COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.2.2003
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Proposal for a

COUNCIL REGULATION

imposing a definitive anti-dumping duty on imports of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled, originating in Egypt, Slovakia and Turkey, terminating the proceeding in respect of such imports originating in Hungary, Iran and Libya, amending Commission Decision No 283/2000/ECSC imposing a definitive anti dumping duty on imports of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled, originating, inter alia, in Bulgaria and South Africa and specifying the rate of anti-dumping duty payable when a safeguard additional duty is payable

(presented by the Commission)
EPLANATORY MEMORANDUM

On 20 December 2001 the Commission initiated an anti-dumping investigation in respect of imports of hot-rolled iron or non-alloy steel coils (HRC’s) originating in Egypt, Hungary, Iran, Libya, Slovakia and Turkey. On the same date the initiation of a review investigation of the definitive anti-dumping duties imposed in February 2000 on imports of HRC’s originating in Bulgaria and South Africa was also published.

Given the complexity of the investigation, provisional measures were not imposed in the former proceeding. Subsequently, the results of both proceedings were combined into one regulation imposing definitive measures on imports of HRC’s originating in Bulgaria, Egypt, Slovakia, South Africa and Turkey and terminating the proceeding against Hungary, Iran and Libya. Hungarian imports were found not to have had a material impact on the situation of the Community industry, whereas imports from Iran and Libya were found to be de minimis, i.e. below the 1% threshold compared to Community consumption of HRC’s.

Following disclosure of the findings of both investigations, all interested parties were given the opportunity to submit their comments in writing and to request a hearing.

Significant dumping has been found for all exporting producers in Bulgaria, Egypt, Slovakia, South Africa and Turkey, except for one South African company, which did not export during the investigation period. For the latter company, it was established that there is a likelihood of recurrence of injurious dumping should the measures be allowed to lapse and therefore it was considered appropriate to maintain the original anti-dumping duty for that company. For the other Bulgarian and South African companies, higher dumping was found than in the original investigation and this change in circumstances was considered to have a lasting effect, leading to the conclusion that anti-dumping duties should take into account the higher level of dumping found.

It was considered that the Community industry has suffered material injury based on the decline of production volumes and the rate of capacity utilisation, the drop in free market sales at lower price levels, the reduction of market share, the increase of the cost of production, the negative profitability and cash flow during the investigation period and the decrease of employment. It was found that the evolution of the volume and market shares of low-priced dumped imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey and their price-depressing effect had material negative consequences for the Community industry. Other factors were investigated and the development of consumption and the cyclical nature of the HRC business were found also to have contributed to the material injury of the Community industry, without breaking, however, the genuine and substantial causal link between that injury and the dumped imports.

The introduction of anti-dumping measures on imports from Egypt, Slovakia and Turkey and the continuation of anti-dumping measures on imports from Bulgaria and South Africa will likely cause some financial losses at the level of certain Community traders and users if they either do not change their purchase strategy or raise sales prices. However, on balance, these likely costs for certain traders and users are not considered to constitute compelling reasons against the imposition of anti-dumping measures.

Referring to the findings of higher dumping margins than in the investigation that led to the imposition of the measures currently in force against Bulgaria and South Africa, it is concluded that the injurious situation of the Community industry would be worsened if the measures were allowed to lapse or were continued in their current level.
Undertakings have been offered from the exporting producers in [Bulgaria, Egypt, Slovakia, South Africa and Turkey] and were accepted.

Regarding the parallel safeguard measures on HRC’s, a Council Regulation has been adopted regarding the measures that may be taken by the Community in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures. In the present case it is considered that the combination of the above-mentioned anti-dumping duties with the safeguard measures could lead to effects which are greater than desirable in terms of the Community’s trade defence policy. The Commission should therefore propose that the Council amend the level of the anti-dumping duty applicable when the safeguard additional duty is also payable.

It is hereby proposed that the Council adopts the attached proposal for Regulation.
Proposal for a

COUNCIL REGULATION

imposing a definitive anti-dumping duty on imports of certain flat rolled products of
iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils,
not further worked than hot-rolled, originating in Egypt, Slovakia and Turkey,
terminating the proceeding in respect of such imports originating in Hungary, Iran and
Libya, amending Commission Decision No 283/2000/ECSC imposing a definitive anti
dumping duty on imports of certain flat rolled products of iron or non-alloy steel, of a
width of 600 mm or more, not clad, plated or coated, in coils, not further worked than
hot-rolled, originating, inter alia, in Bulgaria and South Africa and specifying the rate of
anti-dumping duty payable when a safeguard additional duty is payable

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 Community¹
(hereinafter referred to as ‘the Basic Regulation’), and in particular Article 9 and Article 11(3)
thereof,

transitional provisions concerning anti-dumping and anti-subsidy measures adopted pursuant
to Commission Decision No 2277/96/ECSC and No 1889/98/ECSC as well as pending anti-
dumping and anti-subsidy investigations, complaints and applications pursuant to those
Decisions²,

Having regard to Council Regulation (EC) No REG .../2003

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

Whereas:

A. PROCEDURE

1. Legal basis

(1) The Treaty establishing the European Coal and Steel Community (ECSC Treaty)
expired on 23 July 2002. Products, which were covered by the ECSC Treaty, are
currently subject to the Treaty establishing the European Community as of 24 July

7.11.2002, p.1)
² OJ L 149, 7.6.2002, p.3
2002. In accordance with Council Regulation (EC) No 963/2002 all anti-dumping investigations pending at that date are therefore governed by the Basic Regulation.

2. Measures in force

(2) In February 2000, by Commission Decision No 283/2000/ECSC\(^3\), the Commission imposed definitive anti-dumping duties on imports of certain flat rolled products of iron or non-alloy steel, not further worked than hot rolled, originating in Bulgaria, India, Taiwan, South Africa, and the Federal Republic of Yugoslavia.

(3) The level of the definitive anti-dumping duties found for the exporting producers in Bulgaria and South Africa subject to the above mentioned investigation expressed as a percentage of the CIF frontier value was as follows:

<table>
<thead>
<tr>
<th>Country</th>
<th>Company</th>
<th>Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>Kremikovtzi Corporation, Sofia, Botunetz</td>
<td>7.5%</td>
</tr>
<tr>
<td></td>
<td>All other companies</td>
<td>7.5%</td>
</tr>
<tr>
<td>South Africa</td>
<td>Iscor, Ltd. Pretoria, and Saldanha Steel (PTY) Ltd., Saldanha</td>
<td>5.2%</td>
</tr>
<tr>
<td></td>
<td>Highveld, Steel and Vanadium Corporation Ltd., Witbank</td>
<td>37.8%</td>
</tr>
<tr>
<td></td>
<td>All other companies</td>
<td>37.8%</td>
</tr>
</tbody>
</table>

(4) By the same Decision, the Commission also accepted a minimum price undertaking offered by the sole known exporting producer in Bulgaria and by one of the two known exporting producers in South Africa, namely Highveld.

3. Present investigations

(5) Pursuant to Article 5 of Decision n° 2277/96/ECSC\(^4\) (the ECSC Decision), the Commission on 20 December 2001 announced by a notice (‘notice of initiation’) published in the *Official Journal of the European Communities*\(^5\) the initiation of an anti-dumping proceeding with regard to imports into the Community of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled (‘hot rolled coils or HRC’s’), originating in Egypt, Hungary, Iran, Libya, Slovakia and Turkey.

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The initiation of the investigations resulted from a complaint and a request for a review lodged in November 2001 by Eurofer (European Confederation of Iron and Steel Industries) (‘the complainant’) on behalf of producers representing a major proportion of the total Community production of HRC’s. The complaint contained prima facie evidence of dumping of HRC’s originating in Egypt, Hungary, Iran, Libya, Slovakia and Turkey and of material injury resulting therefrom. The request for a review contained prima facie evidence that dumping continued and that the existing measures against imports from Bulgaria and South Africa were not sufficient to counteract the injurious effects of dumping. The evidence contained in the complaint and the request for a review was considered sufficient to justify the initiation of both anti-dumping investigations. For reasons of administrative efficiency both investigations were combined.

The Commission officially advised the complainant Community producers, as well as the other known Community producers, the exporting producers, importers, Community users and suppliers known to be concerned and the representatives of the exporting countries of the initiation of the investigations. Interested parties were given the opportunity to make their views known in writing and to request a hearing.

A number of exporting producers, as well as complainant and other Community producers, importers and users made their views known in writing. All parties, who so requested and indicated that there were particular reasons why they should be heard, were granted a hearing.

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 notices of initiation. Replies were received from the nine complaining Community producers, seven other Community producers, nine exporting producers and eleven importers related to these exporting producers, two unrelated importers, four unrelated importers/users and one user in the Community.

The Commission sought and verified all the information it deemed necessary for the purpose of the determination of dumping, resulting injury and Community interest. Furthermore, in the framework of the interim review concerning the definitive anti-dumping duties imposed on imports of the product concerned originating in Bulgaria and South Africa, the Commission carried out an investigation as to whether it was likely that injurious dumping would continue/recur should the anti-dumping measures be modified or allowed to lapse, i.e. whether changed circumstances could be reasonably considered of a lasting nature. Verification visits were carried out at the premises of the following companies:

a) Exporting producers

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- Bulgaria
  Kremikovtzi Corporation, Sofia, Botunetz

- Egypt
  Alexandria National Steel and Iron Company, Alexandria

- Hungary:
  DUNAFERR SteelWorks Company Limited, Dunaujvaros
  DUNAFERR Kereskedőház Kft. (Trading House), Budapest
  DWA Hideghengermű Kft., Dunaujvaros

- Iran:
  Mobarakhe Steel Company, Esfahan

- Libya
  Libyan Iron and Steel Company (Lisco), Misurata

- Slovakia
  U.S. Steel Kosice, Kosice

- South Africa
  Highveld Steel and Vanadium Corporation Ltd, Witbank
  Iscor Ltd, Pretoria and Saldanha Steel (PTY) Ltd, Saldanha

- Turkey
  Ereğli Demir ve Celik Fabrikalari T.A.Ş, Zonguldak
  Borçelik Celik Sanayii Ticaret A.S., Bursa

b) Producers in the Community

- Aceralia Corporacion siderurgica, Madrid, Spain

- Corus Staal B.V., Ijmuiden, The Netherlands

- Corus U.K., London, United Kingdom

- ILVA Spa, Genova, Italy

- Salzgitter Flachstahl GmbH, Salzgitter, Germany

- Sidmar N.V., Gent, Belgium

- Stahlwerke Bremen GmbH, Bremen, Germany

- Thyssen Krupp Stahl AG, Duisburg, Germany
c) Unrelated importer in the Community
- Stemcor Europe Limited, London, United Kingdom

d) Unrelated importer/user in the Community
Marcegaglia S.p.A., Gazoldo Ippoliti, Italy

e) Related importers in the Community
- US Steel Kosice Germany GmbH, Düsseldorf, Germany

(f) Related companies outside the Community
-Kremikovtzi Trade EOOD, Sofia, Bulgaria
-Mac Steel International South Africa, Johannesburg, South Africa

(12) The investigation of dumping and injury covered the period from 1 January 2001 to 31 December 2001 (‘investigation period’ or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from 1 January 1998 to the end of the IP (‘the period considered’). These periods were also used for the review investigation.

(13) Given the complexity of the present investigation provisional measures were not imposed in the proceeding initiated pursuant to Article 5 of the Basic Regulation.

(14) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend

(i) the imposition of definitive anti-dumping duties on imports of HRC’s originating in Egypt, Slovakia and Turkey,

(ii) the termination of the proceeding against imports of HRC’s originating in Hungary, Iran and Libya.

(iii) to amend Commission Decision 283/2000/ECSC imposing definitive anti-dumping duties on, inter alia, imports of HRC’s originating in Bulgaria and South Africa and accepting undertakings from certain exporting producers

In accordance with the provisions of the basic Regulation parties were granted a period in which they could make representations subsequent to this disclosure.

(15) The oral and written comments submitted by the parties were considered and, where appropriate, the definitive findings have been modified accordingly.

4. Opening of the present investigations

(16) It has been claimed that the non-inclusion of Russian imports in the complaint constitutes discrimination and infringement of Article 9(5) of the basic Regulation. In this respect it is noted that no complaint against this country was lodged and that no prima facie evidence of dumping and injury justifying the initiation of an anti-dumping investigation was available. As, furthermore, the investigation has not revealed any evidence, which could point to injurious dumping practices by this third country’s exports, the allegation of discrimination was not found to be substantiated.
5. Other investigations and measures in force

(17) On 28 September 2002 the Commission by Commission Regulation (EC) No 1694/2002\(^7\) imposed definitive safeguard measures against imports of certain steel products of which HRC’s form a product group. Based on this Regulation, HRC’s currently fall under a tariff quota system above which an additional safeguard duty rate applies.

(18) Based on the Commission Decision mentioned in recital (2) anti-dumping measures, not subject to the review investigation, are currently in force against imports of HRC’s from India, Taiwan and the Federal Republic of Yugoslavia.

(19) By Commission Decision No 284/2000/ECSC of 4 February 2000\(^8\) definitive countervailing duties were imposed on imports of hot rolled coils originating in India and Taiwan. By the same Decision the Commission accepted undertakings offered by certain exporting producers in India.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(20) The definition of the product concerned corresponds to the one that was used in the investigation mentioned under recital (2) above.

(21) The product under consideration is certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled. This product is currently classifiable within CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10 and 7208 39 90.

(22) HRC’s can be classified according to their finishing: black HRC’s can be considered the basic product as opposed to pickled HRC’s, which undergo an additional surface treatment called pickling. The distinction between the two major types is reflected in the CN codes (7208 25 00, 7208 26 00, 7208 27 00 are pickled).

(23) The investigation showed that both major types of HRC’s are imported from the exporting countries under investigation (“the countries concerned”), although black coils form the majority of imports, as also already found in the above mentioned former review investigation. Notwithstanding the fact that each CN code corresponds to a distinguishable type of HRC’s mainly based on thickness and surface treatment, it was found that they all have identical or similar physical and technical characteristics and uses. Accordingly, all types of HRC’s form one single product falling under the CN codes listed in recital 21 above.

2. Like product

(24) Similar to the findings of the investigation mentioned under recital (2) above, it was found that there were no differences in the basic physical and technical characteristics and uses of the HRC’s imported into the Community originating in the countries

\(^7\) OJ L 261, 28.9.2002, p.1
\(^8\) OJ L 31, 5.2.2000, p.44
concerned and the HRC’s produced by the Community industry. It was also found that there was no difference between the HRC’s produced in the countries concerned and exported to the European Community and those sold on the domestic market of the same countries. It was therefore concluded that both the HRC’s produced and sold by the Community industry on the Community market and the HRC’s produced and sold on the domestic market of the countries concerned were, within the meaning of Article 1(4) of the basic Regulation, alike to the HRC’s imported into the Community from the countries concerned.

C. DUMPING

1. General methodology

(25) The general methodology set out hereinafter has been applied for all exporting countries concerned by the present proceeding. The presentation of the findings on dumping for each of the countries concerned therefore only describes what is specific for each exporting country.

Normal value

(26) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of HRC’s 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.

(27) The Commission subsequently identified those product types, sold domestically by the companies having representative domestic sales, that were identical or directly comparable to the types sold for export to the Community. Product types were considered directly comparable when, although almost identical, they nevertheless had some minor physical differences such as length or width.

(28) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type 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 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 exported to the Community.

(29) According to Articles 2(3) and 2(4) of the Basic Regulation, an examination was also made as to whether the domestic sales of each 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, sold at a net sales price equal to or above the calculated cost of production, represented 80% or more of the total sales volume and in cases 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 HRC’s represented less than
80% but 10% or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales only.

(30) In cases where the volume of profitable sales of a type represented less than 10% of the total sales volume, it was considered that this type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(31) Wherever domestic prices of a particular type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. This was the case for Bulgaria, Egypt, Slovakia and Turkey. In this regard, Article 2(1) of the Basic Regulation foresees that prices of the product concerned charged on the domestic market by another producer may be used. However, in Bulgaria, Slovakia and Turkey, there was only one exporting producer and in Egypt, only one of the existing exporting producers co-operated in the present proceeding. Therefore, no information was available concerning domestic sales prices of other producers of hot rolled coils in these countries. In any case, it was also considered that the large variety of different types of the product concerned, depending in particular on steel grades, width, length, strip treatment and strip pattern, would have implied numerous adjustments, which, in turn, would have to be based on estimates, had prices by other producers for such types been used to establish normal value. Consequently, normal value was constructed in accordance with Article 2(3) of the Basic Regulation by adding to the manufacturing cost of the exported types a reasonable percentage for selling, general and administrative expenses (“SG&A”) and a reasonable margin of profit realised on the domestic market.

(32) Therefore, the Commission examined whether the SG&A incurred and the profit realised by each of the producing exporters concerned on the domestic market constituted reliable data.

(33) Actual domestic SG&A expenses were used where the domestic sales volume of the company concerned could be regarded as representative. The domestic profit margin was determined on the basis of domestic sales made in the ordinary course of trade. In all cases where these conditions were not met, the Commission examined whether data of other exporters or producers could be used. As already mentioned above, for Bulgaria, Slovakia and Turkey there was only one exporting producer, while for Egypt only one of the two known exporting producers co-operated during the present investigations. In the case of South Africa, only two exporting producers co-operated and therefore, data of the remaining co-operating exporting producer could not be used to establish the amount of profit for the other exporting producer, as one set of data can not be considered as a weighted average in the meaning of Article 2(6)(a) of the Basic Regulation. Therefore, whenever possible, the Commission used the amount of SG&A expenses and profit applicable to the same general category of products for the exporting producer concerned as a basis for the construction of the normal value, in accordance with Article 2(6)(b) of the Basic Regulation. In all other cases, SG&A and profits were established in accordance with Article 2(6)(c) of the Basic Regulation, i.e. on the basis of any other reasonable method.

(34) Finally, in cases where the exporting producer was located in a country with significant inflation, normal value was established on a monthly basis, in order to make the comparison with the export price as fair as possible.
Export price

(35) In all cases where hot rolled coils were exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the Basic Regulation, namely on the basis of export prices actually paid or payable.

(36) Where the export sale was made via a related importer, the export price was constructed pursuant to Article 2(9) of the Basic Regulation, duly adjusted for all costs incurred between importation and resale, as well as a reasonable margin for SG&A and profits for the related importer. In this regard, the related importer’s own SG&A costs were used. The profit margin was established on the basis of the information available from co-operating unrelated importers.

Comparison

(37) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation. Appropriate adjustments were granted in all cases where they were found to be justified, accurate and supported by verified evidence.

Dumping margin for the companies investigated

(38) According to Article 2(11) of the Basic Regulation, for each exporting producer the weighted average normal value by type was compared with the weighted average export price.

Residual dumping margin

(39) For non-co-operating companies, a “residual” dumping margin was determined in accordance with Article 18 of the Basic Regulation, on the basis of the facts available.

(40) For those countries with a reported level of export volume close to the information provided by Eurostat, it was considered that the level of the country-wide co-operation was high. Indeed, in these cases, there was no reason to believe that any exporting producer abstained from co-operating. Therefore, it was decided to set the residual dumping margin at the level of the co-operating company with the highest dumping margin in order to ensure the effectiveness of any measures.

(41) For those countries where the level of co-operation was low, i.e. the reported level of export volume by the co-operating companies represented less than 80% of the import volume recorded in Eurostat, the residual dumping margin was determined on the basis of the highest dumped export sales to the Community of representative quantities. This approach was also considered necessary in order to avoid giving a bonus for non-co-operation and in view of the fact that there were no indications that a non-co-operating party had dumped at a lower level.

2. Bulgaria

(42) The sole known exporting producer replied to the questionnaire. Part of the domestic sales was sold to a related company, which re-sold the product concerned on the domestic market. The information concerning re-sales of the product concerned to the
first independent customers as well as costs incurred when reselling the product was collected and verified during the on-spot verification visit.

Normal value

(43) Since domestic sales of HRC’s were not representative when compared with exports of the product concerned to the Community, and given that there were no other known producers of HRC’s in Bulgaria, normal value had to be constructed in accordance with Article 2(3) of the Basic Regulation.

(44) As far as SG&A and profits are concerned, it was examined whether these could be established in accordance with Article 2(6)(b) of the Basic Regulation, i.e. on the basis of the actual amounts applicable to production and sales of the same general category of products. Since this data was not available, the Commission based the calculation of SG&A and profit on any reasonable basis in accordance with Article 2(6)(c) of the Basic Regulation. In the absence of any other more reliable information, it was considered that the information submitted by the Community industry in the request was the most reasonable basis and was therefore used. In any event, this approach was the most favourable with regard to the exporting producer concerned.

Export price

(45) All export sales were made directly to independent customers in the Community and the export price was therefore established pursuant to Article 2(8) of the Basic Regulation. It is noted that these prices were in accordance with the minimum price undertaking in force.

Comparison

(46) Adjustments were made for differences in inland freight costs and bank charges.

Dumping margin

(47) The comparison between the normal value and the export price showed the existence of dumping in respect to the co-operating exporting producer, despite the exporter respecting the minimum price undertaking. The dumping margin expressed as a percentage of the CIF import price at the Community border is

Kremikovtzi Corporation, Sofia, Botunetz, and Kremikovtzi Trade EOOD, Sofia, Botunetz : 8.6%

(48) It was found that the level of co-operation for Bulgaria was high and the residual dumping margin was set at the same level as for the co-operating company, i.e. 8.6%.

3. Egypt

(49) One exporting producer replied to the questionnaire. Part of the domestic sales was made to a related company, which re-sold the product concerned on the domestic market.
Normal value

(50) Nearly half of the domestic sales were made in the ordinary course of trade and normal value was therefore established on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation. For the remaining product types exported to the Community for which no or insufficient domestic sales were made in the ordinary course of trade, normal value was constructed in accordance with Article 2(3) of the Basic Regulation.

(51) Normal value was constructed on the basis of the cost of manufacturing and the SG&A expenses per product type incurred on domestic sales as established during the investigation, i.e. costs per product type were used. The profit margin was determined on the basis of domestic sales made in the ordinary course of trade in accordance with Article 2(6) of the Basic Regulation.

(52) As far as sales of the product concerned via the related company on the domestic market are concerned, normal value was established on the basis of the resale price to the first independent customer. In order to determine whether these sales were made in the ordinary course of trade, SG&A of the related company as established during the on spot investigation were added to the reported cost of production of the relevant product types of the exporting producer.

Export price

(53) All export sales were made directly to independent customers in the Community and the export price was therefore established pursuant to Article 2(8) of the Basic Regulation.

Comparison

(54) Adjustments were made for sales discounts, inland transport, ocean freight cost, bank charges, packing cost and credit cost.

(55) As far as bank charges for export sales to the Community are concerned, these had to be corrected on the basis of the findings during the on-spot verification because of a clerical error in the reporting. Also, costs for the letter of credit issued for each export sale were not reported and had to be added on the basis of actual figures found during the on-spot investigation.

(56) The company also claimed an adjustment for import duties paid for raw materials used in the production of the product concerned when intended for consumption on the domestic market and not collected or refunded in respect of the product exported to the Community on the basis of Article 2(10)(b) of the Basic Regulation. Although, a certain amount was received per exported ton of flat products including HRC, the amount received when exporting HRC only could not be quantified. Furthermore, no evidence could be provided that duties refunded when the product was exported were incorporated in the normal value. The claim had therefore to be rejected.

Dumping margin

(57) The comparison between the normal value and the export price showed the existence of dumping in respect of the co-operating exporting producer. The dumping margin
expressed as a percentage of the CIF import price at the Community border is

Alexandria National Iron & Steel Company, Eldekheila, Alexandria: 34.4%

(58) It was found that the level of cooperation for Egypt was low. The residual dumping margin was therefore determined on the basis of the weighted average dumping margin of the highest dumped product types exported to the Community representing 10% of the total export sales volume during the investigation period. The residual dumping margin amounted thus to 58.4%.

4. Hungary, Iran and Libya

(59) For the reasons set out in recital (186) and (130) below, the proceeding was terminated in respect of imports of hot rolled coils originating in Hungary, Iran and Libya. It is noted that the dumping margin for the sole Hungarian exporting producer after comparing normal value and export prices amounted to around 20%.

5. Slovakia

(60) The sole known exporting producer and its four related importers replied to the questionnaire.

Normal value

(61) The exporting producer’s domestic sales of HRC’s were not representative when compared with its exports of HRC’s and domestic prices could therefore not serve as a basis for normal value. Given the fact that there were no other known producers of HRC’s in Slovakia, normal value could not be based on prices of other sellers or producers.

(62) The exporting producer claimed that although domestic sales were below the threshold referred to in Article 2(2) of the Basic Regulation, they were still of sufficient magnitude to serve as a basis for the determination of normal value. It should be noted that besides the fact that domestic sales were significantly below the 5% threshold, the actual quantities sold by the company were fairly limited.

(63) Consequently, normal value was constructed. In accordance with Article 2(6)(b) of the Basic Regulation, the SG&A expenses and profit used were those applicable to production and sales of the same general category of products, i.e. hot rolled products (coils, sheets and strips), for the exporting producer in question in Slovakia. The domestic sales of hot rolled products were made in significant quantities.

(64) The exporting producer claimed that SG&A expenses and profit used by the Commission were influenced by the high profit made on one particular product out of those belonging to the same general category used to determine SG&A expenses and profit. The exporting producer claimed an adjustment for physical differences under Article 2(10)(a) of the Basic Regulation, which would correspond to a reasonable estimate of the market value of the difference between coils and the higher priced product. Alternatively, an adjustment for other factors within the meaning of Article 2(10)(k) should be granted.

(65) It is noted that in this case, as mentioned above in recital (61) and in accordance with Article 2(6) of the Basic Regulation, data pertaining to sales of the product concerned
could not be used for the calculation of the constructed normal value and SG&A and profit from the same general category of products were used instead. By definition, the general category is composed of several products the actual amounts of SG&A and profit of which form an average and accordingly, individual values may be above or below the average arrived at. Furthermore, the exporter’s argument is circular: since SG&A and profit for the product concerned could not be used because of not being representative, it is also impossible to base an adjustment on this unreliable set of data.

Finally, Article 2(10) concerns differences affecting price comparability between normal value and export price of the product concerned. An alleged difference in profit margins between the like product and one of the products of the same general category of products is not in itself relevant under Article 2(10). Since no comparison was established between HRC’s (the product concerned) and the other products, which compose the same general category of products, no adjustment is necessary. Furthermore, differences in physical characteristics between the products within the same general category are reflected both in costs and prices. By using actual costs and prices of each of the products the Commission has duly taken account of any of such differences.

Export price

Around 50% of export sales were made directly to independent customers in the Community and the export price was therefore established in accordance with Article 2(8) of the Basic Regulation, namely on the basis of export prices actually paid or payable. The remaining export sales were made through four related importers, based in the Community.

Where the export sale was made via a related importer, the export price was constructed pursuant to Article 2(9) of the Basic Regulation.

For those sales made by the exporting producer to a related end-user, representing 10% of the quantity exported and which were not resold in the condition in which they were imported, the Commission considered it appropriate to disregard these sales since the remaining export sales were a representative basis for the dumping calculation.

Comparison

Adjustments were made for differences in physical characteristics, level of trade, commissions, freight, handling, loading and ancillary costs, insurance, packing, credit and bank charges.

As far as the adjustment for differences in physical characteristics is concerned, the company was not able to quantify its claim. Therefore in the absence of any other more reliable information, the adjustment was calculated on the basis of the difference in price of prime and non-prime products sold on the domestic market.

Regarding the adjustment for level of trade, the exporting producer alleged that on the domestic market the product concerned was exclusively sold to end-users while only around half of the exported quantity was sold to this category of customers, the remaining being sold to distributors. Furthermore, the exporting producer claimed that it performed different functions depending on the category of customer, namely
providing technical assistance and after sales services to users whereas for sales to distributors such services were not provided.

(73) When examining this claim, the Commission considered that export sales to related importers in the Community were subsequently re-sold to independent end-users and distributors. In this case, the export price was constructed as mentioned in recital (36) above. However, it was not possible to exactly identify the resulting level of trade after the construction of the export price. It was therefore decided not to use these quantities for the purposes of comparison. It was considered that direct export sales to unrelated distributors and end-users representing more than half of the export sales in question reasonably reflect the overall dumping margin. In any event, the granting of the adjustment as claimed by the company would not have any impact on the definitive duty imposed.

(74) As far as direct export sales to independent distributors were concerned it was concluded that the claimed adjustment was warranted. Since the exporting producer did not sell to this level of trade in the domestic market, and following the claim by the company, the adjustment according to Article 2(10)(d) (ii) was established on the basis of 10% of the gross margin (SG&A expenses plus profit), realised on the production and sales of the same general category of products, in line with the established practice of the Community Institutions.

*Dumping margin*

(75) The comparison between the normal value and the export price showed the existence of dumping in respect of the co-operating exporting producer. The dumping margin expressed as a percentage of the CIF import price at the Community border is

U.S. Steel Kosice, s.r.o., Kosice, Slovakia: 25.8%

(76) The level of co-operation for Slovakia was high and the residual dumping margin was set at the same level as for the co-operating exporting producer, i.e. 25.8%.

6. South Africa

(77) The two known exporting producers in South Africa replied to the questionnaire.

(78) One of the exporting producer consists of a group of related companies, two of which are producers of the product concerned, both having sold HRC’s on the domestic market and exported it to the Community. Furthermore, the group also encompasses three related importers in the Community and one related company in South Africa which were involved in the export of the product concerned. All of these related companies submitted a questionnaire reply. For this exporting producer a single individual dumping margin was established since it was considered as one economic entity.

(79) For the second exporting producer an undertaking had been accepted during the original investigation. It was established that this exporting producer did not export the product concerned to the Community during the investigation period. Therefore, no dumping margin relating to the current investigation period could be established. It was however examined whether it would be likely that dumping would recur should measures be allowed to lapse (see recital (226) to (233) below).
Normal value

(80) Normal value for the two producers’ part of the group was established separately, since both sold the product concerned on the domestic market during the investigation period.

(81) For one of these producers none of the domestic sales were made in the ordinary course of trade and normal value had therefore to be constructed in accordance with Article 2(3) of the Basic Regulation. The reported cost of manufacturing and the actual SG&A were used in the calculation of the normal value.

(82) As far as the reasonable amount for profits is concerned, it was first examined whether it could be established in accordance with Article 2(6)(b) of the Basic Regulation. Since the company did not produce and sell products of the same general category than the product concerned, the Commission established the profit margin on any other reasonable basis in accordance with Article 2(6)(c) of the Basic Regulation. In the absence of any other more reliable information, it was considered that the information submitted by the Community industry in the request was the most reasonable basis and was therefore used.

(83) For the other producer of this group, almost 90% of the domestic sales were made in the ordinary course of trade and for these sales normal value was established on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation. For those product types exported to the Community for which no or insufficient domestic sales were made in the ordinary course of trade, normal value was constructed in accordance with Article 2(3) of the Basic Regulation for the type of the product concerned sold to the Community. In this regard, the company’s own data regarding cost of manufacturing, SG&A and profits pertaining to the product concerned were used.

(84) For the second exporting producer in South Africa, which did not export the product concerned during the investigation period normal value has not been calculated.

Export price

(85) For the exporting producer who did not export the product concerned during the investigation period, no export price could be established.

(86) For export sales made by the two producers of the same group, export prices were established separately for each producer part of the group, since both exported the product concerned to the Community during the investigation period.

(87) One of these producers made all export sales to the Community directly to independent customers and the export price was therefore established pursuant to Article 2(8) of the Basic Regulation.

(88) For all export sales made via its related company the export price had to be constructed pursuant to Article 2(9) of the Basic Regulation.

(89) It was claimed that, for the sales via one of the related importers to independent customers, only the related company in South Africa was involved, and that therefore the export price should not be constructed but established on the basis of the prices
paid or payable in accordance with Article 2(8) of the Basic Regulation. However and in contrast to what was claimed, the investigation revealed that all related importers in the Community, including the one in question, were responsible for regularly marketing the product. The related importer was therefore clearly involved in the selling of the product concerned in the Community and costs were incurred by this importer when importing and reselling HRC’s in the Community, which had to be deducted from the export price in accordance with Article 2(9) of the Basic Regulation. More importantly, the prices between the exporting producer in South Africa and its related importer in the Community were intra-group transfer prices. Accordingly, they had to be considered as unreliable. Therefore, the export price for sales made via the related importers had to be constructed in accordance with Article 2(9) of the Basic Regulation.

*Comparison*

(90) Adjustments were made for commissions, freight, handling, loading and ancillary costs, insurance, packing, credit and bank charges.

(91) The exporting producer claimed that start-up costs should be taken into consideration and that therefore the cost of manufacturing for the investigation period should be based on data pertaining to the end of 2001 or the beginning of 2002. However, the on-spot verification showed that the production for sale started already in 1999 and that the capacity utilisation rates reached between 1999 and the end of the investigation period were significant, i.e. the company was producing almost at full capacity. Finally, in the company’s internal accounting, all production expenses have been treated as part of normal cost accounting since July 1999. Therefore, the claim to take into consideration start-up costs during the investigation period could not be accepted.

*Dumping margin*

(92) A single individual dumping margin was calculated with respect to one exporting producer in South Africa, namely the group consisting, *inter alia*, of two related producers, due to the fact that it was the only with export sales.

(93) The comparison between the normal value and the export price showed the existence of dumping in respect of this exporting producer. The dumping margin was calculated on the basis of the total dumping amount found for each individual producer within this group. The dumping margin expressed as a percentage of the total CIF import price of the group at the Community border is

Iscor Steel, Saldanha Steel, Macsteel International South Africa (Pty) Ltd, and Macsteel International UK Ltd : 85.1%

(94) As mentioned above in recital (79), one exporting producer in South Africa did not export the product concerned during the investigation period. No new dumping margin could therefore be established for this company.

(95) The level of co-operation for South Africa was high and the residual dumping margin was set at the level of the co-operating company with the highest dumping margin in order to ensure the effectiveness of any measures, i.e. 85.1%
7. Turkey

(96) The sole known exporting producer in Turkey replied to the questionnaire. This exporting producer had one related customer which used the purchased quantities mainly as a raw material for further processing, but also re-sold very small quantities of the product concerned both, on the domestic market and to the Community during the IP. In both cases, the resold quantities represented less than 1% of the total sales of the exporting producer. Consequently, the volume of the sales made by the exporting producer directly to the independent customers on the domestic market and to the Community was considered sufficiently representative. Therefore, it was decided to disregard the sales made via the related customer.

Normal value

(97) Since Turkey is a country, which experienced significant inflation during the IP, normal value was established on a monthly basis in order to reduce possible distortions due to this inflation.

(98) Approximately one third of the domestic sales were made in the ordinary course of trade and normal value for these sales was consequently established in accordance with Article 2(1) of the Basic Regulation.

(99) For the remaining domestic sales, normal value had to be constructed in accordance with Article 2(3) of the Basic Regulation.

(100) As far as manufacturing cost are concerned, the company allocated costs to the different types of HRC’s sold on the basis of a statistical coefficient capturing differences in width, thickness and steel quality of the product. However, this allocation method was never actually used in the company’s cost accounting system but was only suggested for the purpose of the present proceeding. In the cost accounting system of the company the cost of manufacturing was kept on a per type basis (product families). It could not be established whether the allocation of costs on the basis of the statistical coefficient was more accurate than the allocation method on the basis of product families. Therefore, it was considered more appropriate to use the allocation method used by the company in their accounts, i.e. monthly manufacturing cost per product family. This approach was also agreed by the company.

(101) Cost of production for product families for which the exporting producer did not provide any information on costs in a certain month, were established on the basis of facts available, i.e. on the basis of the highest cost found for any other product family in the same month. The company contested this approach. However, the company submitted contradicting information with regard to production and sales volume and did furthermore not provide any evidence that the methodology used by the Commission was unreasonable. Consequently, the approach used by the Commission was considered to be the most appropriate.

(102) Normal value was constructed on the basis of cost of manufacturing by adding a reasonable amount of SG&A and profit. As far as SG&A expenses on the domestic market were concerned, these were used as established during the on-spot investigation, i.e. on a product family (product type) basis. The profit margin was determined on the basis of domestic sales made in the ordinary course of trade in accordance with the chapeau of Article 2(6) of the Basic Regulation.
**Export price**

(103) The export sales reported by the company were initially converted from US$ into Turkish liras on the basis of the monthly exchange rates as provided by the Commission services. Due to the sharp inflation of the Turkish lira during the IP it was considered more accurate to use the daily exchange rates of the Turkish central bank as submitted on spot.

(104) Export sales were established pursuant to Article 2(8) of the Basic Regulation.

**Comparison**

(105) Adjustments for differences in credit costs, deferred rebates, handling and loading cost and packing cost have been granted.

(106) An adjustment was claimed on the normal value for differences in credit costs. However, the investigation revealed that no such credit cost were incurred by the exporting producer concerned. It was found that although the company granted so-called “deferred payment terms”, the cost of the credit granted was borne by the customer, and not by the company. It was indeed found that the system worked as follows: The customer issued a bond for the invoice value. At maturity date of the bond the exporting producer cashed an amount corresponding to the sales price plus the interest. However, for the purpose of this investigation only the amount corresponding to the sales price, i.e. without interest, has been taken for comparison. Consequently, no adjustment was warranted. The exporting producer opposed to these findings but could not submit any evidence, which could have put in doubt the above findings. The claim had therefore to be rejected.

(107) The exporting producer also reported credit costs on its export sales to the Community, which could be verified and were accordingly deducted from the export price when calculating the dumping margin. After disclosure of the findings, the exporting producer claimed, however, that these costs should not be taken into consideration since they have no impact on the determination of the sales price. This new argument could not be supported by any evidence and had therefore to be rejected.

(108) As far as the adjustment for deferred rebates on the domestic market is concerned, the company provided contradicting information. After examination of all information submitted and explanations given, it had to be concluded that it was not possible to establish a direct link between the rebates granted and the sales of the product concerned during the investigation period. Furthermore, no evidence for the actual payment of rebates relating to these sales was submitted. The company in fact provided information regarding deferred rebates for sales of a whole category of products (hot rolled products) including the product concerned, whereas the amounts for rebates relating to the domestic sales of HRC’s during the investigation period could not be specified. The claim had therefore to be rejected.

(109) The company did not report handling and loading cost incurred for the domestic and the export sales of the product concerned, although it was requested in the questionnaire. During the on-spot investigation, the company was again asked to provide details of these costs, which could, however, not be provided.
The Commission, in the absence of any more reliable information, had to base its calculation of the appropriate adjustments on estimates, in accordance with Article 18 of the Basic Regulation. It was considered that the most reasonable methodology was to base the calculation of the relevant adjustment on the costs found and verified for the Egyptian company covered by the same proceeding. This Egyptian company showed close resemblance to the Turkish company as far as the relevant elements are concerned, i.e. both companies are situated at the seaside and have their own port facilities. Handling and loading costs thus established were deducted from the normal value and export price.

The company also claimed an adjustment for differences in physical characteristics between the product sold on the domestic market and the product exported to the Community. The amount of the adjustment claimed was based on the yearly average difference between the cost of production according to width, thickness and steel grades of these product types during the IP. As mentioned above, it was found that no difference in costs linked to these factors existed.

Subsequently, the company claimed that the differences in physical characteristics should be calculated on the basis of price lists submitted during the investigation. It should first be noted that this claim was made at a very late stage of the proceeding and that the information submitted in this regard was insufficient and could in any case not be verified. Finally, it should be noted that in the present investigation, the Commission used internal product codes pertaining to different product families as identified by the company in their accounts. It was found that these product types are identical on the domestic and the export market and allowed consequently a comparison without the need to proceed to numerous adjustments.

Dumping margin

Export sales to the EC were made on a FOB basis. Ocean freight and insurance cost were established on the basis of the information submitted by the Turkish exporting producer.

The comparison between the normal value and the export price showed the existence of dumping in respect of the co-operating exporting producer. The dumping margin expressed as a percentage of the CIF import price at the Community border is

Ereğli Demir ve Celik Fabrikalari T.A.Ş, Zonguldak, Turkey: 11.5%

As the level of co-operation for Turkey was high the residual provisional dumping margin was set at the same level as for the co-operating company, i.e. 11.5%.

D. DEFINITION OF THE COMMUNITY INDUSTRY

1. Community production

During the IP HRC’s were manufactured in the Community by the following companies:

- nine complainant producers who co-operated in the proceeding, but of which one was unable to submit all the data required for the purpose of the investigation;
seven non-complainant producers who only partly co-operated in the proceeding, but provided general information to the Commission, six of which supported the complaint and one which did not express any opinion.

(117) The HRC’s produced by all these companies constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

(118) The eight supporting and fully co-operating Community producers, who provided sufficient information, represented a major proportion of the total Community production of HRC’s during the IP, in this case 60.2%.

(119) It was found that they purchased from the countries concerned. During the IP purchases represented less than 0.4% of the Community industry’s own production destined for the free market and less than 0.15% of the Community industry’s overall production. The company with the highest incidence of purchases from the countries concerned showed corresponding percentages of 1.61% and 0.81% respectively. The distinction between production destined for the free market and overall production is commented upon under E.1. (recitals (121) to (126)).

(120) Given their major share of total Community production and the low percentage of purchases from the countries concerned, the above mentioned eight Community producers were deemed to constitute the Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation. They are referred to as the ‘Community industry’ hereafter.

E. INJURY

1. Determination of the relevant Community market

(121) For the purpose of establishing whether or not the Community industry suffered injury and for determining consumption and the various economic indicators related to the situation of the Community industry, it was examined whether and to which extent the subsequent use of the Community industry’s production of the product concerned had to be taken into account in the analysis.

(122) HRC’s are used as an intermediate material for other steel products (such as wide and narrow strips, cold rolled products and hollows) within the same steel mill or the same group of companies, or are sold as such to a third party, related or not. The former possibility is referred to as captive use. Sales to third companies may be free market sales, but can, under certain conditions, also be captive, namely when they are not made at arm’s length conditions or when customers do not have a free choice of supplier.

(123) For the purposes of the investigation captive use was defined as occurring when production was delivered within the plant or within a group of companies for further downstream processing. In situations of captive use, internal transfers were not accompanied by invoices, or were sales made at transfer prices not set according to market conditions or were made to a company, which did not have a free choice of supplier. Consequently, captive use had to be analysed at the level of produced quantities and the proportion of total production it represented. All other situations were considered as free market sales.
In order to provide as complete a picture as possible of the situation of the Community industry, data have been obtained and analysed for the complete HRC activity and it was determined whether HRC’s were destined for captive use or destined for the free market. HRC’s destined for captive use were found not to be directly affected by imports of HRC’s. By contrast, production destined for free market sales was found to be in direct competition with imports of HRC’s, because of the fact that they were made under normal market conditions, implying free choice of supplier. Because of this, attention was focused on the free market. While, where justified, data on free market sales and captive use were combined, the analysis was also split between free market and captive deliveries where necessary and possible.

On the basis of its investigation it was found that certain economic indicators related to the Community industry could best be commented upon by referring to the complete activity. Indeed, production capacity, production (for both captive use and free market sales), capacity utilisation, cost of production, stocks, investments, employment and productivity depend upon the complete HRC’s activity, whether the production of HRC’s is transferred downstream within a group of companies for further processing or whether HRC’s are sold on the free market.

The other economic indicators related to the Community industry will be analysed and evaluated in particular referring to the situation prevailing on the free market where measurable market conditions exist and where transactions are made under normal market conditions implying free choice of supplier: in particular sales volume and sales prices on the Community market, export volume and prices. To this effect, consumption and market shares were determined based on the volume of free market sales and imports.

2. Community consumption

Community consumption was based on the volume of sales of HRC’s in the Community market by the Community industry and the other Community producers and on Eurostat-information and the questionnaire responses concerning the import volumes originating in the countries concerned and in other third countries.

<table>
<thead>
<tr>
<th>Consumption in tonnes</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>HRC</td>
<td>22,894.274</td>
<td>22,544.897</td>
<td>23,178.301</td>
<td>22,501.555</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>98</td>
<td>101</td>
<td>98</td>
</tr>
</tbody>
</table>

Community consumption of HRC’s remained almost stable over the period considered.

3. Imports of HRC’s into the Community originating in the countries concerned

The Commission considered whether imports of HRC’s originating in Bulgaria, Egypt, Hungary, Slovakia, South Africa and Turkey should be assessed cumulatively in accordance with 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 of 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.

3.1. Negligible imports

On the basis of Eurostat statistics and the questionnaire responses, imports originating in Iran and Libya, were below the 1% threshold foreseen in Article 5(7) of the basic Regulation. Therefore, the proceeding should be terminated in respect of these two countries. Their imports will nevertheless be considered in the causation analysis under factors other than the dumped imports.

3.2. Cumulative assessment of imports

Claims were made by Egypt, Hungary, South Africa and Slovakia that they should be decumulated from the other countries and hence the effects of their imports be evaluated in isolation from the other countries concerned by this proceeding.

3.2.1. Hungary

The Hungarian exporting producer claimed that its import development over the period 1998-2001 and its corresponding relatively stable market share, as well as the decrease in imports between 2000 and the IP, marginally above de minimis, should lead to decumulation from the other countries concerned and allow an evaluation in isolation.

<table>
<thead>
<tr>
<th>Hungary</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imports (tons)</td>
<td>230.348</td>
<td>254.604</td>
<td>276.028</td>
<td>242.434</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>111</td>
<td>120</td>
<td>105</td>
</tr>
<tr>
<td>Market share</td>
<td>1,01%</td>
<td>1,13%</td>
<td>1,19%</td>
<td>1,08%</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>111</td>
<td>118</td>
<td>107</td>
</tr>
</tbody>
</table>

Hungarian imports in volume increased by 5% over the period 1998-2001, whereas market share varied between 1% and 1,2%. However, the investigation also showed that the imports from Hungary, unlike all other imports, decreased between 2000 and the IP by 12%, leading to a loss in market share, which remained only minimally above 1%. Moreover the prices of a large proportion of Hungarian sales were the highest of all operators (both EC producers and imports). On this basis it is considered that the conditions of competition under which Hungarian HRC were sold on the Community market were different from those of the other operators concerned, and that consequently the effect of their imports had to be assessed separately.

The evolution of imports of HRC’s originating in Hungary thus diverged fundamentally from the evolution observed for the other countries concerned. Therefore an analysis of the possible effects of Hungarian imports, taken in isolation, is warranted. The claim was therefore accepted.
3.2.2. Egypt

(135) Based on Eurostat-figures, an Egyptian exporting producer argued that its high average import price, which remained stable over the period 2000-2001, distinguished it from the other countries concerned, because of an alleged difference in pricing policy.

(136) Based on the on-site verification, the co-operating Egyptian exporting producer was found to export to the Community at a CIF price, which was comparable to that of the other exporting producers concerned by this investigation. Such direct exports to the EU during the IP represented 76.5% of the volume reported by Eurostat.

(137) The high average import price based on Eurostat figures could be attributed to the specific delivery conditions regarding imports by an unrelated trader of HRC’s of Egyptian origin. This Community trader delivered Egyptian HRC’s customs uncleared to an important user of HRC’s in the Community. This user took care of the clearance itself and reported to the Customs Authorities a purchased CIF value and price per ton that corresponded to the Eurostat data. The reported import value therefore included the trading margin realised by the Community trader, which was the first independent buyer of HRC’s in the Community. Therefore, the figures determined during the on-site verification of the co-operating Egyptian exporting producer were confirmed.

(138) The import volume of HRC’s originating in Egypt increased by a factor of 9 over the period considered and by 66% between 2000 and the IP. Its market share attained 1.52% during the IP compared to 0.17% in 1998 and 0.88% in 2000.

(139) Therefore, given that no significant difference of the overall price, volume and market share trends by comparison to the other countries concerned could be established, the claim that the effects of imports originating in Egypt should be assessed in isolation was rejected.

3.2.3. South Africa

(140) A South African exporting producer claimed that a cumulative assessment with regard to South Africa was not warranted based on a different pattern of market share evolution during the period considered and more particularly based on the alleged fact that South Africa’s market share is negligible and that the market share follows a pattern of decrease.

(141) It should be noted that in a review investigation the likelihood of continuation or recurrence of injurious dumping is to be investigated and that the issue of market share in this respect is irrelevant. However, South Africa’s market share of free market sales in the Community during the IP was found not to be de minimis. From 1998 to 2000, a decrease of market share indeed took place to below de minimis level. However, notwithstanding the imposition of anti-dumping measures in February 2000, import volumes increased by more than a factor of 3, representing a 1.09% market share during the IP. The alleged decreasing trend of market share could therefore not be confirmed and, moreover, the imports made during the IP originating in South Africa have been found to be dumped. Furthermore, no differences of conditions of competition were claimed and none were found.
On that basis, the claim that the effects of imports of HRC’s originating in South Africa should be analysed in isolation was rejected.

3.2.4. Slovakia

The Slovakian exporting producer claimed that it only accounted for negligible imports into the Community if sales to Community producers were excluded from its overall sales to the Community and that it sold through different distribution channels and used a different marketing strategy than the other importing countries concerned.

As to the sales to Community producers it should be noted that the sales for which the Slovakian exporting producer requested the exclusion were made at dumped prices in the free market. Therefore, there are no grounds to exclude these sales from the analysis.

No substantiation was received which would lead to the conclusion that the alleged different distribution channels and marketing strategy would have led to different conditions of competition compared to the other countries concerned.

Finally, the overall import trends are in line with the overall trend found for the countries concerned. After a relatively stable period between 1998 and 2000, Slovakian imports of HRC’s more than doubled between 2000 and the IP, accounting for an increase in market share from 1,24 percentage points to 2,83 percentage points, thus well above de minimis level.

On the basis of the observations mentioned above the claim that the effect of Slovakian imports of HRC’s should be considered in isolation was rejected.

3.2.5. Conclusion on cumulative assessment of imports

For the above reasons, it is concluded that all conditions justifying the cumulation of imports originating in Bulgaria, Egypt, Slovakia, South Africa and Turkey were met.

The situation for Hungary was considered to be different, particularly in view of the development of the import volume between 2000 and the IP and the level of sales prices during the IP. The total volume of imports remained relatively stable over the period considered and even decreased by 12% between 2000 and the IP. Moreover, the prices of the most important types of Hungarian imports of HRC’s were the highest of all operators concerned selling HRC’s on the Community market during the IP. On this basis it was considered that the imports from this country should not be cumulated with the imports from the other countries concerned.
3.3. Cumulative developments of imports originating in Bulgaria, Egypt, Slovakia, South Africa and Turkey

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Imports (tons)</strong></td>
<td>1.345.709</td>
<td>1.160.570</td>
<td>1.161.248</td>
<td>2.211.852</td>
</tr>
<tr>
<td><strong>Index</strong></td>
<td>100</td>
<td>86</td>
<td>86</td>
<td>164</td>
</tr>
<tr>
<td><strong>Average import price (€ per ton)</strong></td>
<td>264,00</td>
<td>208,79</td>
<td>294,54</td>
<td>258,67</td>
</tr>
<tr>
<td><strong>Index</strong></td>
<td>100</td>
<td>79</td>
<td>112</td>
<td>98</td>
</tr>
<tr>
<td><strong>Market shares</strong></td>
<td>5,88%</td>
<td>5,15%</td>
<td>5,01%</td>
<td>9,83%</td>
</tr>
<tr>
<td><strong>Index</strong></td>
<td>100</td>
<td>88</td>
<td>85</td>
<td>167</td>
</tr>
</tbody>
</table>

(150) The volume of imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey increased significantly over the period 1998-2001, namely by 64%. After a lower level of imports during 1999 and 2000, the increase was most pronounced between 2000 and 2001 when imports increased by 90%.

(151) Eurostat statistics show that the average import price of HRC’s from Bulgaria, Egypt, Slovakia, South Africa and Turkey decreased by 2% over the period 1998-2001. The statistics however include the higher price level for Egypt as described under recitals (135) to (137) above, meaning that the average cumulative price level is actually lower. Especially between 2000 and the IP the average import price decreased by more than 12%.

(152) The market share of imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey increased considerably over the period 1998-2001 and this increase was especially pronounced between 2000 and 2001, when the market share almost doubled.

3.4. Price undercutting

(153) For the determination of price undercutting the Commission analysed price data referring to the IP. The relevant sales prices of the Community industry are net prices after deduction of discounts and rebates. Where necessary these prices were adjusted to an ex-works level, i.e. excluding freight costs in the Community. Import prices used were also net of discounts and rebates and are adjusted where necessary to CIF Community frontier. Prices were compared at the same level of trade.

(154) During the IP, weighted average price undercutting margins, expressed as a percentage of the Community industry's sales prices, indicate that on average undercutting of 3,7% of the Community industry’s sales prices by the Slovakian exporting producer occurred. It was also found that certain types of HRC’s were undercut by up to 17,7% by the exporting producers concerned.
Furthermore, the price depressive effect was assessed. Such an effect was evidenced by the fact that the Community industry lost significant market share (-3.7 percentage points between 2000 and the IP) and had to significantly reduce its prices (-10% between 2000 and the IP) to avoid losing more orders during the IP. During the IP, the Community industry nevertheless suffered significant losses.

4. Situation of the Community industry

4.1. Analysis of the factors pertinent for the overall HRC activity

4.1.1. Production, capacity and capacity utilisation

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (=IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Production</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In tons</td>
<td>41.358.852</td>
<td>41.094.020</td>
<td>42.274.032</td>
<td>38.223.630</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>99</td>
<td>102</td>
<td>92</td>
</tr>
<tr>
<td><strong>Capacity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>index</td>
<td>47.834.000</td>
<td>46.629.000</td>
<td>47.907.000</td>
<td>48.410.000</td>
</tr>
<tr>
<td><strong>Capacity utilisation</strong></td>
<td>86.5%</td>
<td>88.1%</td>
<td>88.2%</td>
<td>79.0%</td>
</tr>
</tbody>
</table>

The Community industry’s production and production capacity of HRC’s refers to the combined captive production and the production destined for the free market. Overall production decreased by 8% over the period considered, whereas capacity remained relatively stable and increased by 1%, the combined effect of which caused the capacity utilisation to decrease from 86.5% to 79%.

It should be noted that the production facilities can also be used to manufacture products that are not concerned by this proceeding, such as e.g. alloyed coils or narrow strip products. Capacity utilisation therefore has been established on the basis of the capacities officially declared to the Commission within the framework of the ECSC Treaty. These technical capacities take into account factors such as holiday periods, set-up times and periods in which the equipment stands idle for reasons of maintenance. In the steel business it is essential that a high rate of production capacity is maintained.

Given that the production capacity can be allocated to a range of products, its importance as an injury-determining factor for HRC’s should be attenuated. However, the decline of produced quantities of HRC’s between 2000 and the IP and the corresponding decrease of capacity utilisation retain their relevancy.
<table>
<thead>
<tr>
<th>Production</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (=IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>For captive use</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>index</td>
<td>100</td>
<td>101</td>
<td>104</td>
<td>94</td>
</tr>
<tr>
<td><strong>For free market</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>index</td>
<td>100</td>
<td>97</td>
<td>99</td>
<td>89</td>
</tr>
<tr>
<td><strong>Proportion of total production</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>captive use</td>
<td>67,88%</td>
<td>68,78%</td>
<td>68,93%</td>
<td>69,24%</td>
</tr>
<tr>
<td>free market sales</td>
<td>32,12%</td>
<td>31,22%</td>
<td>31,07%</td>
<td>30,76%</td>
</tr>
</tbody>
</table>

(159) Production for the free market decreased by 11% overall between 1998 and the IP. Considered in more detail it remained relatively stable over the period 1998-2000 but dropped by around 10% during the IP.

(160) Likewise, captive production decreased by 6% over the period considered. Again, considered in more detail, it increased by 4% between 1998 and 2000 but dropped by 9% during the IP.

(161) The production of HRC’s for captive use helped the Community industry to keep up its capacity utilisation. However, the proportion between production destined for captive use and for the free market remained relatively stable and both followed a significant decreasing trend between 2000 and the IP.

4.1.2. Stocks

<table>
<thead>
<tr>
<th>Stocks</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>in tons</td>
<td>2.382.295</td>
<td>2.891.011</td>
<td>2.977.430</td>
<td>2.545.798</td>
</tr>
<tr>
<td>index</td>
<td>100</td>
<td>121</td>
<td>125</td>
<td>107</td>
</tr>
<tr>
<td>as % of total production</td>
<td>5,8%</td>
<td>7,0%</td>
<td>7,0%</td>
<td>6,7%</td>
</tr>
</tbody>
</table>

(162) Stocks of own produced HRC’s concern both coils used captively and coils that are sold on the free market. In practice, companies do not keep track of stocks according to the distinction captive use / free market sales. Rather, HRC’s are either produced according to the unrelated or related client’s specifications or in the case of the most used or sold specifications for out-of-stock internal use or free market sales. In relation to total production (for captive use and free market sales) the importance of stocks remained rather constant over the period 1998-2001.
4.1.3. Cost of production and wages

<table>
<thead>
<tr>
<th>Cost of production</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>€ per ton</td>
<td>250.93</td>
<td>245.62</td>
<td>263.48</td>
<td>288.07</td>
</tr>
<tr>
<td>index</td>
<td>100</td>
<td>98</td>
<td>105</td>
<td>115</td>
</tr>
</tbody>
</table>

(163) The increase of the cost of production can be attributed to additional depreciations following investments in new processes mainly during the year 2000 and the effect of the lower volume produced causing certain overhead costs such as depreciations to be allocated over a lower tonnage, thereby increasing the unit cost per ton produced.

(164) In this respect, the average wage per employee increased by 2.5% on a yearly basis between 1998 and the IP, a rate that is comparable to yearly inflation over the same period.

4.1.4. Investments

<table>
<thead>
<tr>
<th>Investments (in '000 €)</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index</td>
<td>505.321</td>
<td>481.852</td>
<td>793.414</td>
<td>535.485</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>95</td>
<td>157</td>
<td>106</td>
</tr>
</tbody>
</table>

(165) Investments traditionally have been considerable and concern both the replacement of machinery and equipment and the already mentioned investments in new processes. The timing of the latter investments, which occurred mainly in 2000, coincided with the imposition of anti-dumping measures following the proceeding mentioned under recital (2) implying an expected improvement of market conditions.

4.1.5. Employment and productivity

<table>
<thead>
<tr>
<th>Employment index</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>index</td>
<td>21.431</td>
<td>20.968</td>
<td>20.335</td>
<td>19.505</td>
</tr>
<tr>
<td>Productivity tons per employee index</td>
<td>1998</td>
<td>1999</td>
<td>2000</td>
<td>2001 (= IP)</td>
</tr>
<tr>
<td>index</td>
<td>1.930</td>
<td>1.960</td>
<td>2.079</td>
<td>1.960</td>
</tr>
</tbody>
</table>

(166) Employment for the product under consideration declined by 9% over the period considered with the most pronounced annual decrease of 4% occurring between 2000 and the IP.

(167) The improvement of productivity between 1998 and 1999 was a consequence of the reduction of employment. Between 1999 and 2000 the combination of higher output
and lower employment allowed for the most pronounced increase of productivity during the period considered. Between 2000 and the IP, the further reduction of employment could not compensate for the decline in output, bringing the productivity back to the 1999 level.

4.2. Analysis of the factors pertinent to the free market HRC activity

4.2.1. Sales volume, sales price, market share and growth

<table>
<thead>
<tr>
<th>Free market sales in the Community</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volume (in tons) index</td>
<td>11.934.472</td>
<td>11.641.842</td>
<td>11.899.864</td>
<td>10.701.589</td>
</tr>
<tr>
<td>sales price in € per ton index</td>
<td>280,72</td>
<td>221,19</td>
<td>293,09</td>
<td>264,22</td>
</tr>
<tr>
<td>market share index</td>
<td>52,1%</td>
<td>51,6%</td>
<td>51,3%</td>
<td>47,6%</td>
</tr>
</tbody>
</table>

(168) The sales volume in the Community was relatively stable between 1998 and 2000 but decreased by 10% during the IP.

(169) Average sales prices went down by 6% over the period 1998-IP. Prices were restored to slightly above the 1998 level in 2000, after a very pronounced decline in 1999 when the average price level was 21% lower than in 1998. Between 2000 and the IP however, prices went down again by 9%.

(170) Over the period 1998-2001 the Community industry lost 4,5 percentage points market share, the largest loss in one single year occurring between 2000 and 2001, when 3,7 percentage points market share were lost.

4.2.2. Factors affecting domestic prices

(171) The investigation showed that the average depressed sales price of the Community industry was more or less at the same level of that of the dumped HRC imports during the IP. However, on a type-by-type basis it was found that in some instances prices charged by the exporting producers concerned were significantly undercutting the Community industry’s prices. The combination of this kind of undercutting with the increased level of dumped imports from the countries concerned certainly affected the domestic prices of the Community industry. The decline in domestic prices between 2000 and the IP occurred precisely when the largest surge of dumped imports took place, hereby causing a downward pressure on sales prices in the Community market.

4.2.3. Profitability

<table>
<thead>
<tr>
<th>Profitability</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>free market sales</td>
<td>10,6%</td>
<td>-11,0%</td>
<td>10,1%</td>
<td>-9,0%</td>
</tr>
</tbody>
</table>

(172) Notwithstanding the increase in the cost of production in 2000, the Community industry became profitable again because of the increase in sales prices, influenced by the imposition of anti-dumping duties on dumped imports subject to the proceeding mentioned under recital (2). Subsequently, whereas the average price level decreased by 10% between 2000 and 2001, the cost of production increased by 9%, thereby
causing losses of 9%. Indeed, the combination of a lower sales price level and lower production volumes, implying a higher cost of production per ton, led to the Community industry’s substantial losses during the IP.

4.2.4. Return on investment

(173) The information provided for investments relates to the production capacity that serves both the needs of the captive use and the free market. However, the net result of free market sales only relates to the production capacity theoretically allocable to those sales. The return on investment, calculated by dividing the net result of free market sales by the theoretical proportion of the acquisition value of investments relating to such sales, amounts to a negative –6,5% in the IP compared to a positive 9,6% in 2000.

4.2.5. Cash flow and the ability to raise capital

(174) The Community industry’s cash flow during the IP was negative meaning that cash outflow exceeded cash receipts and that the financial results were insufficient to support depreciations, value adjustments and provisions. The continuation of investments therefore could not be guaranteed without attracting additional external funding.

(175) The ability to raise capital was not found to be affected by the negative results during the IP, as good financial results were realised in the year 2000. Moreover, HRC’s concern only a part of the overall activity of steel companies, meaning that HRC’s are not the only factor influencing their overall financial abilities.

4.2.6. Magnitude of dumping and effects of past dumping and subsidisation

(176) Given the volume and the price of the dumped imports, the impact of the actual margins of dumping, which are significant, cannot be considered to be negligible.

(177) Given the nature of the steel industry and the contents of recitals (165) above and (243) below, it is considered that the Community industry is still in the process of recovering from the negative effects of past dumping and subsidisation.

4.3. Captive use

<table>
<thead>
<tr>
<th>Captive production</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (=IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>index</strong></td>
<td>100</td>
<td>101</td>
<td>104</td>
<td>94</td>
</tr>
<tr>
<td><strong>Proportion of total production</strong></td>
<td>67,88%</td>
<td>68,78%</td>
<td>68,93%</td>
<td>69,24%</td>
</tr>
</tbody>
</table>
Some indicators relating to captive use form part of the analysis of the whole activity of the product concerned (i.e. production capacity and capacity utilisation, cost of production, stocks, investments, employment and productivity). With respect to certain factors which are analysed above in respect of the free market (i.e. sales volumes and prices and profitability), the data received are not, by their very nature, adapted to an immediate and objective comparison with the data obtained for the free market. Nevertheless, there was no evidence found that it was more profitable to produce for captive use than for the free market. Therefore, this analysis focuses on production for captive use and examines if its trend is comparable to that of the free (and total) markets.

Production for captive use increased by more than 1 million tons or 4% between 1998 and 2000, allowing the Community industry to increase total production despite the fact that production for the free market remained at almost the same level. Between 2000 and the IP however, captive use decreased by 9.2%, slightly less than the decrease of production for the free market of 10.5%, leading to a fall in total production of more than 4 million tons or 9.6%.

5. Conclusion on injury

During the period considered the volume of imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey increased by 64%. Their market share increased from 5.9% to 9.8% and their average import prices were reduced by 2%.

The gain in market share, the increase of import volumes and the decline of the sales price were particularly pronounced between 2000 and the IP. Import volumes during that period almost doubled, market share increased from 5% to 9.8% and import prices decreased by 12%. In addition, it was found that prices charged by the Community industry for HRC sold on the free market were undercut by the exporting producers concerned by margins exceeding 10% depending on the type of HRC and that such undercutting exerted a downward price pressure on all types of HRC’s.

Only three economic indicators pertaining to the situation of the Community, i.e. production capacity installed, investments and productivity showed moderately positive developments over the period considered. Production declined by 8%, the rate of capacity utilisation fell from 86.5% to 79%, the free market sales volume in the Community decreased by 10%, corresponding average sales prices by 6%, market share decreased from 52.1% to 47.6%, cost of production increased by 15%, profitability in the Community fell from 10.6% to -9%, employment was reduced by 9% and cash flow was negative during the IP.

Taking into account all factors mentioned above, in particular the decrease in production and sales volumes, prices and market share and the financial losses incurred during the IP, it is considered that the Community industry has suffered material injury.
F. CAUSATION OF INJURY

1. Introduction

(184) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports of HRC’s originating in Bulgaria, Egypt, Hungary, Slovakia, South Africa and Turkey have caused injury to the Community industry. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

2.1. Hungary

(185) With reference to recital (148) of this Regulation, it was found that imports from Hungary increased by 5% over the period 1998-2001 but decreased between 2000 and the IP by 12%. During the latter period the Hungarian market share decreased from 1,19% to 1,08%. The same period is the one during which the financial situation of the Community industry deteriorated dramatically, turning a 10% average profit into a 9% average loss. However, the prices of a large share of Hungarian imports were the highest of all operators concerned, the Community industry itself included, selling HRC’s on the Community market during the IP.

(186) Consequently, the likelihood that Hungarian imports, taken in isolation, have contributed significantly to the material injury suffered by the Community industry during the IP, is considered to be remote. The proceeding should thus be terminated with respect to imports of HRC’s originating in Hungary and the effects of these imports will be taken into consideration within the analysis of the effects of other imports.

2.2. Imports from the remaining countries concerned

(187) Although Community consumption of HRC’s remained stable over the period considered, dumped imports originating in Bulgaria, Egypt, Slovakia, South Africa and Turkey have increased significantly over the same period, reaching 2,2 million tons in the IP, which corresponded to an increase of market share from 5,9% to 9,8% over the period considered. Over the same period considered, the Community industry lost market share from 52,1% to 47,6%.

(188) These trends were even more pronounced between 2000 and the IP. While Community consumption decreased by 2,9%, dumped imports originating in Bulgaria, Egypt, Slovakia, South Africa and Turkey almost doubled, which corresponded to a market share gain from 5% to 9,8%. Meanwhile, the Community industry’s market share decreased from 51,3% to 47,6%.

(189) The Bulgarian, Egyptian, Slovakian, South African and Turkish average import prices did not or not significantly undercut the Community industry’s prices. However, on a type-by-type basis significant price undercutting was found up to 17,7%. The presence of these imports prevented the Community industry to increase its prices and the increase of these low-priced imports further strengthened the downward price pressure on the Community market.
In this respect, it is worth noting that the Community market for HRC’s is particularly transparent since HRC’s are a commodity product and the major operators are known. Sellers of HRC’s are aware of the buyers’ needs and the buyers are aware of the level of prices basically on a daily basis. As a result, even episodic undercutting of differing types of HRC’s still exerts a significant downward effect on overall prices.

It is therefore concluded that the increased presence of low-priced dumped imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey on the Community market contributed to the depressed price level and consequently had a significant negative impact on the situation of the Community industry.

3. Impact of other factors

3.1. Development of consumption

Over the period considered Community consumption remained at a comparable level, with the exception of the years 1998 and 2000 where the level was respectively 2% and 3% higher than in 1999 and the IP. Under normal circumstances, namely, in the absence of dumped imports, the decrease in consumption between 2000 and the IP should have affected all operators selling HRC’s on the Community market more or less in a similar way. The investigation showed that this was not the case. Whilst dumped imports increased by 90% between 2000 and the IP, Community industry's sales in the free market dropped by 10%.

The decrease of Community consumption between 2000 and the IP may have contributed to the injury suffered by the Community industry. However, under the present circumstances, it is very likely that a higher level of consumption would have been mainly taken over by dumped imports and not by the Community industry. The slight decrease in consumption during the IP thus cannot explain the drop by 10% of Community industry's free market sales.

Based on the above facts and considerations, it is considered that any injury caused by the decrease in consumption could not be substantial.
3.2. Imports of HRC’s from other third countries

<table>
<thead>
<tr>
<th>Volumes in tons</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (=IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumption Index</td>
<td>22,894.274</td>
<td>22,544.897</td>
<td>23,178.301</td>
<td>22,501.555</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>98</td>
<td>101</td>
<td>98</td>
</tr>
<tr>
<td>Imports</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Russia Index</td>
<td>582,691</td>
<td>934,471</td>
<td>1,115,350</td>
<td>735,120</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>160</td>
<td>191</td>
<td>126</td>
</tr>
<tr>
<td>Other third countries Including Hungary, Libya and Iran Index</td>
<td>2,888,386</td>
<td>1,748,714</td>
<td>2,552,179</td>
<td>2,063,933</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>61</td>
<td>88</td>
<td>71</td>
</tr>
<tr>
<td>Total third countries not concerned Index</td>
<td>3,471,077</td>
<td>2,683,185</td>
<td>3,667,529</td>
<td>2,799,053</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>77</td>
<td>106</td>
<td>81</td>
</tr>
</tbody>
</table>

(195) During the IP and making abstraction of the countries concerned by this proceeding, only imports originating in Russia were significantly above de minimis threshold of 1% of Community consumption. It should be noted that Russian imports are subject to a voluntary restraint agreement, putting a quantitative ceiling on the volume imported. The “other third countries” under this heading refer to all countries not concerned by the present investigations (including Hungary, Iran and Libya in view of the termination) at the exclusion of Russia, which is mentioned separately.

(196) Russian imports increased in total by 26% over the period 1998-2001. However, after a very pronounced increase from 1998 to 2000, Russian imports decreased by approximately one third between 2000 and 2001. Other imports decreased by 29% over the period considered. Overall imports originating in third countries not concerned by both proceedings decreased by 19% over the period considered.

<table>
<thead>
<tr>
<th>Average import price in € per ton</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Russia Index</td>
<td>255,5</td>
<td>191,4</td>
<td>303,4</td>
<td>240,2</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>75</td>
<td>119</td>
<td>94</td>
</tr>
<tr>
<td>Other third countries Index</td>
<td>276,4</td>
<td>217,2</td>
<td>316,3</td>
<td>255,6</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>79</td>
<td>114</td>
<td>92</td>
</tr>
<tr>
<td>Total third countries not concerned</td>
<td>272,9</td>
<td>208,2</td>
<td>312,4</td>
<td>251,5</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>76</td>
<td>114</td>
<td>92</td>
</tr>
</tbody>
</table>
(197) Over the period considered, the prices of all third country-imports followed a similar trend as observed for the imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey and for the Community industry. Based on information available, the low level of Russian import prices reflects an inconsistent and low quality of the coils, which explains the historical price difference with other imports.

<table>
<thead>
<tr>
<th>Market shares</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Russia</td>
<td>2.55%</td>
<td>4.14%</td>
<td>4.81%</td>
<td>3.27%</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>162</td>
<td>189</td>
<td>128</td>
</tr>
<tr>
<td>Other countries</td>
<td>12.62%</td>
<td>7.76%</td>
<td>11.01%</td>
<td>9.17%</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>61</td>
<td>87</td>
<td>73</td>
</tr>
<tr>
<td>Total third countries not</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>concerned</td>
<td>15.17%</td>
<td>11.90%</td>
<td>15.82%</td>
<td>12.44%</td>
</tr>
<tr>
<td>Index</td>
<td>100</td>
<td>78</td>
<td>104</td>
<td>82</td>
</tr>
</tbody>
</table>

(198) The market share of Russia increased by 28% or 0.72 percentage points over the period 1998-2001, in line with the increase of imported volumes. Market share increased by 2.26 percentage points until 2000 but decreased from 2000 to the IP by 1.54 percentage points. Imports originating in other countries lost 3.45 percentage points of market share over the period considered. Overall, countries not concerned by both proceedings lost 2.73 percentage points over the period considered. Compared to the year 1998, their market share in 2000 was 0.65 percentage points higher, followed by a 3.38 percentage point drop between 2000 and the IP.

(199) Based on the 34% decrease of Russian imports between 2000 and the IP and the corresponding loss of 1.5% market share and on the reduced importance of other countries’ imports, it was concluded that the dumped imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey have contributed significantly to the injury suffered by the Community industry by means of their significant increase of volumes and market share at depressed prices.

3.3. Export activity of the Community industry

<table>
<thead>
<tr>
<th></th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001 (= IP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exports</td>
<td>1.282.606</td>
<td>1.110.693</td>
<td>1.176.297</td>
<td>1.008.515</td>
</tr>
<tr>
<td>in tons index</td>
<td>100</td>
<td>87</td>
<td>92</td>
<td>79</td>
</tr>
<tr>
<td>Export price</td>
<td>283,15</td>
<td>245,72</td>
<td>303,66</td>
<td>265,04</td>
</tr>
<tr>
<td>€ per ton index</td>
<td>100</td>
<td>87</td>
<td>107</td>
<td>94</td>
</tr>
</tbody>
</table>

(200) The export activity of the Community industry in the IP represented 8.6% of its total free market sales of own produced HRC’s, compared to 9.7% in 1998, 8.7% in 1999 and 9% in 2000. Given the fact that exports of HRC’s to third countries are therefore a
relatively minor and stable activity, any injury in terms of the evolution of production or sales caused by the evolution of exports over the period considered is considered non-existent. Furthermore, export prices obtained during the IP are comparable to the free market sales prices on the Community market.

3.4. World-wide situation and cyclical nature of the steel business

(201) The injurious situation suffered by the Community industry during the IP cannot be completely separated from the prevailing conditions on the world steel markets. Many reports including a recent study performed by the OECD underlined the need to restructure the steel industry and the urgency to eliminate the excess of production capacity worldwide. Some major steel producers, such as the Japanese and Community steel producers have already implemented a voluntary process of restructuring in the past while others have not done so.

(202) However, while it cannot be ignored that the worldwide steel situation and the corresponding downward price tendency have contributed to the injurious situation of the Community industry, this should have affected all market players in a similar way. The surge in low-priced imports and the shift of corresponding market shares in favour of Bulgaria, Egypt, Slovakia, South Africa and Turkey cannot be explained on the basis of the world-wide steel situation and prevented the Community industry to keep its market share.

(203) It has also been claimed that the evolution of steel prices is of a cyclical nature as illustrated by the relatively high prices in 1998 and 2000, each time followed by lower prices in 1999 and 2001. In this respect, the injurious situation of the Community industry during the IP is alleged to be the consequence of a cyclical downturn and hence by definition temporary.

(204) It can indeed be confirmed that the steel business is to a certain extent cyclical. However, the analysis of the trends followed by the volumes and prices on the Community market in the last years did not indicate that cycles would be yearly ones and that therefore such cycles cannot be the only explanation for the injurious situation of the Community industry during the IP. It should also be noted that consumption remained relatively stable throughout the period examined. This points to the fact that there was no cyclical impact from the demand side.

(205) In this respect, the investigation also showed that the low price level in 1999 was countered by the imposition of anti-dumping measures against Bulgaria, India, South Africa, Taiwan and the Federal Republic of Yugoslavia. The upward price effect, contributing to the good financial performance during the year 2000, however, was diluted again during the IP when imports from Bulgaria, Egypt, Libya, Slovakia, South Africa and Turkey filled the gap left by the decrease of imports of HRC’s originating in Brazil, China, India, Romania, Russia and Thailand.

(206) Therefore, while certain cyclical price effects cannot be excluded, their average impact on the situation of the Community industry, in light of the above factors, is not considered to be substantial.
3.5. Captive use

(207) It was also investigated whether or not the Community industry harmed its free market sales by shifting its attention to deliveries for captive use, thereby causing the production intended for the free market to drop by 10.5% between 2000 and the IP.

(208) The proportion of captive use of total production increased slightly from 67.9% to 69.2% over the period considered. The trends of both production for captive use and for free market sales were however comparable, dropping dramatically between 2000 and the IP.

(209) Between 2000 and the IP the Community industry's production intended for captive use decreased by 9.2%, or by over 3 million tons. As explained in recital (157) above, the interest of the Community industry is to maintain a high rate of capacity utilisation. It is well aware that it would draw no benefit from voluntarily shifting production from one use to another. In view of the lost production for the captive use, the industry had to try to offset this decline by increasing its production for deliveries into the free market. However, this has not been possible in view of the presence of low-priced dumped imports on that market. In fact, the Community industry did only very partially compensate the deteriorated market conditions in the free market by more production intended for captive use. Indeed, the proportion of this production increased from 68.9% in 2000 to 69.2% of total production of the Community industry in the IP.

(210) It is therefore considered that the development of captive use did not in any significant way contribute to the material injury suffered by the Community industry.

3.6. Capacity increase

(211) The Community industry increased its capacity by approximately 500,000 tons between 2000 and the IP. This was a consequence of the investments made during 2000 which, apart from maintenance, related to the replacement of certain traditional lines by the continuous casting technology. However, if the Community industry would have been able to maintain its production and sales volumes at the level of 2000, the depreciations linked to this new technology would have been fully absorbed and would not have affected the cost of production per ton for the HRC sold on the free market.

(212) Indeed, the impact of the production capacity increase on its own did not affect the Community industry. On the contrary, under normal market conditions, namely in the absence of dumped imports, such an investment should have allowed the Community industry to decrease its costs and make overall economies of scales for the benefit of the whole production of HRC. The investigation showed that in an overall shrinking market dumped imports were gaining considerable market share and sales volume at the expense of the other operators including the Community industry. Therefore, the capacity increase has not contributed in any significant manner to the material injury suffered by the Community industry during the IP.

4. Conclusion on causation

(213) The investigation has shown that over the period considered, and in particular from 2000 to the IP, the volume of low-priced dumped imports from Bulgaria, Egypt,
Slovakia, South Africa and Turkey considerably increased, contributing to the Community industry’s impossibility to raise prices on the Community market to an acceptable level, especially considering the decreased impact of economies of scale. Given the 9.8% market share of Bulgarian, Egyptian, Slovakian, South African and Turkish imports on the Community market during the IP, this development had material negative consequences for the Community industry.

(214) Other factors than the dumped imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey, such as the development of Community consumption, the imports from other third countries, the export activity of the Community industry, the worldwide situation and the alleged cyclical nature of the HRC business, the Community industry’s production intended for captive use and the Community industry’s production capacity increase were investigated. It was found that the development of consumption and the cyclical nature of the HRC business have also contributed to the material injury suffered by the Community industry. However, as explained above, this impact was not substantial, and not such as to break the chain of causation between the dumped imports and the injury suffered by the Community industry.

(215) In conclusion, it is therefore confirmed that the material injury of the Community industry, which is characterised by a reduction of produced and sold volumes, lower capacity utilisation, suppressed sales prices, increased cost of production, reduced market share, financial losses, negative cash flow and reduced employment, was caused by the dumped imports concerned. Indeed, the effect of the development of Community consumption, the imports from other third countries, the export activity of the Community industry, the world-wide situation and the cyclical nature of the steel business, the Community industry’s captive use and the Community industry’s capacity increase on the Community industry’s negative developments in terms of production volumes, capacity utilisation, sales, sales prices, cost of production, market share, financial results and employment was only limited. A genuine and substantial link was found to exist between the dumped imports and the injurious situation of the Community industry.

(216) Given the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby confirmed that these other factors as such do not reverse the fact that the injury assessed must be attributed to the dumped imports.

G. LIKELIHOOD OF CONTINUATION/RECURRENCE OF INJURIOUS DUMPING

(217) In the context of the interim review concerning Bulgaria and South Africa, it was examined whether the changed circumstances with respect to the original investigation regarding dumping and injury could reasonably be considered to be of a lasting nature. However, as regards the exporting producer in South Africa, which did not export the product concerned during the IP, it was examined whether it was likely that dumping would recur should measures be removed.

1. Bulgaria

(218) The analysis took into account that in the original investigation an undertaking offered by the exporting producer had been accepted. The effect of the undertaking on the export price was examined (see recital (221) below).
A price comparison was made between the prices of the product concerned sold for export to the Community and for export to third countries during the investigation period.

It was found that for the most representative CN codes (as far as the quantities sold are concerned) and for the global figures (including all CN codes), the selling prices of the product concerned were significantly higher in the Community than in third countries. The exports to third countries were therefore very likely made at dumped prices, and these dumping margins are in all likelihood, higher than the one stated in recital (47).

This price difference noted between the Community market and other export markets is explained to a large extent by the existence of the minimum price undertaking accepted by the exporting producer. Indeed, the company did respect the undertaking during the investigation period. However, the company never sold at significantly higher prices than the minimum prices, and this regardless of the relevant market conditions. This indicates that the exporting producer did not set export prices to the Community according to market forces, but that these were largely determined by the minimum price obligation, the minimum import price thus being a measure that affects the export price. The possible margin of the company to decrease prices to the Community further is shown by the price level practised on other export markets. It is to be recalled that despite the respect of the exporter of the minimum price undertaking, exports to the Community market were still made at dumped prices. This shows that the undertaking in force is not sufficient to counteract the injurious dumping.

Consequently, it was considered that should the measures in the form of the undertaking be removed, the company would be able to adopt the same pricing behaviour as for exports to third countries, which means reducing its export price. This would also mean that in case the measures in the form of an ad-valorem duty were only to be applied at the level found in recital (47), these measures would not fully reflect the actual dumping practised during the investigation period and would be likely to be ineffective.

Given the above, it is necessary to adjust the existing undertaking by increasing the minimum prices to reflect the dumping findings of this investigation, i.e. by the level of dumping found in recital (47).

Finally, and for the same reasons as outlined in recital (222), the applicable level of duty should be determined in case the company breaches or withdraws the undertaking. In this respect it is recalled that the dumping margin found in the original investigation was 27.1 % and that the injury margin was 7.5%. Thus, the measure subject to this review only removes partially the dumping found originally. This has been confirmed in this review where there is, over and above the dumping eliminated by the existence of an undertaking, still additional dumping of 8.6%. In these circumstances any duty applicable in case of a breach or withdrawal of the undertaking is meant to remove the injury level as found in the original investigation. The foregoing should be seen in the light of the fact that, as explained in detail in recital (221) above, the current Bulgarian export prices to the Community are substantially influenced by the undertaking subject to review. The export prices reflect essentially the level fixed in the undertaking but do not significantly go beyond that level. Without the existence of an undertaking, export prices to the Community would in all likelihood fall and there is no reason to believe that any injurious dumping
resulting therefrom would be lower than 16.1%, i.e. 7.5% as originally found, and 8.6% as established in this review. Consequently, any duty should be set in the above circumstances at a level of 16.1%.

(225) It is recalled that the residual duty level specified in Commission Decision 283/2000/ECSC for Bulgaria was 7.5%. This residual duty level should be aligned with the new undertaking level in order to avoid the undermining of anti-dumping measures against Bulgaria. Consequently, the new residual duty level should be set at 16.1%, i.e. 7.5% plus 8.6%.

2. South Africa

(226) It is recalled that only one exporting producer in South Africa exported the product concerned to the Community during the investigation period. It is also recalled that for the other exporting producer who did not export HRC’s to the Community an minimum price undertaking had been accepted during the original investigation.

(227) It was first examined whether, with regard to the latter exporting producer and although no exports were made, it is appropriate to maintain the anti-dumping duties imposed further to the original investigation and to renew the undertaking in force at the same level as accepted during the original investigation. For this determination, the Commission examined the production capacity, the sales volume on the different markets, and the price level of sales made on the domestic market and on third countries’ export markets.

(i) Production capacity

(228) Production volume of the product concerned has decreased by almost 40% since the imposition of the measures in 2000 while production capacity remained the same. The production volume remained stable at a low level since 2000 and spare capacity during the investigation period reached almost 40%. It is worth noting that the company forecasted to produce at full capacity in 2002, i.e. at the same level than prior to the imposition of the definitive anti-dumping measures. These findings show that there is not only a significant potential to increase production in future, but also that such increase is very likely to be realised if measures would be allowed to lapse, as the company itself already forecasted an increase despite the measures being in force. Furthermore, besides the increase in production by using the current spare capacities, a shift in production from plates (also produced by this exporting producer) to HRC’s would be relatively easy due to the fact that both products are produced at the same production line. This shift in production would not only be technically simple, but also with no or only little impact on the costs.

(ii) Sales volume

(229) The domestic market remained relatively stable during the last years. Since there were no indications that conditions on the domestic market will change significantly in the future, it had to be concluded that this market would most likely not absorb an increased offer of the product concerned. As far as export sales to third countries are concerned, these decreased significantly in 2001 mainly due to the imposition of anti-dumping duties (in the second half of the IP) in the United States and Canada against
imports of HRC’s originating in South Africa. Therefore, it had to be concluded that the possibilities to sell increased quantities to other third countries are limited.

(230) Considering these facts, and given the significant spare capacities available, it had to be concluded that exports to the Community would resume at significant levels should measures be allowed to lapse and access to the Community market would be free.

(iii) Sales prices

(231) An analysis of export prices to third countries made during the investigation period has shown that these were, on an average level, lower than sales prices of the product concerned on the domestic market. Since sales of the product concerned on the domestic market were profitable during the IP, and these prices could have consequently been used as a basis for normal value. It had to be concluded that export sales prices to third countries were very likely to be at dumped levels.

(232) Furthermore, export sales prices to third countries during the investigation period were made at a level below the current minimum price undertaking in force for exports to the Community. Consequently, as far as future export sales to the Community are concerned, these would, in all likelihood, not be made at non-dumped price levels, should measures be allowed to lapse. Additionally, the company's internal target price for export sales as well as the break even price of the product concerned were found to be significantly lower than the current undertaking minimum price. Also, it was found that the company is able to sell at dumped prices, while still selling at profitable levels.

(233) In conclusion, the likelihood that production volume will increase whereas the domestic and third country markets are most likely not able to absorb the increased offer, it had to be concluded that a major part of the increased production will enter the Community at significantly dumped price levels, should measures be allowed to lapse. On the basis of the information obtained in this investigation, the dumping margin in case of repeal of the measures would, in all likelihood, not be lower than the one found in the original investigation, i.e. 37.8%.

(234) As far as the exporting producer, which did not export to the Community during the IP is concerned, the Commission examined whether the changed circumstances (higher dumping) found with respect to this exporter had a lasting effect.

(235) It is recalled that this exporting producer is related with other companies, and in particular with two related producers of the product concerned in South Africa. One of these related producers was not operational during the original investigation and only started production in mid 1999. This related producer was found to be mainly export oriented given its geographical location near a sea port. Furthermore, on the domestic market, this company had only one customer. The investigation also showed that export sales of this producer accounted for around 80% of its total sales in volume. There are indications that this new company was set up mainly for exports, and that this situation is likely to last.

(iv) Export sales prices

(236) No indication had been found that the export prices would increase, in the foreseeable future.
(v) Likely development of the normal value

(237) As mentioned in recital (93), significant dumping was found for the group. This was mainly due to the new related producer (which started production only in 1999), for which a high normal value had been established during the present investigation.

(238) Since normal value for this producer was constructed, the cost of production had a significant impact on its level. Cost of production was found to be at a high level. Although the company claimed that this high level of costs was due to a start-up process, this claim was not accepted (see recital (91)). As no evidence was submitted showing that costs would decrease in the foreseeable future, it was not unreasonable to conclude that the normal value found would remain at a high level.

(239) Considering the above, it has been concluded that for the exporting producer which did export to the Community during the IP, the current measures are no longer sufficient to counteract the dumping which is causing injury.

(vi) Conclusions for South Africa

(240) For the exporting producer which did export to the Community during the IP, it was found that there is a likelihood of recurrence of dumping should the measures be allowed to remove, and that accordingly, the measures should remain in place.

(241) For the other exporting producer, the level of the dumping margin should be set at the level found during the current review, as the measures currently in place were found not to suffice to remove the effects of injurious dumping.

(242) Consequently, the level of the dumping margin, expressed as a percentage of the CIF import price at Community border is

Highveld Steel and Vanadium Corporation: 37.8%

Iscor Steel, Saldanha Steel, Macsteel International South Africa (Pty) Ltd, and Macsteel International UK Ltd.: 85.1%

3. Conclusion on the likelihood of continuation/recurrence of injurious dumping

(243) The current measures in place regarding imports of HRC’s originating in Bulgaria and, in case of imports originating from one producer, South Africa. South Africa no longer remove sufficiently the injurious effect of the dumped imports. Considering the likelihood that dumping would continue or recur (in the case of the South African producer which did not export during the IP) if the measures were allowed to lapse and considering that the measures currently in force against Bulgaria and South Africa are no longer sufficient to remove the injurious effect of dumping, it is concluded that the injurious situation of the Community industry would worsen if the measures were allowed to continue in their current form (or to lapse in the case of one of the South African producers).
H. COMMUNITY INTEREST

1. Introduction

(244) The Commission 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 or amend measures in this particular case. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the Commission considered the likely impact of measures for all parties concerned by the investigation.

2. Interest of the Community industry

(245) The situation of the Community industry has deteriorated due to the downward price pressure exercised by low-priced imports of HRC’s from Bulgaria, Egypt, Slovakia, South Africa and Turkey, especially between 2000 and the IP when those imports almost doubled in volume, causing a situation in which the decline of sales by the Community industry was more pronounced than the reduction of free market Community consumption and in which sales were made at a loss.

(246) The sales volume lost by the Community industry was taken over by dumped imports. The investigation has underlined the importance of the volume factor in the steel industry, namely the need to maintain a high rate of production capacity utilisation in order to benefit from economies of scale. The loss of production and sales volume had a negative impact on the financial situation of the Community industry.

(247) It is considered that, in the absence of the imposition of anti-dumping measures, the situation of the Community industry will further deteriorate, depressing the financial results further and thus reduce employment.

(248) As the Community industry has proved to be viable in principle in the absence of injurious dumping, the adoption/maintenance of anti-dumping measures would be in the Community industry’s interest.

3. Interest of importers

(249) The Commission services received six questionnaire replies from importers, two of which being traders and the remaining being at the same time industrial users (mainly tubemakers), representing 28,4% of total imports from Bulgaria, Egypt, Slovakia, South Africa and Turkey during the IP and 28,3% of imports from all other origins. The companies involved were:

- Arvedi Tubi Acciaio s.r.l., Cremona, Italy
- Eurostahl GmbH, Linz, Austria
- Marcegaglia S.p.A., Gazoldo Ippoliti, Italy
- Profiltubi P.P.A., Reggiolo, Italy
- Stemcor Europe Limited, London, United Kingdom
- Subergal-Trading Lda., Mozelos, Portugal
These interested parties pronounced themselves against the imposition of anti-dumping duties.

The two traders of HRC’s realised an average profit margin on sales of 2.3% during the IP. It is clear that the proposed anti-dumping margins would cause losses in the event that these traders would continue to source from the same origins and not be able to raise the price level of their corresponding sales. In this respect, it should however be underlined that the possibility to source elsewhere exists and that it is expected that price increases would be passed on to the customers. Therefore, the interest of importers does not lead to the conclusion that it would, on balance, not be in the Community interest to adopt measures.

4. Interest of users

The Commission services received questionnaire replies from five users, four of which at the same time were importing during the IP and are already mentioned under recital(249) and one which is mentioned below:

Fabbrica Tubi Mobilio (F.T.M.), S.A., Trieste, Italy

During the IP, these five co-operating companies represented around 4% of Community consumption of HRC's and absorbed around 8% of the free market sales of the Community industry. They imported around 28% of all imports (25% from the countries concerned and 29% from other third countries). Based on the replies received, the incidence of HRC’s in the full cost of production of finished products of these co-operating users during the IP was high (over 60%). The users, whose overall profitability on sales amounted to only 0.8% during the IP claimed that the imposition of measures would negatively affect them.

Tubemakers in general, which in total represent 12% of free market sales made by the Community industry and 6% of Community consumption, may be negatively affected by any price increase of HRC’s. Indeed, they claim that it will not be possible for them to pass on any price increases.

However, although prices of HRC’s from the countries concerned are likely to increase, there remain other, non-dumped sources of supply from other third countries. In addition, as far as supplies from the Community industry are concerned, it should be noted that the imposition of measures on HRC's might not necessarily lead to automatic price increases of HRC's. Prices may not increase as a result of the measures if the Community industry could recover the market share lost to dumped imports during the IP.

As to the alleged impossibility to pass on any price increases to downstream industries, it should be noted that the tube industry also alleged that any increase in their sales prices was hampered by low-priced dumped tubes imported into the Community. In this respect it should be noted that the Defence Committee of the Welded Steel Tube Industry lodged an anti-dumping complaint concerning imports of hollow sections originating in Russia and Turkey and that a notice of initiation was published on 16 October 2002. There are therefore reasons to believe that the poor sales price level and profitability achieved by that industry during the IP is not due to

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the price level of purchased coils, and that accordingly, imposing measures on coils would not contribute in any major way to the challenge faced by the tubemakers.

(256) Given the large impact of HRC’s on the cost of production of certain users, the latter are particularly concerned about the possible price level of HRC's in case of the imposition of anti-dumping measures. This particularly applies to users, which are sourcing their coils from the countries concerned. However, it is considered that any negative effects on certain users from taking measures against dumped imports will not outweigh the positive effects overall from which all the other operators active on the Community market will benefit.

5. Conclusion on Community interest

(257) On the basis of the above, it is concluded that the imposition of anti-dumping measures is necessary to prevent further dumped imports in order to prevent the situation of the Community industry to deteriorate further. The imposition of measures in the present case will re-establish effective trade conditions for all operators in the Community. The introduction of anti-dumping measures on HRC’s imported at dumped prices into the Community and originating in Egypt, Slovakia and Turkey and the continuation of anti-dumping measures on imports originating in Bulgaria and South Africa will likely cause some financial losses at the level of certain Community traders and users.

(258) However, on balance, these likely costs for certain traders and users are not considered to constitute compelling reasons against the imposition of anti-dumping measures.

I. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

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

(260) For the purpose of establishing the level of the definitive measures, account has been taken of both the dumping margins found and the amount of injury suffered by the Community industry.

(261) The measures with regard to Egypt, Slovakia and Turkey and the revised measures as regards Bulgaria and South Africa should be imposed at a sufficient level to eliminate the injury caused by these 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 overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports, on the sales of the like product in the Community. The margin used for this calculation was 8% of turnover, based primarily on an assessment of the profitability required to cover the financial costs of the investments made by the Community industry.

(262) 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 non-injurious price of the different types of coils sold by the Community industry.
on the Community market, taking into account the level of trade, i.e. sales to traders and sales to users. The non-injurious price per type has been obtained by adding the above mentioned profit margin of 8% to the cost of production per type. Any difference resulting from this comparison was then expressed as a percentage of the total CIF import value.

(263) The corresponding injury elimination margins for the exporting producers concerned are the following:

<table>
<thead>
<tr>
<th>Exporting Producers</th>
<th>Injury Elimination Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kremikovtzi Corporation, Sofia, Botunetz, and Kremikovtzi Trade EOOD, Sofia, Botunetz (Bulgaria):</td>
<td>21.3%</td>
</tr>
<tr>
<td>Alexandria National Iron &amp; Steel Company, Eldekheila (Egypt):</td>
<td>13.8%</td>
</tr>
<tr>
<td>U.S. Steel Kosice, s.r.o., Kosice (Slovakia):</td>
<td>18.6%</td>
</tr>
<tr>
<td>Iscor Steel, Saldanha Steel, Macsteel International South Africa (Pty) Ltd, and Macsteel International UK Ltd. (South Africa):</td>
<td>20.8%</td>
</tr>
<tr>
<td>Ereğli Demir ve Celik Fabrikaları T.A.Ş, Zonguldak (Turkey):</td>
<td>17.6%</td>
</tr>
</tbody>
</table>

For all the exporting producers concerned, significant underselling of the Community industry’s sales prices was found to have occurred during the IP.

(264) Residual injury elimination margins for the non-co-operating exporting producers have either been set at the same level as mentioned under recital (263) if overall co-operation was high or, alternatively, were based on the highest underselling found on a CN code basis for the co-operating exporting producer of that country concerned.

2. Definitive measures

(265) For Bulgaria the dumping margin was found to be lower than the injury elimination level. Bulgaria was informed of the new findings and of their lasting nature, which necessitated the amendment of the undertaking in force, taking into account the adjusted level of the dumping margin.

(266) The South African exporting producer, for whom an undertaking based on the dumping margin was in force during the IP, did not export to the Community during the IP. It was determined that the existing undertaking should be prolonged, given the likelihood of recurrence of injurious dumping.

(267) The ad valorem duty for the other South African exporting producer should be adjusted on the basis of the findings during the IP. The measure in force during the IP was based on an underselling margin of 5.2% and should be adjusted in order to reflect an additional underselling margin of 15.6%. Indeed, a higher ad valorem duty is needed to correct for the injurious dumping that was found during the IP.
For Turkey the dumping margin has been found to be lower than the injury elimination level. As a result, the definitive measures to be imposed should correspond to the dumping margin established, in conformity with Article 9(4) of the basic Regulation. For Egypt and Slovakia, the injury elimination level was lower than the dumping margins and consequently the injury elimination margins concerned determine the level of the measures imposed.

3. Undertakings

Exporting producers in Bulgaria, the Slovak Republic, South Africa and Turkey have offered price undertakings in accordance with Article 8(1) of the Basic Regulation. The price undertaking offers contain the usual stipulations but provide for some additional flexibility in the form of different minimum prices depending on export volumes, instead of providing straightforward price increases for all export volumes. The Commission considers that the undertakings offered are acceptable for this particular case in view of the large number of safeguard measures on steel adopted by many players world-wide to which the exporters from Bulgaria, the Slovak Republic, South Africa and Turkey are subject or are likely to be subject. On this basis, it is considered that the undertakings will be sufficiently flexible to allow the exporters to act in this uncertain environment and also sufficient to shield the Community Industry from the injurious effect of dumping.

The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the sales structure of the companies are such that the Commission considers the risk of circumventing the agreed undertakings is limited. In addition, the terms of the undertakings are such that their efficiency and practicability will be the subject of an appraisal by the Commission nine months after their acceptance, at the latest. Unless earlier action is warranted, reassessment of any of the elements of the undertakings which are considered necessary will be made at that time.

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

In the event of suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the Basic Regulation.

4. Combined effects of anti-dumping measures and safeguard duties

Definitive safeguard measures on a range of steel products, including HRC’s were imposed by Commission Regulation (EC) No 1694/2002. Whereas, the above
mentioned anti-dumping measures take the form of either a duty or an undertaking, the safeguard measures take the form of tariff quotas applicable for specific periods, in excess of which safeguard additional duty (“safeguard duty”) must be paid. With regard to HRC’s, if the total volume of imports originating in all third countries exceeds the quota mentioned in annex 1 of that Regulation, safeguard duties will apply.

(274) If the relevant tariff quota established under the safeguard measures is exhausted, or in case the benefit of the tariff quota is not requested or not granted, both the safeguard duty and the anti-dumping duty would become payable on the same imports. Similarly, where price undertakings have been accepted, the safeguard duty would become payable in addition to the obligation to observe such price undertakings.

(275) The Council, by Council Regulation (EC) N° ………., considered that the combination of anti-dumping or anti-subsidy measures with safeguard measures on the same product could have an effect greater than that intended in terms of the Community’s trade defence policy and objectives and could place an undesirably onerous burden on certain exporting producers seeking to export to the Community, which may have the effect of denying them access to the Community market. As a result, the Council introduced specific provisions to enable the Community, where it considers it appropriate, to take action to ensure that a combination of anti-dumping or anti-subsidy measures with safeguard tariff measures on the same product does not have such an effect.

(276) In the present case, whilst there is some uncertainty as to if and when the safeguard tariff quota imposed by Regulation (EC) No 1694/2002 will be exhausted, it is possible that imports of hot rolled coils which are subject to anti-dumping duties or undertakings will also become subject to payment of safeguard duty, for a limited period of time towards the end of the specified quota period.

(277) In the present case, where both an anti-dumping duty and a safeguard duty would normally be payable and where the anti-dumping duty is less than or equal to the amount of the safeguard duty, it is considered appropriate that no anti-dumping duty should be payable, but only the safeguard duty; where the anti-dumping duty is greater than the amount of the safeguard duty, it is considered appropriate that, in addition to the safeguard duty, that part of the anti-dumping duty which is in excess of the amount of the safeguard duty should be payable. Similarly, in those cases in which a price undertaking has been accepted, the Commission has agreed to accept equivalent reductions in the minimum import prices of those price undertakings for the period during which any safeguard duty is payable.

(278) In order to ensure legal certainty for the economic operators concerned, it is considered appropriate to specify the anti-dumping measures, which should apply in the event that the safeguard tariff quota is exhausted, or in case the benefit of the tariff quota is not requested by an exporting producer or an importer or not granted, for example, because the necessary formalities are not complied with by the importing party.

**J. FINAL PROVISION**

(279) The individual company anti-dumping 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 are thus exclusively applicable to imports of products originating in the country concerned and produced by those companies and thus by the specific legal entities mentioned. Imported products by any other company not specifically mentioned in the operative part of this Regulation with its name and address, and also entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to “all other companies” for that particular country.

(280) Any claim regarding the application of these individual company anti-dumping 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 e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty, as specified in paragraph 3 of this Article, is hereby imposed on imports of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad plated or coated, in coils, not further worked than hot-rolled, currently classifiable within CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10 and 7208 39 90, originating in Egypt, the Slovak Republic and Turkey.

2. The definitive anti-dumping duties on imports of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad plated or coated, in coils, not further worked than hot-rolled, currently classifiable within CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10 and 7208 39 90, originating in Bulgaria and South Africa imposed by Commission Decision No 283/2000/ECSC are amended as shown in paragraph 3.

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

European Commission, Directorate-General Trade, Directorate B, B-1049 Brussels
<table>
<thead>
<tr>
<th>Country</th>
<th>Company</th>
<th>Rate of duty</th>
<th>TARIC additional code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>Kremikovtzi Corp. 1870 Sofia, Botunetz</td>
<td>16,1 %</td>
<td>A082</td>
</tr>
<tr>
<td></td>
<td>Kremikovtzi Trade EOOD 1870 Sofia, Botunetz</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>16,1 %</td>
<td>A999</td>
</tr>
<tr>
<td>Egypt</td>
<td>Alexandria National Iron and Steel Company, Eldekheila, Alexandria</td>
<td>13,8%</td>
<td>A429</td>
</tr>
<tr>
<td></td>
<td>Al Ezz Flat Steel Co., Kairo</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>29,2%</td>
<td>A999</td>
</tr>
<tr>
<td>Slovakia</td>
<td>U.S. Steel Kosice, Vstupny areal US Steel, 044 54 Kosice</td>
<td>18,6%</td>
<td>A430</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>18,6%</td>
<td>A999</td>
</tr>
<tr>
<td>South Africa</td>
<td>Iscor, Ltd. PO Box 450 Pretoria 0001, Saldanha Steel (PTY) Ltd., Private Bag X11, Saldanha 7395, Mac Steel International South Africa (Pty) Ltd, PO Box 8370, Johannesburg 2000 and Mac Steel International UK Ltd. Exchange Tower, 1 Harbour Exchange Square, London E14 9GE, United Kingdom.</td>
<td>20,8%</td>
<td>A079</td>
</tr>
<tr>
<td></td>
<td>Highveld Steel and Vanadium Corporation Ltd., Old Pretoria Road, Witbank, Mpumalanga</td>
<td>37,8%</td>
<td>A085</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>37,8%</td>
<td>A999</td>
</tr>
<tr>
<td>Turkey</td>
<td>Ereğli Demir ve Celik Fabrikalari T.A.Ş, 67330 KDZ Eregli, Zonguldak-</td>
<td>11,5%</td>
<td>A431</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>11,5%</td>
<td>A999</td>
</tr>
</tbody>
</table>

4. Notwithstanding paragraph 1, the definitive anti-dumping duty shall not apply to imports released into free circulation in accordance with Article 2.

5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.
**Article 2**

1. Imports declared for release into free circulation under the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by the companies below to a company in the Community acting as an importer shall be exempt from the anti-dumping duty imposed by Article 1 provided that such imports are imported in conformity with paragraph 2 of this Article.

<table>
<thead>
<tr>
<th>Company</th>
<th>Country</th>
<th>TARIC additional code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kremikovtzi Corp. 1870 Sofia, Botunetz and Kremikovtzi Trade EOOD 1870 Sofia, Botunetz</td>
<td>Bulgaria</td>
<td>A082</td>
</tr>
<tr>
<td>U.S. Steel Kosice, Vstupny areal US Steel, 044 54 Kosice</td>
<td>Slovakia</td>
<td>A430</td>
</tr>
<tr>
<td>Iscor, Ltd. PO Box 450 Pretoria 0001, Saldanha Steel (PTY) Ltd., Private Bag X11, Saldanha 7395, Mac Steel International South Africa (Pty) Ltd, PO Box 8370, Johannesbourg 2000 and Mac Steel International UK Ltd. Exchange Tower, 1 Harbour Exchange Square, London E14 9GE, United Kingdom.</td>
<td>South Africa</td>
<td>A079</td>
</tr>
<tr>
<td>Highveld Steel and Vanadium Corporation Ltd, Old Pretoria Road, Witbank, Mpumalanga</td>
<td>South Africa</td>
<td>A085</td>
</tr>
<tr>
<td>Ereğli Demir ve Celik Fabrikalari T.A.Ş, 67330 KDZ Eregli, Zonguldak</td>
<td>Turkey</td>
<td>A431</td>
</tr>
</tbody>
</table>

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

(a) 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 for free circulation; and

(b) the goods presented and declared to customs correspond exactly to the description on the commercial invoice.

**Article 3**

Notwithstanding paragraph 1(3) above, where imports of the product concerned are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Regulation (EC) No 1694/2002, the rate of the definitive anti-dumping duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following companies shall be as follows:
<table>
<thead>
<tr>
<th>Country</th>
<th>Company</th>
<th>Rate of AD duty (%) applicable when safeguard additional duty is payable</th>
<th>TARIC additional code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>28.3.03 to 29.3.03</td>
<td>29.3.03 to 29.9.03</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>Kremikovtzi Corp. 1870 Sofia, Botunetz and Kremikovtzi Trade EOOD 1870 Sofia, Botunetz</td>
<td>0%</td>
<td>0,4%</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>0%</td>
<td>0,4%</td>
</tr>
<tr>
<td>Egypt</td>
<td>Alexandria National Iron and Steel Company, Eldekeila, Alexandria, Al Ezz Flat Steel Co., Kairo</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>11,7%</td>
<td>13,5%</td>
</tr>
<tr>
<td>Slovakia</td>
<td>U.S. Steel Kosice, Vstupny areal US Steel, 044 54 Kosice</td>
<td>1,1%</td>
<td>2,9%</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>1,1%</td>
<td>2,9%</td>
</tr>
<tr>
<td>South Africa</td>
<td>Iscor, Ltd. PO Box 450 Pretoria 0001, Saldanha Steel (PTY) Ltd., Private Bag X11, Saldanha 7395, Mac Steel International South Africa (Pty) Ltd, PO Box 8370, Johannesburg 2000 and Mac Steel International UK Ltd. Exchange Tower, 1 Harbour Exchange Square, London E14 9GE, United Kingdom.</td>
<td>3,3%</td>
<td>5,1%</td>
</tr>
<tr>
<td></td>
<td>Highveld Steel and Vanadium Corporation Ltd., Old Pretoria Road, Witbank, Mpumalanga</td>
<td>20,3%</td>
<td>22,1%</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>20,3%</td>
<td>22,1%</td>
</tr>
<tr>
<td>Turkey</td>
<td>Ereğli Demir ve Celik Fabrikalari T.A.Ş, 67330 KDZ Eregli, Zonguldak-</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>
Article 4

The anti-dumping proceeding concerning imports of certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad plated or coated, in coils, not further worked than hot-rolled originating in Hungary, Iran and Libya is hereby terminated.

Article 5

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

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

Done at Brussels,

For the Council
The President
ANNEX

INFORMATION NECESSARY FOR COMMERCIAL INVOICES ACCOMPANYING SALES MADE SUBJECT TO THE UNDERTAKING (Article 2(2))

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,

6. The exact description of the goods, including:
   – the product code number (PCN) (as established in the undertaking offered by the producing exporter in question),
   – the technical specification of the PCN,
   – the company product code number (CPC) (if applicable),
   – CN code,
   – quantity (to be given in tonnes),

7. The description of the terms of the sale, including:
   – price per tonne,
   – the applicable payment terms,
   – the applicable delivery terms,
   – total discounts and rebates.

8. Name of the first buyer 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 ….. (name of company), and accepted by the European Commission through Decision Nº…../2003. I declare that the information provided in this invoice is complete and correct.”