

COMMISSION REGULATION (EC) No 488/2008**of 2 June 2008****imposing a provisional anti-dumping duty on imports of citric acid originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

After consulting the Advisory Committee,

Whereas:

producers of the initiation of the anti-dumping proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set out in the notice of initiation.

(5) In order to allow exporting producers to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned and to the representatives of the PRC. Eight exporting producers, including groups of related companies, requested MET pursuant to Article 2(7) of the basic Regulation, or alternatively IT – should the investigation establish that they do not meet the conditions for MET.

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

(7) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and importers and representatives acting on their behalf were requested to make themselves known and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned within 15 days of the date of publication of the notice of initiation.

(8) As far as the exporting producers are concerned, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of exports of citric acid to the Community, which could reasonably be investigated within the time available. On the basis of the information received from the exporting producers, a sample of four companies, or groups of related companies (the sampled companies) having the largest volume of exports to the Community was selected. In terms of export volume the four sampled companies represent 79 % of the total exports of citric acid from the PRC to the Community during the investigation period. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

A. PROCEDURE**1. Initiation**

(1) On 23 July 2007, a complaint concerning imports of citric acid originating in the People's Republic of China was lodged by the European Chemical Industry Council (CEFIC) (the complainant) on behalf of a producer representing a major proportion of the total Community production of citric acid, in this case more than 25 %.

(2) This complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) On 4 September 2007, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union* ⁽²⁾.

2. Parties concerned by the proceeding

(4) The Commission officially advised the exporting producers, importers, users known to be concerned and their associations, consumers associations, the representatives of the exporting country and the Community

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ C 205, 4.9.2007, p. 14.

- (9) All four producers outside the sample have requested an individual margin, in accordance with Article 17(3) of the basic Regulation. Only one company, DSM Citric Acid (Wuxi) Ltd., has submitted the requested information within the timeframe foreseen. Therefore, only one complete request for an individual margin was received. As this request was not considered unduly burdensome and would not have prevented completion of the investigation in good time, the request was accepted.
- (10) With regard to unrelated Community importers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of imports of citric acid to the Community, which could reasonably be investigated within the time available. On the basis of the information received from the unrelated Community importers, a sample of four companies, or groups of related companies (the sampled companies) having the largest volume of imports to the Community was selected. In terms of import volume the four sampled companies represent 36 % of the total imports of citric acid from the PRC to the Community during the investigation period. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. One of the sampled importers was not able to provide the requested information. The three remaining importers represent 29 % of the total imports of citric acid from the PRC to the Community during the investigation period.
- (11) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest and carried out verification at the premises of the following companies:
- (a) producers in the Community:
- Jungbunzlauer Austria AG, Vienna, Austria,
 - S.A. Citrique Belge N.V., Tienen, Belgium;
- (b) exporting producers in the PRC:
- Anhui BBKA Biochemical Co., Ltd, Bengbu City, Anhui Province,
 - RZBC Co., Ltd, Rizhao, Shandong Province,
 - TTCA Co., Ltd., Anqiu City, Shandong Province,
 - Yixing Union Biochemical Co. Ltd, Yixing City, Jiangsu Province,
 - Shanxi Ruicheng, Ruicheng County, Shanxi Province,
 - Laiwu Taihe Biochemistry Co. Ltd, Laiwu City, Shandong Province,
 - Weifang Ensign Industry Co. Ltd, Changle City, Shandong Province,
 - DSM Citric Acid (Wuxi) Ltd, West Wuxi, Jiangsu Province;
- (c) related companies in the PRC:
- Anhui BBKA Maanshan Biochemical Ltd, Maanshan, Anhui Province,
 - China National Xin Liang Storage Transportation & Trading Corp., Beijing,
 - DSM (China) Ltd., Shanghai,
 - Shanxi Dimine International Trade, Taiyuan, Shanxi Province;
- (d) unrelated importers in the Community:
- Azelis group, St. Augustin, Germany,
 - Rewe Food Ingredients, Köln, Germany,
 - Brenntag, Mülheim/Ruhr, Germany.
- (12) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (13) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Canada in this case (see recitals (40) to (44) below), took place at the premises of the following company:
- (e) producer in Canada:
- Jungbunzlauer Canada, Port Colborne, Ontario.

3. Investigation period

- (14) The investigation of dumping and injury covered the period from 1 July 2006 to 30 June 2007 (investigation period or IP). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 2004 to 30 June 2007 (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (15) The product concerned is citric acid (including sodium citrate), an acidulant and pH regulator for many applications such as beverages, food, detergents, cosmetics and pharmaceuticals. Its main raw materials are sugar/molasses, tapioca, corn or glucose (obtained from cereals) and different agents for the submerged microbial fermentation of carbohydrates.
- (16) The product concerned includes citric acid monohydrate (CAM), citric acid anhydrous (CAA) and trisodium citrate dihydrate (TSC). These three types form the product concerned as they share similar basic chemical characteristics and have similar usage. The types of product are falling within CN Codes 2918 14 00 (CAM, CAA) and ex 2918 15 00 (TSC). The CN code 2918 15 00 also includes other salts and esters, which are not the product concerned.
- (17) The investigation has shown that the different types of the product concerned all share the same basic technical and chemical characteristics and are basically used for the same purposes. They are therefore considered to constitute a single product for the purpose of this proceeding.

2. Like product

- (18) The citric acid produced and sold in the Community by the Community industry and the citric acid produced and sold in the PRC and in Canada, which served as an analogue country, were found to have essentially the same technical and chemical characteristics and the same basic uses of the citric acid produced in the PRC and sold for export to the Community. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. General

- (19) As stated in recital (6) above, sampling was envisaged for exporting producers in the PRC in the notice of initiation. In total, eight groups of companies replied to the sampling questionnaire within the time limits and provided the requested information. They represented 96 % of the total imports reported by Eurostat. The level of cooperation is therefore considered to be high. All of exporting producers have requested MET and IT. As mentioned at recital (8) above, four groups of

companies were selected in the sample on the basis of their export volume to the Community.

2. Market Economy Treatment (MET)

- (20) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (21) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:
1. business decisions and costs are made in response to market signals and without significant State interference; costs of major inputs substantially reflect market values;
 2. firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes;
 3. there are no significant distortions carried over from the former non-market economy system;
 4. bankruptcy and property laws guarantee legal certainty and stability;
 5. exchange rate conversions are carried out at market rates.
- (22) All eight companies or groups of companies of Chinese exporting producers cooperating in this proceeding requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadlines. All of these groups included both producers of the product concerned and companies related to the producers and involved in citric acid business. Indeed, it is the Commission's consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET. The following groups had requested MET:

— Anhui BBKA Biochemical Co., Ltd,

— RZBC Co., Ltd,

— TTCA Co., Ltd,

— Yixing Union Biochemical Co. Ltd,

— Shanxi Ruicheng,

— Laiwu Taihe Biochemistry Co. Ltd,

— Weifang Ensign Industry Co. Ltd,

— DSM Citric Acid (Wuxi) Ltd.

- (23) For the above mentioned cooperating exporting producers, the Commission sought all information deemed necessary and verified the information submitted in the MET claim at the premises of the companies in question as deemed necessary.
- (24) Two companies or groups of companies (Laiwu Taihe and DSM Wuxi) fulfilled all the criteria as summarised in recital (21) above and could be granted MET.
- (25) Three companies or groups of companies (RZBC Co. Ltd, TTCA Co., Ltd. and Yixing Union Biochemical) have mortgaged most of their assets in order to receive loans. Despite having mortgaged most of their assets, they were still in a position to guarantee loans that were granted to other companies. As compensation, RZBC, TTCA Co., Ltd and Yixing Union Biochemical received similar guarantees for their own loans from the same companies for which they had acted as a guarantor. The companies used these guarantees to obtain further loans amounting to 25-50 % of their total assets. These companies argued that such system is also applied in market economy countries and explicitly provided for under Chinese banking legislation. However, the information collected during the investigation showed that the banks' policy should normally be to grant loans only for a fraction of the value of the assets used as a guarantee and not for an amount which exceeds such value. Moreover, the banking system from which the loans were obtained was under substantial State influence. Therefore, it was concluded that the three abovementioned companies did not meet criterion 1 as summarised in recital (21) above. Accordingly, they could not therefore be granted MET.
- (26) For two companies (TTCA Co., Ltd and Weifang Ensign), the value of land use right and/or fixed assets increased substantially (500-1 500 %) over a relatively short period of time, between the moment when they were acquired or brought into the company as a capital contribution and a later date (between 1 and 5 years later) when they were evaluated again. This indicates that the respective assets were acquired at a value below market price which would represent a hidden subsidy. Both companies claimed that the increase had actually not been so substantial and was rather in line with the increase normally observed in China for comparable assets. However, no evidence was provided to this effect. Given the advantage that these companies received by obtaining assets for prices substantially below market value, compliance with criterion 3 as summarised in recital (21) above is not satisfied.

- (27) One company, Anhui BBKA Biochemical Co., Ltd, received a significant sum of money during the IP (close to 10 % of its total assets or 15 % of its annual turnover). Moreover, certain rents were received free of charge. In view of this and the significant level of the subsidy received, it is considered that criteria 1 and 3 as summarised in recital (21) above are not fulfilled. The company's comments in this respect were not such as to change the nature of the findings.
- (28) One company, Shanxi Ruicheng, received private loans worth around 20 % of assets. For all of these loans, no repayment terms had been agreed (so far), and no accrual or payment of interest took place. Therefore, the company's credit costs were subject to considerable distortions. Since the company could not present contracts for these loans, it cannot be excluded that there has been State interference regarding these loans, which means criterion 1 as summarised in recital (21) above is not fulfilled. The company's comments in this respect were not such as to change the nature of the findings.
- (29) On the basis of the above, six of the eight Chinese companies or groups of companies that had requested MET could not show that they fulfil all the criteria set out in Article 2(7)(c) of the basic Regulation.
- (30) It was therefore considered that MET should be granted to two companies (Laiwu Taihe and DSM Wuxi) and rejected for the remaining six companies/groups of companies. The Advisory Committee was consulted and did not object to these conclusions.

3. Individual treatment (IT)

- (31) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation.
- (32) All exporting producers who requested MET also claimed IT in the event that they would not be granted MET.
- (33) Of the six companies or groups of companies that were not be granted MET, all fulfilled all the criteria set out in Article 9(5) and were granted IT.

4. Normal value

- (34) Normal value had to be established for all four sampled companies, plus the sole company submitting a complete request for an individual margin, as explained in recital (9) above (the examined companies).

4.1. *Companies or groups of companies which could be granted MET*

- (35) As far as the determination of normal value is concerned, the Commission first established, in accordance with Article 2(2) of the basic Regulation, for each of the exporting producers that could be granted MET whether their total domestic sales of the product concerned were representative, i.e. whether the total volume of such sales represented at least 5 % of their total export sales volume of the product concerned to the Community. One (DSM Wuxi) of the five examined companies could be granted MET. For this company which could be granted MET, the domestic sales of the product concerned were found to be representative.
- (36) The Commission subsequently examined whether the domestic sales of each type of the product concerned, sold domestically in representative quantities, could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers, of the sole exported product type.
- (37) For DSM Wuxi, the investigation showed that sales of the sole product type exported were not made in the ordinary course of trade. Since domestic sales could not be used in order to establish normal value, another method had to be applied. In this regard, normal value was constructed in accordance with Article 2(3) of the basic Regulation on the basis of the company's manufacturing costs of the product concerned. When constructing normal value pursuant to Article 2(3) of the basic Regulation, a reasonable amount for selling, general and administrative (SG&A) expenses and profit was added to the manufacturing costs.
- (38) As DSM Wuxi had no domestic sales of the like product in the ordinary course of trade, SG&A and profit could not be established according to the methodology set out in the *chapeau* of Article 2(6) of the basic Regulation. As no sampled exporting producers were granted MET, SG&A and profit could also not be established according to the methodology set out in Article 2(6)(a) of the basic Regulation. In addition, as DSM Wuxi sells almost exclusively citric acid, SG&A and profit could also not be established according to the methodology set out in Article 2(6)(b) of the basic Regulation. It was therefore decided to establish SG&A and profit according to Article 2(6)(c) of the basic Regulation. In this respect, the amounts for SG&A and profit for domestic sales of the like product established for the cooperating company in the analogue country were used.
- (39) Where appropriate, the costs of manufacturing and SG&A expenses as verified were used in constructing normal values.

4.2. *Companies or groups of companies which could not be granted MET*

- (40) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET has to be established on the basis of the prices or constructed value in an analogue country.
- (41) In the notice of initiation, the Commission indicated that it envisaged using the United States of America as an appropriate analogue country for the purpose of establishing normal value for the PRC. Interested parties were invited to comment on this. Two interested parties objected to this proposal. RZBC Co. proposed Thailand as analogue country.
- (42) As regards Thailand, available information suggests that the total production of the two Thai producers is only around 10 000 tonnes, 5 000 tonnes thereof being exports (mainly to Japan). If these domestic sales (averaging 2 500 tonnes per company) are compared with Chinese exports to the Community (more than 50 000 tonnes for the biggest exporters), it is unlikely that any of the Thai producers has representative domestic sales. Moreover, RZBC argues that the cost structure of the Thai companies is more likely to be comparable with the situation in the PRC. The main argument to support this likelihood is, however, that both Thailand and the PRC are Asian countries. It should be noted that labour costs typically account for 5-10 % of turnover, so they are certainly not a main element in the cost structure of any citric acid producer.
- (43) It is worth noting that the Thai companies are significantly smaller than the companies in the main producing countries (China, EU, USA, Canada and Brazil). The major Chinese producers are around 10-20 times larger than the Thai producers, while the size of the Canadian producer and the major Chinese producers is comparable.
- (44) The USA has been originally selected as analogue country, and two United States companies initially agreed to cooperate. Subsequently, both United States companies mentioned above withdrew their cooperation. The sole producer in Canada and two producers in Brazil were therefore contacted and asked to cooperate with the investigation. However, only the sole Canadian producer cooperated in the investigation. Therefore, the prices in the Canadian market of citric acid sold in the ordinary course of trade were used as a basis for establishing normal value for the comparable product types of the exporting producers not granted MET.

5. Export price

- (45) The exporting producers made export sales to the Community either directly to independent customers or through related or unrelated trading companies located inside and outside the Community. All companies or groups of companies could be granted either MET or IT.
- (46) Where export sales to the Community were made either directly to independent customers in the Community or through unrelated trading companies, export prices were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.
- (47) Where export sales to the Community were made through related trading companies located in the Community, export prices were established on the basis of the first resale prices of these related traders to independent customers in the Community, pursuant to Article 2(9) of the basic Regulation.

6. Comparison

- (48) The normal value and export prices were compared on an ex-works basis and at the same level of trade. For the purpose of ensuring a fair comparison between the normal value and export prices, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (49) On this basis, allowances for transport and insurance costs, handling, loading and ancillary costs, packing costs, credit costs were made where applicable and justified.
- (50) For the sales channelled through related importers based in the Community, an adjustment was applied in accordance with Article 2(10)(i) of the basic Regulation, where these companies have been shown to perform functions similar to that of an independent importer. This adjustment was based on the SG&A of the importers plus a profit, based on data obtained from unrelated importers in the Community.

7. Dumping margins

- (51) For the sampled exporting producers, individual dumping margins were established on the basis of a comparison of a weighted average normal value with a weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation. For RZBC, since this group of companies includes two exporting producers, a single dumping margin was established as the average of the dumping margins of the two companies.

- (52) For the cooperating companies not included in the sample and not granted individual examination, the dumping margin was calculated as a weighted average of the margins established for all the companies in the sample.
- (53) Given the high level of cooperation (96 %), referred to at recital (19) above, a country-wide dumping margin was set at the same level as the highest margin found for a cooperating company.
- (54) On this basis, the provisional dumping margins expressed as a percentage of the CIF Community frontier price, duty unpaid, are:

| Company | Provisional dumping margin |
|----------------------------------|----------------------------|
| Anhui BBKA Biochemical Ltd | 54,4 % |
| DSM Citric Acid (Wuxi) Ltd | 19,6 % |
| RZBC Co. | 60,1 % |
| RZBC (Juxian) Co. Ltd | 60,1 % |
| TTCA Co., Ltd | 57,3 % |
| Yixing Union Biochemical | 56,8 % |
| Laiwu Taihe Biochemistry Co. Ltd | 57,5 % |
| Shanxi Ruicheng | 57,5 % |
| Weifang Ensign Industry Co. Ltd | 57,5 % |
| All other companies | 60,1 % |

D. INJURY

1. Community production and Community industry

- (55) Within the Community, the like product is manufactured by two companies: Jungbunzlauer, Austria and S.A. Citrique Belge in Belgium (part of the DSM group, headquartered in Switzerland). The complainant Jungbunzlauer represents a major proportion of the total known Community production of the like product, i.e. in this case more than 25 %. Both producers fully cooperated in the investigation, but the second European producer took a neutral position to the investigation.
- (56) S.A. Citrique Belge N.V. had made some imports from the PRC in the IP. However, the volumes of its imports were insignificant (between 1 % and 6 % of production during the IP – this range is given for confidentiality reasons), thus it was not considered appropriate to exclude this producer from the definition of the Community industry.

(57) As the two cooperating producers mentioned in recital (11) above accounted for 100 % of the total Community production during the IP, they are deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will hereinafter be referred to as the 'Community industry'.

(58) Given that the Community industry comprises only two producers, data relating to the Community industry had to be indexed or ranges have been used in order to preserve confidentiality pursuant to Article 19 of the basic Regulation.

2. Community consumption

- (59) Community consumption was established on the basis of the sales volumes of the Community industry's own production on the Community market and Community import volumes data obtained from Eurostat.
- (60) Between 2004 and the IP, the Community market for the product concerned and the like product has strongly increased by 15 %, which is due to the increase in citric acid applications.

| | 2004 | 2005 | 2006 | IP |
|-----------------------|-----------------|-----------------|-----------------|-----------------|
| Consumption in tonnes | 360 000-380 000 | 360 000-380 000 | 390 000-410 000 | 420 000-440 000 |
| Index (2004 = 100) | 100 | 99 | 106 | 115 |

3. Imports from the country concerned

(a) Volume of the imports concerned

- (61) The volume of imports of the product concerned from the PRC into the Community increased significantly throughout the period considered. Imports in the EU increased by 37 % since 2004.

| Imports | 2004 | 2005 | 2006 | IP |
|--------------------|---------|---------|---------|---------|
| PRC tonnes | 145 025 | 151 806 | 171 703 | 198 288 |
| Index (2004 = 100) | 100 | 105 | 118 | 137 |

(b) Market share of the imports concerned

- (62) The market share held by imports from the PRC increased steadily by 7 percentage points throughout the period concerned. In detail, it rose by 2 percentage points between 2004 and 2005, by further 2 percentage points between 2005 and 2006 and by 3 percentage points during the IP. In the IP, the market share of Chinese imports was 46 %.

(c) Prices

(i) Price evolution

- (63) From 2004 to 2005, the average price of imports of the product concerned originating in the PRC increased by 3 % and then fell sharply by 9 percentage points from 2005 to 2006. During the IP, the price remained at the low level of 2006. Overall, prices of imports from the countries concerned decreased by 6 % during the period considered.

| Unit price | 2004 | 2005 | 2006 | IP |
|--------------------|------|------|------|-----|
| PRC (EUR/tonne) | 588 | 606 | 551 | 553 |
| Index (2004 = 100) | 100 | 103 | 94 | 94 |

(ii) Price undercutting

- (64) For the determination of the price undercutting the price data pertaining to the IP were analysed. The relevant sales prices of the Community industry were net prices after deduction of discounts and rebates. Where necessary, these prices were adjusted to an ex-works level, i.e. excluding freight cost in the Community. The import prices of the PRC were also net of discounts and rebates and were adjusted, where necessary, to cif Community frontier with an appropriate adjustment for the customs duties (6,5 %) and post-importation costs. The latter included also an adjustment for special treatment costs incurred by importers in the Community to de-cake certain volumes of the product concerned before further selling. The Community industry's sales prices and the import prices of the PRC were compared at the same level of trade, namely to independent customers within the Community market. During the IP, the weighted average price undercutting margin thus calculated, expressed as a percentage of the Community industry's sales prices, was 17,42 % for the PRC.

4. Situation of the Community industry

- (65) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry raised an evaluation of all economic factors having a bearing on the state of the Community industry during the period considered. For confidentiality reasons, given that the analysis concerns only two companies, most indicators are presented in indexed form or ranges are given.

(a) Production, capacity and capacity utilisation

- (66) The Community industry's production increased by 5 % during the period considered and production capacity also increased by 3 % in order to benefit from the increased consumption. During the period considered capacity utilisation slightly increased by 2 %.

| | 2004 | 2005 | 2006 | IP |
|--|-----------------|-----------------|-----------------|-----------------|
| Production in tonnes (ranges) | 260 000-280 000 | 265 000-285 000 | 270 000-290 000 | 275 000-295 000 |
| Production (index) | 100 | 99 | 102 | 105 |
| Production capacity in tonnes (ranges) | 315 000-335 000 | 315 000-335 000 | 320 000-340 000 | 320 000-340 000 |
| Production capacity (index) | 100 | 100 | 103 | 103 |
| Capacity utilisation (index) | 100 | 99 | 99 | 102 |

(b) Sales volume and market shares in the Community

- (67) Given that the Community industry comprises only two producers and that the Community market for citric acid is supplied by only three origins/sources (the Community industry, the PRC, Israel), data relating to the market shares of the Community industry are presented in an indexed format in order to preserve the confidentiality of the data submitted in confidence by the Community industry, pursuant to Article 19 of the basic Regulation.
- (68) The table below shows the Community industry's performance in relation to its sales to independent customers in the Community. Sales volumes of the Community industry to independent customers in the Community went up by 5 % from 2004 to the IP. This has to be seen in the light of a 15 % increase in Community consumption. Against this background, the market share of the Community industry has been steadily decreasing from 2004 to the IP and in total it was five percentage points lower in the IP.

| Community Industry | 2004 | 2005 | 2006 | IP |
|----------------------|------|------|------|-----|
| Sales volume (index) | 100 | 98 | 99 | 105 |
| Market share (index) | 100 | 99 | 94 | 91 |

- (69) Unit sales prices developed as follows:

| | 2004 | 2005 | 2006 | IP |
|-----------------------------|---------|---------|---------|---------|
| Unit prices in EUR (ranges) | 750-850 | 750-850 | 780-880 | 780-880 |
| Unit prices (index) | 100 | 100 | 102 | 103 |

The table shows that the price increased slightly by 3 % over the period considered. It is noted that the main raw materials for the production of citric acid are sugar/molasses or glucose (obtained from cereals). In addition, energy is also a major cost in producing citric acid. The total weight of energy cost in the production of citric acid subsequently amounts to 16 % and therefore, in normal circumstances, a significant change in the oil and gas prices can be expected to have a direct impact on the citric acid sales price.

- (70) It was found that world market prices of the major inputs (sugar/molasses, glucose and energy) increased significantly during the period considered, leading to considerably higher production costs. This evolution was not reflected in the sales prices of the Community industry as those prices increased only by 3 % during the same period. Thus, in order not to lose customers, the Community industry only passed on a small fraction of its higher costs.

(c) *Stocks*

- (71) The figures below represent the volumes of stocks at the end of each period. The level of stocks decreased by 28 % to meet the increasing demand on the market.

| | 2004 | 2005 | 2006 | IP |
|---------------------------|---------------|---------------|---------------|---------------|
| Stocks in tonnes (ranges) | 20 000-25 000 | 20 000-25 000 | 20 000-25 000 | 15 000-20 000 |
| Stocks (index) | 100 | 98 | 97 | 72 |

(d) *Investments and ability to raise capital*

- (72) The Community industry's annual investments in the production of the like product declined sharply over the period considered and were limited in the IP to solely maintenance works.

| | 2004 | 2005 | 2006 | IP |
|---------------------|------|------|------|----|
| Investments (index) | 100 | 81 | 82 | 79 |

(e) *Profitability, return on investment and cashflow*

- (73) In view of very high and extraordinary restructuring costs incurred by one Community producer, it was not considered reasonable to establish the profitability on the basis of the pre-tax net profit. Therefore, the profitability of the Community industry was established by expressing the operating profit on the sales of the like product to unrelated customers as a percentage of the turnover of these sales.

| | 2004 | 2005 | 2006 | IP |
|-------------------------------------|--------------|----------|--------------|------------------|
| Profitability on EC sales (range) | 0 %-10 % | 0 %-10 % | (- 10 %)-0 % | (- 10 %)-0 % |
| Profitability on EC sales (index) | 100 | 141 | - 126 | - 166 |
| Return on total investments (range) | (- 10 %)-0 % | 0 %-10 % | (- 10 %)-0 % | (- 15 %)-(- 5 %) |
| Return on total investments (index) | - 100 | 124 | - 75 | - 175 |
| Cash flow (index) | 100 | 133 | 70 | 61 |

- (74) Over the period considered, the profitability of the Community industry deteriorated significantly. The return on total investments was calculated by expressing the operating profit of the like product as a percentage of the net book value of fixed assets allocated to the like product. This indicator developed in line with profitability, decreasing significantly over the period considered. With regard to the cash flow a similar negative trend was found, resulting in a dramatic overall deterioration of the Community industry's financial situation in the IP.

(f) *Employment, productivity and wages*

- (75) The number of employees of the Community industry involved with the like product diminished by 9 % between 2004 and the IP. The average labour cost per employee, declined by 11 %.

| | 2004 | 2005 | 2006 | IP |
|--|------|------|------|-----|
| Number of employees (index) | 100 | 93 | 92 | 91 |
| Average labour cost per employee (index) | 100 | 90 | 88 | 89 |
| Productivity (index) | 100 | 106 | 112 | 115 |

- (76) Restructuring efforts aiming to decrease production cost, rationalisation and reduction in number of employees resulted in an increased output per worker (15 % increase over the period considered). It can therefore be concluded that, during the period considered, the Community industry made very significant progress in terms of cost efficiency.

(g) *Magnitude of the dumping margin*

- (77) As concerns the impact on the Community industry of the magnitude of the actual margins of dumping, given the volume and the prices of the imports from the country concerned, this impact cannot be considered to be negligible.

(h) *Recovery from past dumping*

- (78) In the absence of any information on the existence of dumping prior to the situation assessed in the present proceeding, this issue is considered irrelevant.

5. Conclusion on injury

- (79) During the period considered a number of injury indicators experienced apparent positive developments: the Community industry, in an effort to enhance its effectivity, managed to increase its sales and production volume, production capacity, capacity utilisation and productivity while decreasing its stocks and annual labour.

- (80) However, against a background of increased consumption, its market share shrunk by 9 % over the period considered. Moreover, its financial indicators developed negatively: profitability decreased continuously. The return on investment and cash flow situation developed also negatively. The reason for this development is that the significant increase in raw material prices was only partially reflected in the sales prices of the like product. The small increase in sales prices was insufficient for the Community industry to maintain its profit margin.
- (81) In the light of the foregoing, it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

1. Introduction

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

2. Effect of the dumped imports

- (83) The significant increase in the volume of the dumped imports by 37 % between 2004 and the IP and of its corresponding share of the Community market, i.e. by 7 percentage points, as well as the significant undercutting found (between 15 % and 21 % during the IP) coincided with the deterioration of the economic situation of the Community industry, while average prices of all exporting producers in the PRC decreased by 6 %.
- (84) Therefore, the effect of this unfair pricing behaviour of the dumped imports from the PRC was that the prices on the Community market were suppressed and that the Community industry lost market share to the dumped imports. The Community industry in order not to lose more market share was unable to pass on its increased input prices to its customers to an extent that would have been necessary to remain profitable.
- (85) In view of the clearly established coincidence in time between, on the one hand, the surge of dumped imports at prices significantly undercutting the Community industry's prices and, on the other hand, the Community industry's decrease of profitability and deterioration of the other financial indicators, it is provisionally concluded that the dumped imports played a determining role in the injurious situation of the Community industry.

3. Effect of other factors

(a) Imports originating in third countries other than the PRC

- (86) According to Eurostat, the main third country from which citric acid is imported is Israel. However, the market share held by imports from Israel is limited and declining over the period considered, from 5 % in 2004 to only 3 % during the IP. In addition, average prices of imports from Israel are at the same level or even exceeding Community prices over the period considered.

| Average price (EUR) | 2004 | 2005 | 2006 | IP |
|---------------------|------|------|------|-----|
| Israel | 807 | 788 | 865 | 839 |
| Index (2004 = 100) | 100 | 98 | 107 | 104 |

- (87) Further to the imports from Israel, there are no significant imports from other countries. On the basis of the findings with regard to these imports, it can thus provisionally be concluded that imports other than from the PRC did not contribute to the material injury suffered by the Community industry.
- (b) *Rise in the costs of raw materials due to the EU sugar market reform*
- (88) Some interested parties claimed that any injury suffered by the Community industry was linked to the rise of sugar price, used as the main raw material for the production of the like product, due to the reform of sugar regime in the EU and the subsequent abolition of the production refund granted to the chemical industry.
- (89) In this respect it is noted that one Community producer uses as main raw material mainly molasses, which were never subject to production refunds although formally falling under the common agricultural policy for sugar.
- (90) The investigation showed that in respect of their usage of sugar as raw material, the Community industry was indeed entitled to a production refund under the Common market organisation for sugar to help maintain its competitiveness on the world market. The production refunds corresponded to the difference between EU sugar intervention price after deducting sugar world market price plus the standard amount corresponding to the forwarding costs for exporting Community sugar. Thereby the Community industry obtained its supplies of sugar at world market prices.
- (91) Since July 2006 this system has been reformed by down-scaling the protection for the sugar sector. According to the new system, as stipulated in Council Regulation (EC) No 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector⁽¹⁾, firstly the chemical industry is allowed to freely negotiate quantities and prices of industrial sugar with sugar producers and beet farmers, i.e. the reference price methodology and the quotas have been dropped in this sector. Secondly, the Community industry can also buy certain quantities of industrial sugar on the world market free of duty. Finally, should there be no sugar available at a price corresponding to the world price of sugar, the chemical industry would be entitled to request the grant of a production refund. The provision for those production refunds, although still existing, has since July 2006 not been used. This can be considered as a strong indication that there were sufficient quantities of sugar available at world market prices.
- (92) Moreover, the analysis showed that depending on the raw material split of the Community industry used to manufacture the like product, sugar made up from 6 to 21 % (range is given for confidentiality reasons) of its cost of manufacturing from January until June 2006 and this did not increase during the IP further than the increase of the world market prices for sugar.
- (93) Thus, the investigation has shown that the reform of the sugar market had no considerable impact on the cost situation of the Community industry.
- (94) On the basis of the above, it is provisionally concluded that the sugar market reform did not contribute to the material injury suffered by the Community industry.
- (c) *Rising energy prices*
- (95) Some interested parties claimed that any injury suffered by the Community industry was linked to the rise in costs of energy.
- (96) In this respect it is noted that the production of citric acid is energy intensive where the total weight of energy cost in the production amounts to 16 % (see recital (69) above). The cost of energy has indeed risen relatively moderately throughout the period considered and this was reflected in the cost of production.
- (97) In any event, it is not the increase in the cost of energy as such that had a negative impact on the financial situation of the Community industry, but the inability to pass on those increased energy costs to the necessary extent to their customers due to the price depression caused by the significant volumes of dumped imports.
- (98) Furthermore, it was alleged that the risen energy prices would also indirectly affect the production of citric acid as the European citric acid industry would compete with the biofuel industry for carbohydrates which is one of the compounds used for the production of citric acid. As the demand for energy is increasing and therefore the demand for biofuels as well, biofuel producers would be in a position to pay more for those carbohydrates (i.e. sugar and its residual molasses, glucose). This would drive the cost for those carbohydrates up for the Community industry. However, as the analysis of the cost of manufacturing of the Community industry has shown, see recitals (69) and (92) above, there has been no increase in the cost of manufacturing for sugar or molasses which was not linked to the general increase of sugar on the world market. Therefore, no indirect impact of the biofuel industry to the producers of citric acid could be established. The argument is therefore dismissed.

⁽¹⁾ OJ L 58, 28.2.2006, p. 1. Regulation as last amended by Regulation (EC) No 1260/2007 (OJ L 283, 27.10.2007, p. 1).

- (99) On the basis of the above, it is provisionally concluded that the consequences of the rise in energy costs did not contribute to the material injury suffered from the Community industry.

(d) Price cartel of Community industry

- (100) Some interested parties claimed that the loss of market share for the European producers was self-inflicted because of the citric acid cartel (1991-1995) in which both the complainant and the other European producer, under its former ownership, participated. They claim that due to the anti-competitive practices, the sales price was artificially high and allowed the Chinese producers to enter the market. An analysis of statistics shows that the big boost in Chinese citric acid imports occurred between 1998 and 1999 (64 %) and even more between 2002 and 2004 (137 %), several years after the cartel had finished.

- (101) On the basis of the above, it is provisionally concluded that the consequences of the anti-competitive practices in which the Community industry has taken part did not contribute to the material injury suffered by the Community industry.

(e) Currency fluctuations

- (102) Some interested parties have claimed that the devaluation of the USD against the euro has favoured imports of citric acid into the European Community.
- (103) Between 2004 and the end of the IP, the USD lost 6,01 % of its value against the euro. Neither the price development of the Community industry nor the import volumes from the country concerned or from other third countries reflect the rather low devaluation of the USD against the euro.
- (104) Therefore the devaluation of the USD against the euro has to be considered as negligible and cannot be considered as a major cause of the loss of the market share of the Community industry.

difference between price levels, and there is thus no requirement to analyse the factors affecting the level of those prices.

- (106) However, even if the USD/EUR currency fluctuation between 2004 and the IP was taken into account and even assuming that all export sales to the Community were made in USD, there would still be more than 10 % undercutting.

- (107) Consequently, it was provisionally concluded that the appreciation of the euro in respect of the USD was not such as to break the causal link between the injury established and the imports concerned to the Community industry and the claim was, therefore, rejected.

4. Conclusion on causation

- (108) In conclusion, the above analysis has demonstrated that there was a substantial increase in volume and market share of the imports originating in the country concerned during the period considered, together with a considerable decrease in their sales prices and a high level of price undercutting during the IP. This increase in market share of the low-priced imports coincided with a decline in the Community industry's market share and a price depression with a drop in profitability.
- (109) On the other hand, the examination of the other factors which could have injured the Community industry revealed that none of them could have had a significant negative impact.
- (110) Based on 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 provisionally concluded that the dumped imports originating in the country concerned have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

F. COMMUNITY INTEREST

- (105) Moreover, it is recalled that the investigation has to examine whether the dumped imports (in terms of prices and volumes) have caused material injury to the Community industry or whether such material injury was due to other factors. In this respect, with regard to prices, Article 3(6) of the basic Regulation states that it is necessary to show that the price level of the dumped imports causes injury. It therefore merely refers to a

- (111) 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 measures in this particular case. For this purpose, and pursuant to Article 21 of the basic Regulation, the Commission considered the likely impact of measures for all parties concerned.

1. Interest of the Community industry

- (112) As indicated in recital (11) above, the Community industry is composed of two companies, with production facilities in Austria and Belgium, which employs in the range of 500 to 600 persons directly involved in the production, sales and administration of the like product. If measures are imposed, it is expected that the price depression on the Community market will come to an end and that sales prices of the Community industry will start to recover, as a consequence of which the financial situation of the Community industry should improve.
- (113) On the other hand, should no anti-dumping measures be imposed, it is likely that the negative trend in the development of the Community industry's financial indicators, and notably its profitability, will continue. The Community industry will then continue to lose market share as it is not able to follow the artificially low market prices set by imports from the PRC. Therefore, cuts in production and investments, closure of certain production capacities and job reduction in the Community will be a likely result.
- (114) In this respect, it is worth mentioning that since 2004 three producers of citric acid in the Community have closed down.
- (115) In conclusion, the imposition of anti-dumping measures would allow the Community industry to recover from the effects of injurious dumping found.

2. Interest of unrelated importers

- (116) As described in recital (10) above, four sampled importers sent questionnaire replies and they accounted for around 36 % of the Community imports of the product concerned during the IP. One of the sampled importers was not able to provide the requested information. Therefore, its submitted questionnaire was disregarded. The three remaining questionnaire replies were verified on the spot.
- (117) The overall weight represented by citric acid in the total turnover of these importers' activities was very small. On an average basis, around 1 % of these importers' activities could be linked to imports of citric acid from the PRC, which is nonetheless considered to be important to complete their product range. Certain importers

purchase the product under investigation not only from the PRC but also from other sources in and outside the Community, including from the Community industry. The average profit margin attained by the sampled importers, on their trading of citric acid, is around 4,4 %.

- (118) Importers in the Community are not in favour of the imposition of measures. The cooperating importers argued that the imposition of measures would seriously harm their operations, as they would not be able to pass on the price increase to users. In this respect, the imposition of an anti-dumping duty on imports from the PRC, will most likely lead to an upwards correction of market prices. The effect of the duties would in all likelihood be diluted in the importers overall result as citric acid only represents a fraction of their total turnover. The significant undercutting still found after adjustment of the cif Community border prices for post-importation costs also suggests that there is room for a price increase. It can thus not be excluded that importers can pass on a part of the duties to their customers in the food and beverages industry. In any event, in view of the limited weight of sales of this product in the importers' activities, and the profit margin currently attained both overall and in view of their sales of citric acid only, it is expected that the duty as provisionally established will not affect the financial situation of these economic operators to a significant extent.
- (119) Further, it was claimed that if duties are imposed, this could lead to a duopolistic market situation on the Community market, excluding competition from third countries. Some interested parties raised concerns about the ability of European producers to meet the increasing European demand. The investigation has shown that, even if operating at full capacity, the Community industry would only have been able to meet 75 % of the European demand during the IP. In this respect, it needs to be underlined that anti-dumping duties should not have the effect of stopping all imports, but rather restoring a level playing field. In combination with imports from other third countries such as Israel, it is provisionally concluded that this would ensure a sufficient supply to meet Community demand. However, the level of Chinese imports will be closely examined after the imposition of provisional measures to analyse the supply situation on the EU market.
- (120) Although importers/distributors are against the imposition of measures, it can be concluded on the basis of the information available that any advantage they may gain from not having anti-dumping measures imposed is outweighed by the interest of the Community industry in having the effect of unfair and injurious trading practices from the PRC neutralised.

3. Interest of users

- (121) Ten users filled in a users' questionnaire. All replies were incomplete and they therefore could not be fully included in the analysis, although it clearly appears that citric acid is used in many different applications but only in small quantities. Thus, the impact of any anti-dumping duty would not be significant for their total cost of production. Only one cooperating user indicated that the imposition of any measures would have a major impact on its business without further substantiating this argument.
- (122) In the light of the above and given the overall low degree of cooperation, the situation of users in the Community is therefore unlikely to be substantially affected by the proposed measures.

4. Conclusion on Community interest

- (123) The effects of the imposition of measures can be expected to afford the Community industry the opportunity to regain lost sales and market shares and to improve its profitability. In view of the unfavourable financial situation of the Community industry, there is a real risk that, in absence of measures, the Community industry may close down production facilities and lay off workforce. In general, the users in the Community would also benefit from the imposition of measures, in the sense that the supply of sufficient volumes of citric acid would not be jeopardised whilst the overall increase in purchase price of citric acid would be moderate. In the light of the above, it is provisionally concluded that no compelling reasons exist for not imposing measures in the present case on Community interest grounds.

G. PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES

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

1. Injury elimination level

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

in the absence of dumped imports. In this respect, a target profit of 9 % has been applied, based on the profit that was achieved before the major increase in Chinese imports of citric acid.

2. Provisional measures

- (126) In the light of the foregoing and pursuant to Article 7(2) of the basic Regulation, it is considered that a provisional anti-dumping duty should be imposed at the level of the lowest of the dumping and injury margins found, in accordance with the lesser duty rule, which is in all cases the injury margin found.
- (127) The level of cooperation was very high, it was therefore considered appropriate to set the duty for the remaining companies, which had not cooperated in the investigation, at the level of the highest duty to be imposed on the companies cooperating in the investigation. Therefore, the residual duty was set at the rate of 49,3 %.
- (128) Consequently, the provisional anti-dumping duties should be as follows:

| Sampled exporters | Proposed anti-dumping duty |
|------------------------------------|----------------------------|
| Anhui BBKA Biochemical Ltd Co. Ltd | 42,2 % |
| DSM Citric Acid (Wuxi) Ltd | 13,2 % |
| RZBC Co. | 43,2 % |
| RZBC (Juxian) Co. Ltd | 43,2 % |
| TTCA Co., Ltd | 49,3 % |
| Yixing Union Biochemical | 38,8 % |
| Laiwu Taihe Biochemistry Co. Ltd | 43,2 % |
| Shanxi Ruicheng | 43,2 % |
| Weifang Ensign Industry Co. Ltd | 43,2 % |
| All other companies | 49,3 % |

- (129) The above anti-dumping measures are provisionally established in the form of *ad valorem* duties. In consideration of the fact that the production capacity of the Community Industry may be not sufficient to satisfy the needs of the Community market (see recital 119), the level of imports from the PRC after the imposition of provisional duties will be examined closely. Should it appear that some difficulties arise in the supply of citric acid in the Community market, consideration will be given to apply an alternative form of measures.

3. Final provision

- (130) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures.
- (131) The individual anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to all other companies) are thus exclusively applicable to imports of products originating in the PRC and produced by these companies and thus by the specific legal entities

mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to the one specifically mentioned, cannot benefit from this rate and shall be subject to the country-wide duty.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of citric acid and of trisodium citrate dihydrate falling within CN codes 2918 14 00 and ex 2918 15 00 (TARIC code 2918 15 00 10) and originating in the People's Republic of China.

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

| Company | Anti-Dumping duty (%) | TARIC Additional Code |
|--|-----------------------|-----------------------|
| Anhui BBKA Biochemical Co., Ltd — No 73, Fengyuandadao Road, Bengbu City 233010, Anhui Province, PRC | 42,2 | A874 |
| DSM Citric Acid (Wuxi) Ltd — West Side of Jincheng Bridge, Wuxi 214024, Jiangsu province, PRC | 13,2 | A875 |
| RZBC Co., Ltd — No 9 Xinghai West Road, Rizhao, Shandong Province, PRC | 43,2 | A876 |
| RZBC (Juxian) Co. Ltd, West Wing, Chenyang North Road, Ju County Shandong Province, PRC, | 43,2 | A877 |
| TTCA Co., Ltd — West, Wenhe Bridge North, Anqiu City, Shandong Province, PRC | 49,3 | A878 |
| Yixing Union Biochemical Co., Ltd — Industry Zone Yixing City 214203, Jiangsu Province, PRC | 38,8 | A879 |
| Laiwu Taihe Biochemistry Co. Ltd, PRC | 43,2 | A880 |
| Shanxi Ruicheng Yellow River Chemicals Co. Ltd., PRC | 43,2 | A881 |
| Weifang Ensign Industry Co. Ltd, PRC | 43,2 | A882 |
| All other companies | 49,3 | A999 |

3. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 2 June 2008.

For the Commission
Peter MANDELSON
Member of the Commission
