

(b) the related producing companies OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP) and CJSC Nikopolsky seamless tubes plant 'Nikotube' and their related trader in Ukraine, SGIP Interpipe.

(30) The claims were analysed on the basis of the five criteria set out in Article 2(7)(c) of the basic Regulation.

(31) In the case of the first group, the accounts of the producing company were found to be unreliable due to material inaccuracies and to the misapplication of accounting policies referred to in IAS 1. It was also found that the same company was in an insolvent situation and belonged to a category of companies which, by bankruptcy law provision, enjoyed a special status which denied legal certainty for the operation of such companies. It was therefore determined that this group of companies did not meet the second and fourth criteria of Article 2(7)(c) of the basic Regulation.

(32) In the case of the second group, it was found that neither producing company had one clear set of basic accounting records which were independently audited in line with international accounting standards and which were applied for all purposes as both companies had several sets of basic accounting records used for different purposes. Additionally, significant distortions carried over from the former non-market economy system in the form of interest free loans not pursued by the State, debt forgiveness of considerable amounts and tax indebtedness were found to affect the cost structure and the financial situation of the group. It was therefore determined that this group of companies did not meet the second and third criteria of Article 2(7)(c) of the basic Regulation.

(33) As a company or a group of companies has to fulfil all of the five criteria of Article 2(7)(c) of the basic Regulation in order to have Market Economy Treatment granted to them and this not being the case, both groups of companies were refused MET.

(34) Both groups of companies argued that the Commission had made a determination regarding its application for MET beyond the three month period mentioned under Article 2(7)(c) of the basic Regulation, and that this determination was therefore not valid. In this respect it is noted that the Commission granted several extensions to the deadline to the Ukrainian exporting producers concerned which had major difficulties in filling in the MET claim forms within the deadline set in the notice of initiation. It is also noted that the MET claims received were deficient and required a number of substantial clarifications and additional information which delayed the investigation. Finally, the complexity of a number of issues such as the companies' structures and sales channels as well as the serious problems with regard to the companies' accounts prolonged the analysis. In view of this, it was not possible to make a determination regarding the MET claims received within three months from the initiation.

(35) In this respect it is noted that the non-respect of such deadline does not entail any apparent legal consequences as companies have equally been granted the opportunity to comment. Furthermore, it is noted that the abovementioned groups of companies did not claim any negative impact due to the longer period needed for the MET determination.

(36) Given the above, it is concluded that a valid determination with regard to MET can be made even after the three month period and the claims of the groups of companies concerned were therefore rejected.

(37) The Commission findings were further contested by both groups of companies; however, no arguments were brought forward to alter the MET determination.

(38) The Community industry was given the opportunity to comment and did not oppose the above findings.

2.2. *Individual treatment*

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

(40) The same Ukrainian exporting producers, which did not fulfil the MET criteria, alternatively requested individual treatment (IT) in accordance with Article 9(5) of the basic Regulation. The Commission consequently sought and verified all information deemed necessary for the purposes of determining whether the two groups of companies qualified for IT. It was found that the conditions as set in Article 9(5) of the basic Regulation were fulfilled by both groups of companies and it was therefore considered justified to grant IT to both groups of companies.

2.3. *Analogue country*

(41) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers that were not granted MET has to be established on the basis of the prices or constructed value in an appropriate analogue country for products comparable to those exported by the Ukrainian exporting producers to the Community.

(42) Croatia was the analogue country used in the original investigation. In the notice of initiation, Croatia was again envisaged as the analogue country for the purpose of establishing normal value for Ukraine. As none of the interested parties objected to this choice, it was decided to use Croatia as an analogue country in the framework also of this investigation.

2.4. *Normal value*

(43) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for Ukraine was established on the basis of verified information received from the sole producer in the analogue country, i.e. on the basis of all prices paid or payable on the domestic market of Croatia for comparable product types or constructed value in Croatia for comparable product types. In determining normal value for Ukraine, the same methodology as that described at recitals 15 to 19 was applied.

(44) It was established that for the product type corresponding to CN code 7304 31 99 (cold-drawn or cold-rolled tubes), there was no domestic production in Croatia. Overall, these exports accounted for only 6,2 % of the Ukrainian exports of the product concerned to the Community. However, in the case of one group of companies, during the IP the exported quantity to the Community of this product type represented around 40 % of its total exports of the product concerned to the Community.

(45) On the basis of data available, it was concluded that the other product types subject to the investigation were not comparable to this product type and that constructing normal value for this particular product type on the basis of normal value for the other product types would not lead to a reliable figure. It also appeared, because of a more complex manufacturing process, that normal value of this product type would be considerably higher than normal value of the other product types. Although export prices of cold-drawn or cold-rolled tubes were on average higher than export prices of the other product types, inclusion of this product type in the calculations would, in all likelihood, lead to a higher dumping margin. Insofar as mentioned in recital 127, the injury margin is significantly lower than the dumping margin found without including this product type, and therefore will serve as a basis for establishing the level of the measures. In view of this, it was not considered necessary to pursue this matter further. The product type corresponding to CN code 7304 31 99 was therefore excluded from the calculations.

2.5. *Export price*

(46) Both groups of companies in Ukraine made all their export sales to the Community via a related trading company located in a third country. The export price was, therefore, in accordance with Article 2(9) of the basic Regulation, constructed on the basis of the related trading companies' resale prices to the first independent customers in the Community.

2.6. *Comparison*

(47) For the purpose of a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made, where appropriate, in accordance with Article 2(10) of the basic Regulation in respect of transport, insurance, handling, loading and ancillary costs and commissions. The adjustments in the export price in respect of inland transport in the exporting country, insurance, loading and ancillary costs were made on the basis of costs established in the analogue country.

(48) The comparison between normal value and export price was made on an ex-works basis.

2.7. *Dumping margin*

(49) According to Article 2(11) of the basic Regulation, the adjusted weighted average normal value by product type, taken from the analogue country producer Mechel Željezara Ltd, was compared with the companies' adjusted weighted average export price of each corresponding product type of the product concerned.

(50) This comparison showed the existence of dumping. The dumping margins expressed as a percentage to the cif Community frontier price, duty unpaid, are as follows:

Dnipropetrovsk Tube Works, Dnipropetrovsk	91,0 %
OJSC Nizhnedneprovsky Tube Rolling Plant, Dnipropetrovsk and CJSC Nikopolsky seamless tubes plant 'Nikotube', Nikopol	97,3 %.

(51) Since the level of cooperation was high (more than 80 % of the exports of the product concerned from Ukraine to the Community), the residual margin was set at the same level as the one established for the cooperating exporting producers OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP) and CJSC Nikopolsky seamless tubes plant 'Nikotube', namely 97,3 %.

C. **INJURY**

1. **Preliminary remark**

(52) As in the case of dumping, the investigation sought to establish whether the circumstances with regard to the situation of the Community industry had changed to such an extent that would warrant a conclusion different to that established during the original investigation.

2. **Community production**

(53) During the original investigation, the Community industry was composed of 10 producers.

(54) In the course of the present review investigation it was found that seamless pipes and tubes were manufactured by

— six complainant Community producers, of which five fully cooperated with the Commission during the investigation, whereas the sixth, Pietra, Italy, supported the proceeding, but did not provide a detailed questionnaire reply,

— six other producers, which neither supported the Community industry nor cooperated with the Commission.

(55) A questionnaire was sent to these other producers but no cooperation was obtained. No further producers of the product concerned made themselves known to the European Commission.

3. **Definition of the Community industry**

(56) The production of the five Community producers that fully cooperated in the investigation was 797 456 tonnes during the investigation period. This represents over 70 % of total Community production and these companies therefore constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

4. **Community consumption**

(57) Eurostat information, related to volumes and values for CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93 was used as the source of the import data. Community industry data were obtained from the verified questionnaire responses of the five cooperating Community producers.

(58) The apparent Community consumption, i.e. sales by the Community industry on the Community market and sales of other Community producers in the Community, as well as imports from all third countries, shows that consumption of the product concerned in the Community increased from 1 104 619 tonnes in 1999, to a peak of 1 233 357 tonnes in 2001. Consumption decreased to 1 103 805 tonnes during the IP, which is slightly less than the consumption in 1999.

	1999	2000	2001	IP
Community consumption (tonnes)	1 104 619	1 130 410	1 233 357	1 103 805
Index 1999 = 100	100	102	112	100

5. **Imports into the Community from the countries concerned**

5.1. *Cumulative assessment of the effects of the imports concerned*

(59) It was first examined whether imports from Croatia and Ukraine should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.

(60) The evolution of imports from the countries concerned, in volume and market share, has been the following:

Import volumes (tonnes)	1999	2000	2001	IP
Ukraine	103 477	22 996	37 353	37 683
Index 1999 = 100	100	22	36	36
Croatia	30 072	24 646	23 893	23 001
Index 1999 = 100	100	82	79	76
Countries concerned Total	133 549	47 642	61 246	60 684
Index 1999 = 100	100	36	46	45

Market shares of the imports	1999	2000	2001	IP
Ukraine	9,4 %	2,0 %	3,0 %	3,4 %
Croatia	2,7 %	2,2 %	1,9 %	2,1 %
Countries concerned Total	12,1 %	4,2 %	5,0 %	5,5 %
Imports from other countries	24,1 %	27,5 %	31,2 %	29,9 %

(61) It was found that the dumping margins established (recitals 25 and 50) in relation to the imports from each of the countries concerned were above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation. Additionally, despite the measures in force, the volumes of imports from each of these countries were not negligible during the investigation period, as market shares for these countries were 2,1 % for Croatia and 3,4 % for Ukraine. The shares of all imports ranged from 5,9 % for Croatia to 9,6 % for Ukraine in the IP.

(62) The cumulative assessment was found to be appropriate in view of the conditions of competition both between imports originating in these countries, and between these imports and the like Community product. This is evidenced by the fact that, again despite the measures in force, prices from both countries have continued to significantly undercut the prices of the Community industry during the IP and that seamless pipes and tubes from both countries are sold through similar sales channels. Moreover, the investigation has shown that the imports from both countries concerned share the same physical and chemical characteristics, as the like product. Finally, the imports of both countries concerned and the like product follow the same price trends (see recitals 67 and 74).

(63) One Croatian exporter claimed that no injury is caused by the Croatian imports since Croatian market share is minimal and therefore no cumulative assessment should take place. As stated above, the Croatian imports were clearly above *de minimis* and not negligible during the IP. While it is true that there was a considerable drop of imports originating in Ukraine at the beginning of the period considered, it should be noted that subsequently imports from both countries followed a broadly similar trend.

(64) For these reasons, it is concluded that all the criteria set out in Article 3(4) of the basic Regulation are met and that imports originating in Croatia and Ukraine should be assessed cumulatively.

5.2. *Market share of imports concerned*

(65) As shown above, following the introduction of measures in 2000, the market share of imports from the countries concerned decreased significantly from 12,1 % in 1999 to 4,2 % in 2000 and then started to increase continuously up to 5,5 % in the IP.

5.3. *Prices of imports and undercutting*

(66) A comparison of selling prices on the Community market during the IP was made between the prices of the Community industry and those of the exporting producers in the countries concerned. This comparison was made after deduction of rebates and discounts. The prices of the Community industry were adjusted to ex-works prices, and the prices of the imports were cif Community frontier, import duty paid, anti-dumping duty unpaid, with adjustments made for the level of trade and handling costs, based on information collected during the investigation, notably from cooperating unrelated importers.

(67) The comparison showed that during the IP, imports of the product concerned were sold in the Community at prices which undercut the Community industry's prices, when expressed as a percentage of the latter, as follows: Ukraine 34,1 % and Croatia: 23,3 %. Even if the anti-dumping duties are taken into account, undercutting is still significant with 10 % for imports from Ukraine and 6,5 % for imports from Croatia. It has to be noted that average prices of the imports increased from 2000 up to the IP as shown below, which is in line with the overall price developments on the EU market. However, as shown in recital 74, prices of imports from the countries concerned did not increase as much as the prices of the Community industry.

Prices of imports, duty unpaid (Eur/tonne)	1999	2000	2001	IP
Ukraine	332	341	433	449
Index 1999 = 100	100	103	130	135
Croatia	461	465	516	523
Index 1999 = 100	100	101	112	113
Ukraine and Croatia Average	361	405	466	477
Index 1999 = 100	100	112	129	132

6. **Situation of the Community industry**

(68) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry from 1999 (base year) to the IP.

(69) The Community industry data below represent the aggregated information of the five cooperating Community producers.

6.1. *Production, production capacity and capacity utilisation*

(70) The evolution of production, production capacity and capacity utilisation is as follows:

	1999	2000	2001	IP
Production (tonnes)	710 029	911 669	928 231	797 456
Index 1999 = 100	100	128	131	112
Production capacity (tonnes)	1 117 881	1 183 067	1 140 304	1 094 548
Index 1999 = 100	100	106	102	98
Capacity utilisation	63,5 %	77,1 %	81,4 %	72,9 %
Index 1999 = 100	100	121	128	115

(71) As shown in the table above, production during the period 1999 to 2001 increased to a peak in 2001 and then decreased significantly during the IP. Although export sales increased and compensated to some extent for the decrease of sales in the Community, the reduction in the production and the decrease in the production capacity during the IP could not be avoided.

6.2. *Stocks*

(72) The figures below represent the volume of stocks at the end of each period.

	1999	2000	2001	IP
Stocks (tonnes)	38 753	49 620	49 062	59 287
Index 1999 = 100	100	128	127	153

(73) Stocks have increased during the period considered. It is to be noted that the Community industry generally produces the product concerned to order. Consequently, the level of stocks held by the Community industry is found not to be a very significant indicator in the assessment of the situation of the Community industry. However, it was found that the increase in stocks is also a consequence of the decreasing sales and market share of the Community industry.

6.3. *Sales volume, market shares, growth and average unit prices in the Community*

(74) The figures below represent the Community industry's sales to independent customers in the Community.

	1999	2000	2001	IP
Sales volume (tonnes)	516 529	573 136	576 850	504 317
Index (1999=100)	100	111	112	98
Market share	46,8 %	50,7 %	46,8 %	45,7 %
Index (1999=100)	100	108	100	98
Average sales prices (EUR/tonne)	576	589	659	696
Index (1999=100)	100	102	114	121

(75) The Community industry's sales volumes increased by 12 % from 1999 to 2001 and then dropped down significantly during the IP to a level even below that in 1999. The development in sales volumes should be seen in the light of the level of consumption during the same period, which increased by 12 % from 1999 to 2001 and then decreased during the IP. However, the demand did not decrease as much as the sales volume between 2001 and the IP.

(76) Following the introduction of measures in 2000, the Community industry was able to regain lost market share. Between 1999 and 2000, the market share of the Community industry increased from 46,8 % to 50,7 % of Community consumption. However, following this period of relative strength, the market share of the Community industry decreased again. Between 2000 and the IP, its share of Community consumption decreased to 45,7 % as dumped imports started again to penetrate the Community market.

(77) Facing increasing imports as from 2000 on and decreasing Community sales from 2001 on, the Community industry could not increase the production of the product concerned. Rather were they forced to reduce production capacity and work force in the IP, as increasing exports of the Community industry could not compensate the loss of sales on the Community market.

(78) The Community industry's average sales prices increased in the period considered. However, the higher prices could not generate sufficient profitability, as described in detail below.

6.4. *Profitability*

(79) The profit concept used below is profit before taxes, which represents the profit generated by sales of the product concerned on the Community market.

	1999	2000	2001	IP
Profitability on EC Sales	– 7,8 %	0,1 %	0,3 %	– 0,1 %

(80) Following the imposition of anti-dumping measures against imports of seamless pipes and tubes originating in Croatia and Ukraine, the Community industry could, as seen above, increase the prices to reach around break-even in 2000 and 2001. However, the Community industry could not reach the level of profit which it could be expected to achieve in the absence of dumped imports (i.e. 5 %) as set out in the Regulation imposing the measures currently in force. Moreover, the level of profit decreased during the IP below break-even. The reason for this decrease despite the higher sales prices were increasing raw material and labour costs per unit, which went up despite the reduction of employees during that time. The Community industry was not able to pass on those costs to its customers as would have been necessary due to the competition caused by the low priced dumped imports.

(81) Following a slightly positive trend in 2000 and 2001, the financial situation of the Community industry started to deteriorate again during the IP, coinciding with increases of dumped imports from Croatia and Ukraine. The profit level reached in 2001 was just above break-even, and was far from the level that would allow financing sufficiently reinvestment.

6.5. *Return on investments, cash flow, investments and ability to raise capital*

(82) The trends for the Return on Investments, the Cash flow and the Investments are shown in the following table.

	1999	2000	2001	IP
Return on investments	– 13 %	0 %	1 %	0 %
Index 1999 = 100	100	202	204	198
Cash flow	– 13 978 142	5 273 981	5 910 373	4 959 440
Index 1999=100	100	238	242	235
Investments	19 320 730	32 691 925	33 056 929	21 087 534
Index 1999=100	100	169	171	109

(83) It is noted that the above figures for Return on Investments reflect to a large extent those on profitability. The Return on Investments increased from 1999 to 2000 but decreased again up to the IP. The Cash Flow shows approximately the same trend as the profitability, namely a peak in 2001 and then a decrease again. Insofar as the product concerned accounts for less than 1 % of total turnover of the Community producers and the Community producers also use their production lines for the manufacturing of a variety of other steel products, it is considered that these figures are not meaningful in themselves. However, they are illustrative, in that two of the cooperating Community producers which produced the product concerned to a much higher extent than other Community producers show trends similar to the ones indicated in the table above regarding Return on Investments, Cash Flow and Investments.

(84) Following the imposition of anti-dumping measures in 2000, the Community industry made some investments. However, these investments were found to be in the majority aimed at the replacement of machinery. In the IP, investments decreased significantly compared to the preceding two years.

(85) The Community industry's ability to raise capital, either from external providers of finance or parent companies, was nevertheless not seriously affected during the period considered as the product concerned accounts for less than 1 % of total turnover of the Community producers and the Community producers also use their production lines for the manufacture of a variety of other steel products.

6.6. *Employment, productivity and wages*

	1999	2000	2001	IP
Number of employees	2 583	2 776	2 622	2 472
Index 1999=100	100	107	102	96
Productivity (tonne/employee)	275	328	354	323
Index 1999 = 100	100	119	129	117
Wages Index 1999=100	100	104	106	105

(86) As seen above, the Community industry increased its productivity and the number of employees in 2000 and 2001 as production increased during that period. However, in the IP, the number of employees was reduced significantly to a level below that in 1999. Productivity also decreased following the substantial decrease in production.

(87) Wages were relatively stable during the period considered, and merely moved in line with inflation.

6.7. *Recovery from past dumping*

(88) Following the introduction of measures in 2000, the Community industry was able to regain lost market share and reach a more sustainable level in its average sale prices. Nevertheless, from 2001 on, the Community industry's financial performance started to deteriorate again. Therefore, it can be concluded that the Community has not recovered from past dumping.

6.8. *Magnitude of the actual margin of dumping*

(89) The dumping margins are specified in the dumping part (recitals 25 and 50). These margins established are clearly above *de minimis*. Furthermore, given the volume and the price of the dumped imports, the impact of the actual margin of dumping cannot be considered to be negligible.

6.9. *Conclusion on injury*

(90) It is recalled that, following the imposition of anti-dumping measures against imports of the product concerned from Croatia and Ukraine, the Community industry immediately gained confidence. Average prices of its Community sales increased by 14 % between 1999 and 2001 and sales volumes in the Community as well as production increased in the same period. In consequence, the industry could make some necessary investments at that time and employed more work force.

(91) However, the situation started to deteriorate substantially in the IP. Sales in the Community decreased by 12 % from 2001 to the IP and the Community industry had to adjust significantly by reducing production, production capacity and employment. The market share of the Community industry decreased further from 2001 to the IP to a level below that in 1999. The declining trend in the IP is also confirmed by the reduced capacity utilisation, the stagnating development of the wages and the increased level of stocks leaving the industry in a situation similar to that in 1999 when measures had not yet been imposed against imports from the countries concerned.

(92) The same trend is shown by the development of investments, return on investments and cash flow. The minor improvement in 2000 and 2001, which was far from being very satisfying as the return on investments reached only 1 % and the negative cash flow which had just turned towards positive, is followed by a deterioration in the IP. The fact that the ability of the companies to raise capital was not seriously affected is due to those companies being part of larger corporate groups and, accordingly, cannot be considered as a viable indicator for the sector of the product concerned.

(93) In regard to the Community industry's financial situation, it improved from a loss-making situation in 1999, but only to reach a more or less break-even situation in 2000 and 2001 and fell back into a loss-making situation again in the IP.

(94) As can be seen above, the indicators improved initially after 1999 when measures were imposed but all of them with the exception of the sales prices deteriorated again in the IP showing a clear injurious picture.

(95) The continuous increase in selling prices which occurred during the whole period considered, could not lead to a satisfying profit situation as it was completely absorbed by rising production costs, notably raw material costs and labour costs per unit. Moreover, the Community industry was not able to pass on these cost increases to the customer as much as would have been necessary because low priced dumped imports penetrated the market. In consequence, the profit situation of the Community industry deteriorated and fell below break-even in the IP.

(96) In view of the above, it is concluded that the Community industry has still suffered material injury during the IP within the meaning of Article 3 of the basic Regulation.

D. **LASTING NATURE OF CHANGED CIRCUMSTANCES AND LIKELIHOOD OF CONTINUATION OF DUMPING AND INJURY**

(97) The original measures were to expire on 18 February 2005. In accordance with Article 11(7) of the basic Regulation, it was therefore examined whether the expiry of the existing measures would be likely to lead to a continuation of dumping and injury. In accordance with Article 11(3) of the basic Regulation, it was also analysed whether the circumstances with regard to dumping and injury have changed significantly, and if this change could reasonably be said to be of a lasting nature.

(98) It was found that the product concerned was still dumped on the Community market during the IP (recitals 25 and 50). In this regard, the dumping margins for the product concerned originating in each of the countries subject to the proceeding were close to the dumping margins found in the original investigation. Moreover, there are still huge production capacities in the countries concerned, which were not used during the IP. It was also noted that there were still significant quantities of imports from Croatia and Ukraine sold on the Community market and that their market share has continuously increased since 2000. This demonstrates a clear interest by Croatian and Ukrainian exporters in the EU market. Given all of the above, it is considered that there is no reason to doubt that the level of dumping found is of a lasting nature and a continuation of dumping is highly likely if the original measures were allowed to expire.

(99) Despite the fact that the Community industry recovered to a certain extent from past dumping of imports originating in, *inter alia*, Croatia and Ukraine, it was also found that the Community industry still suffered material injury within the meaning of Article 3 of the basic Regulation. The injury margins found in the investigation have increased as compared to the original investigation because the dumped imports continued to substantially undercut the Community industry's prices and this despite the fact that costs have risen worldwide. Considering the effects of the dumped imports on profitability (recital 79) and market share of the Community industry (recital 74), which were again decreasing from 2001 to the IP, it is concluded that the circumstances leading to injury are of a lasting nature and that the expiry of the original measures would be likely to lead to the continuation of injury.

E. **CAUSATION**

(100) It was also examined whether the causal link between the dumped imports from Croatia and Ukraine and the injury suffered by the Community industry, which has been established in the previous investigation is still present in this investigation. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

(101) Despite the measures in force, which first led to a reduction of imports in 2000, the exporting producers from Croatia and Ukraine subsequently increased their market share in the Community from 4,2 % up to 5,5 % during the period considered. Even with decreasing consumption from 2001 to the IP, they saw an increase of their market share. At the same time, from 2000 to the IP, the Community industry lost market share. It had to reduce production substantially in the IP and suffered from declining profitability. The increasing imports from the countries concerned, which significantly undercut Community industry's prices and the deteriorating situation of the Community industry coincide in time. Therefore, those imports could have continued to contribute to the injury suffered by the Community industry.

(102) Imports originating in other third countries, such as the Czech Republic, Poland and the Slovak Republic, which were during the investigation period not yet members of the Community, as well as imports from Romania or Russia could also have contributed to the injury suffered by the Community industry.

(103) It has to be noted that anti-dumping duties ranging from 9,8 % to 38,2 % and undertakings were in force for imports from the abovementioned five countries during the whole period considered. There is a review currently ongoing on the measures in force on imports from Russia and Romania (recital 4).

(104) Imports from Russia accounted for a market share of 3,3 % during the investigation period. The average import prices of these imports inclusive of anti-dumping duties were around 20 % lower than the prices of the imports from Croatia and Ukraine. Given the level of prices of imports from Russia, these imports seem to have contributed to the injury. However, having regard to the size of the market share, which is lower than that of the countries concerned, Russian imports cannot have been the only cause for the injury suffered by the Community industry. Imports from Romania accounted for a market share of 3,5 % in the IP. Import prices from Romania, inclusive of anti-dumping duties are higher than the prices of the imports from Croatia and Ukraine, but still lower than the Community industry's prices. From this, it can be concluded that they could also have contributed to injury suffered by the Community industry. However, it is considered that any possible effect of imports from Russia and Romania would not be such as to alter the finding that there is a genuine and substantial causal link between the dumped imports of seamless pipes and tubes from Croatia and Ukraine and the material injury suffered by the Community industry.

(105) Prices for imports from the former accession countries Poland, the Czech Republic and Slovakia were, inclusive of anti-dumping duties, also at a significantly higher level than those from Croatia and Ukraine, but still lower than the Community industry's prices. Their market share altogether in the IP was 14,2 %. Although those imports could also have contributed to the injury, it can be concluded from their price level that their contribution could have been only a minor one.

(106) Having regard to the fact that imports from Croatia and Ukraine undercut substantially the Community industry prices, there is no indication that the abovementioned imports, which in the majority undercut the Community prices to a lesser extent, could break the causal link between the dumped imports from Croatia and Ukraine and the material injury suffered by the Community industry.

(107) Imports from several other third countries altogether accounted for 8,9 % market share in the IP. With regard to their high level of prices which are in the majority sufficiently above the Community industry prices, there is no indication that those imports could break the causal link between the dumped imports from Croatia and Ukraine and the material injury suffered by the Community industry.

(108) Other Community producers, which did not cooperate in the investigation were facing the same problems as regards the increasing raw material costs forcing them to raise prices as much as possible. No indication has been found that those competitors could have caused the injury suffered by the Community industry.

(109) There is a decreasing consumption in the Community as from 2001 on. However, Community sales decreased to a higher percentage than the consumption and Community industry lost market share while the countries concerned increased their market share on the Community market in that period. Therefore, it is concluded that this factor could not break the causal link between the dumped imports from Croatia and Ukraine and the material injury suffered by the Community industry. No other factors have been found in the course of the investigation that could have caused injury.

(110) Based on the above analysis of the effects of all known factors on the situation of the Community industry, it is concluded that the causal link between the dumped imports from Croatia and Ukraine and the material injury to the Community industry, which has been established in the previous investigation, has not been broken.

F. COMMUNITY INTEREST

1. General considerations

(111) It has been examined whether compelling reasons exist that could lead to the conclusion that it would not be in the Community interest to maintain the anti-dumping duties against imports from the countries concerned. The Commission sent questionnaires to importers and industrial users. A complete questionnaire reply was received from one importer, Comercial de Tubos, SA, Spain.

(112) From the user industry, no questionnaire replies were received. No supplier has made itself known during the investigation. On the basis of the information received from the cooperating parties, the following conclusions are reached.

(113) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the fact that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

2. Interest of the Community industry

(114) It is recalled that the Community industry consisted of five producers which employ approximately 2 470 staff for the production and sales of seamless pipes and tubes. It is also recalled that the economic indicators of the Community industry above showed deteriorating financial results during the investigation period. Despite the growing consumption of seamless pipes and tubes in the Community in 2000 and 2001, which was, however, again declining in the IP, the Community industry could not gain financial stability.

(115) Indeed, the industry recovered partially in 2000 to 2001. However, given the prevailing financial situation for the Community industry, it is clear that anti-dumping measures would be in the interest of the Community industry.

3. Interest of unrelated importers

(116) The cooperating importer did not generally oppose the continued imposition of anti-dumping measures. No other comments from importers, which imported the product concerned from Croatia or Ukraine, were received.

(117) The purpose of the anti-dumping measures is to restore fair trade. It is neither to prohibit imports nor to hamper the activities of the importers in the Community. In fact, any measures to be proposed are to be set at a level which will enable the continuation of imports also in future, but at prices that are non-dumped or non-injurious, whichever is the lower.

(118) As fairly-priced imports will still be allowed to enter into the Community market, it is likely that the traditional business of the importers will continue even if anti-dumping measures against dumped imports are imposed.

4. **Interest of suppliers**

(119) No supplier made himself known during the investigation. Therefore, it is concluded that no compelling reason exists that measures should not be imposed as regards the suppliers' interests.

5. **Interest of users**

(120) In the previous investigation, it was concluded that any price effect resulting from anti-dumping measures would not be significant with respect to downstream industrial users. This was based on the fact that seamless pipes and tubes represented only a small element in the overall costs of the user industries (including the chemical and petrochemical industries, power stations, the automobile and construction industries). Given that no representations have been made contradicting the previous findings and in view of the lack of cooperation of users in the present investigation, it is expected that any price effect resulting from anti-dumping measures would be negligible with respect to downstream industrial users.

6. **Competition aspects**

(121) It should be noted that in Commission Decision 2003/382/EC [1], it was found that some Community producers were involved in an anti-competitive agreement on parts of the product concerned until 1995. Accordingly, neither the original investigation with an IP from 1 November 1997 until 31 October 1998 (and with a period considered from January 1997 until the end of the IP), nor the current review investigation were affected by any anti-competitive practices.

7. **Conclusion on Community interest**

(122) The maintenance of measures against imports of seamless pipes and tubes originating in the countries concerned would clearly be in the interest of the Community industry. As regards both the importers/traders and the user industries, any impact on prices of seamless tubes is expected only to be marginal.

(123) In view of the above, it is concluded that there are no compelling reasons not to impose anti-dumping duties against imports of seamless pipes and tubes originating in the countries concerned.

G. **ANTI-DUMPING MEASURES**

1. **Injury elimination level**

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

(125) The measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin 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 of production and to obtain overall a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community. The pre-tax profit margin used for this calculation was 5 % of turnover. It is the same as in the original proceeding since there was no indication found and no intervention made that this rate should be changed. On this basis, a non-injurious price was calculated for the Community industry of the like product. The non-injurious price has been obtained by adding the abovementioned profit margin of 5 % to the cost of production.

[1] OJ L 140, 6.6.2003, p. 1.

(126) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculations, with the average non-injurious price. Any difference resulting from this comparison was then expressed as a percentage of the average import CIF value.

2. **Amended measures**

(127) In the light of the foregoing, it is considered that the anti-dumping duties in force against imports of the product concerned originating in Croatia and Ukraine should be amended. The new anti-dumping duties should be set at a level reflecting the injury margins found, as the dumping margins found for all companies in Croatia and Ukraine were higher than the injury margins calculated. Since the level of cooperation was high (more than 80 % of the exports of the product concerned from Ukraine to the Community), the residual margin for Ukraine should be set at the same level as that established for the cooperating exporting producers OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP) and CJSC Nikopolsky seamless tubes plant 'Nikotube'.

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

(129) 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 [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. 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.

(130) The proposed anti-dumping duties are the following:

Country	Company	Injury elimination margin	Dumping margin	Proposed anti-dumping duty
Croatia	All companies	38,8 %	38,9 %	38,8 %
Ukraine	Dnipropetrovsk Tube Works (DTW), Dnipropetrovsk	51,9 %	91,0 %	51,9 %
	OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnipropetrovsk and CJSC Nikopolsky seamless tubes plant 'Nikotube', Nikopol	64,1 %	97,3 %	64,1 %
	All other companies	64,1 %	97,3 %	64,1 %

[1] European Commission
Directorate-General for Trade
Direction B
Office J-79 5/16
B-1049 Brussels

(131) On the basis of the measures proposed, a new five-year period for the measures will start to run. The measures, therefore, will not expire on 18 February 2005 as stated in the notice of impending expiry published on 27 August 2004 [1].

3. **Developments after the IP concerning the Croatian exporter**

(132) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was concluded that the level of the anti-dumping measures should be amended, the Croatian government informed the Commission that the sole producer in Croatia, Mechel Željezara Ltd, has been liquidated and ceased production in autumn 2004. In its place, a new legal entity named Valjaonice Cijevi Sisak d.o.o (Valjaonice) was set up by the Croatian Privatisation Foundation (CPF), a governmental institution in charge of the privatisation process in Croatia. The newly established company appears not to have started production yet and is in the process of obtaining the assets from Mechel Željezara Ltd.

(133) However, from the information submitted it appears that the production capacity of Valjaonice will remain unchanged compared to that of Mechel Željezara Ltd and that there is a clear intention by Valjaonice to continue the production of the product concerned. On this basis, the fact that the production has stopped cannot be considered as of a lasting and undisputed nature and does not, therefore, affect the findings of the investigation.

(134) However, should there be changes in the situation of the company justifying a review of the measures, such a review will be initiated.

4. **Undertakings**

(135) The Commission, by Decision 2000/137/EC, accepted a price undertaking, *inter alia*, from the sole Croatian exporting producer. This undertaking with regard to Mechel Željezara Ltd was also subject to the review.

(136) Through the undertaking, Mechel Željezara Ltd undertook to sell to its independent customers up to a certain quantity of the product concerned for export to the Community at revised prices. In addition, Mechel Željezara Ltd undertook that its prices per product group would fall into line with the price structure in use in the Community.

(137) In accordance with Article 8(1) of the basic Regulation, the aim of an undertaking is to eliminate the injurious effect of dumped imports, which is achieved through the exporter raising its prices or ceasing exports at dumped levels. The investigation has shown that the type of undertaking originally accepted in the present case failed to raise prices to non-injurious levels and thus restore fair trade on the Community market. Therefore, in this case, the undertaking accepted from Mechel Željezara Ltd is not considered as an appropriate and effective means of eliminating the injurious effect of dumping. As stated above, Mechel Željezara Ltd has been liquidated recently. Therefore, the undertaking is considered as being no longer valid.

(138) Subsequent to the disclosure of the essential facts and considerations, on the basis of which it was concluded that the level of the existing anti-dumping margin should be amended, the Ukrainian companies OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), CJSC Nikopolsky seamless tubes plant 'Nikotube' and their related trader/holding company 'Interpipe' offered a joint undertaking in accordance with Article 8(1) of the basic Regulation.

[1] OJ C 215, 27.8.2004, p. 2.

(139) These Ukrainian companies are producers of different types of steel products which can be sold together with the product concerned. This raises a potential risk of cross-compensation, i.e. that any undertaking prices would be formally respected but that prices for products other than the one concerned would be lowered when sold together with the product concerned. In addition, in view of the volatility in prices, the minimum export prices that the company was prepared to offer were at levels which did not eliminate the injurious effects of dumping. Accordingly, this offer could not be accepted.

(140) In addition, the Ukrainian company Dnipropetrovsk Tube Works (DTW), Dnipropetrovsk declared that it was offering an undertaking but without indicating either the nature or any minimum price to be respected. Therefore, the offer could not be taken into consideration.

H. **FINAL PROVISION**

(141) Interested parties were informed of all the facts and considerations on the basis of which it was intended to propose an amendment to the Regulation in force. They were given the opportunity to comment and to request a hearing. Comments were received and taken into consideration where appropriate,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 348/2000 is hereby amended as follows:

1. The table in Article 1(2) shall be replaced by the following:

'Country	Company	Rate of duty (%)	TARIC additional code
Croatia	All companies	38,8	—
Ukraine	Dnipropetrovsk Tube Works (DTW), Dnipropetrovsk	51,9	A614
	OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnipropetrovsk and CJSC Nikopolsky seamless tubes plant "Nikotube", Nikopol	64,1	A615
	All other companies	64,1	A999'

2. Article 2 shall be deleted.

Article 2

This Regulation shall enter into force on the day following 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.

Done at Brussels, 14 February 2005.

For the Council
The President
J. ASSELBORN