

COMMISSION REGULATION (EC) No 112/2009

of 6 February 2009

imposing a provisional anti-dumping duty on imports of wire rod originating in the People's Republic of China and the Republic of Moldova

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:

A. PROCEDURE

1. Initiation

- (1) On 25 March 2008, the Commission received a complaint concerning imports of bars and rods, hot-rolled, in irregularly wound coils, of iron, non-alloy steel or alloy steel other than of stainless steel, (wire rod), originating in the People's Republic of China (the PRC), the Republic of Moldova (the RM) and Turkey.
- (2) The complaint was lodged pursuant to Article 5 of the basic Regulation by EUROFER (the complainant) on behalf of producers representing a major proportion, in this case more than 25 %, of the total Community production of wire rod.
- (3) The complaint contained *prima facie* evidence of dumping and of material injury caused by such dumping which was considered sufficient to justify the opening of a proceeding.
- (4) On 8 May 2008, a proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union*⁽²⁾ (the notice of initiation).

2. Parties concerned by the proceeding

- (5) The Commission officially advised the exporting producers in the PRC, the RM and Turkey, importers, traders, users and associations known to be concerned, the authorities of the PRC, the RM and Turkey, the complainant Community producers and other Community producers known to be concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit

set in the notice of initiation. All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.

- (6) 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 and Moldovan exporting producers known to be concerned and to the authorities of the PRC and RM. Two exporting producers from the PRC, both consisting of groups of related companies, and one from the RM, requested MET pursuant to Article 2(7) of the basic Regulation, or IT should the investigation establish that they do not meet the conditions for MET.

- (7) In view of the apparent high number of exporting producers in the PRC and Turkey, importers and producers in the Community, the Commission indicated in the notice of initiation that sampling methods might be applied for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation.

- (8) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC and in Turkey, Community importers and Community producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned.

- (9) Given the limited number of responses to the sampling exercise, it was decided that sampling was not necessary for Chinese and Turkish exporting producers, or for Community producers and importers within the Community.

- (10) Questionnaires were sent to all companies in the PRC, and Turkey who responded to the sampling exercise, to the sole Moldovan exporting producer, to all Community producers, users and importers who responded to the sampling exercise, and to all other parties known to be concerned. Replies were received from two groups of exporting producers in the PRC, one exporting producer in the RM, six exporting producers in Turkey, 20 Community producers, one importer and eight users in the Community.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ C 113, 8.5.2008, p. 20.

- (11) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:
- (a) Exporting producers in the PRC
- Hunan Valin Xiangtan Iron & Steel Co., Ltd and Hunan Xianggang Huaguang Wire Rod Co. Ltd, Xiangtan, Hunan province, PRC;
- (b) Exporting producer in the RM
- Joint Stock Company Moldova Steel Works (hereinafter MMZ), Rybnitsa, Transnistrian region of the RM; and its related sales company Panfermag Holding Ltd, Limassol, Cyprus, at its premises in Kiev, Ukraine;
- (c) Exporting producers in Turkey
- Çolakoglu Metalurji A.S and its related sales company Çolakoglu dis Ticaret A.S., Karakoy, Turkey,
 - Habas Sinai ve Tibbi Gazlar Istihsal Endüstrisi AS, Kartal, Turkey,
 - İçdas Çelik Enerji Tersane ve Ulasim Sanayi AS, Istanbul, Turkey,
 - Iskenderun Demir ve Çelik Fabrikalari AS, Iskenderun, Turkey,
 - Kroman Çelik Sanayii AS, Kocaeli, Turkey;
- (d) Producers in the Community
- Riva Fire SpA, Milan, Italy and its related companies Riva Acier SA, Gargenville, France; Riva Stahl GmbH, Hennigsdorf, Germany and Brandenburgische ElektroStahlwerke (BES) GmbH, Brandenburg, Germany,
 - Global Steel Wire, Santander, Spain,
 - ArcelorMittal Hamburg GmbH, Hamburg, Germany; ArcelorMittal Grandrange, Amneville, France; ArcelorMittal Poland, Katowice, Poland,
- Feralpi Siderurgica SpA, Lonato, Italy,
 - Corus, London, United Kingdom,
 - Duferco La Louviere Sales S.A, Manage, Belgium;
- (e) Importers in the Community
- Montan Gesellschaft Voss GmbH, Planegg, Germany;
- (f) Users in the Community
- Unifer SpA, Piacenza, Italy.
- (12) In view of the need to establish a normal value for exporting producers in the PRC and the RM to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Brazil in this case, took place at the premises of the following company:
- Arcelor Mittal Brazil, Belo Horizonte, Brazil.
- ### 3. Investigation period
- (13) The investigation of dumping and injury covered the period from 1 April 2007 to 31 March 2008 (investigation period or IP). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2004 to the end of the investigation period (period considered).
- #### B. PRODUCT CONCERNED AND LIKE PRODUCT
- ##### 1. Product concerned
- (14) The product concerned is bars and rods, hot-rolled, in irregularly wound coils, of iron, non-alloy steel or alloy steel other than of stainless steel originating in the PRC, the RM and Turkey (the product concerned or wire rod), normally declared within CN codes 7213 10 00, 7213 20 00, 7213 91 10, 7213 91 20, 7213 91 41, 7213 91 49, 7213 91 70, 7213 91 90, 7213 99 10, 7213 99 90, 7227 10 00, 7227 20 00, 7227 90 10, 7227 90 50 and 7227 90 95. The product concerned does not include stainless steel wire rod.
- (15) To produce wire rod, steel billets produced from an electric arc furnace (EAC) or a blast furnace melt shop are rolled through a rolling mill. Billets are progressively reduced in cross-section by passing through a series of rolls and then coiled. The EAC process uses metal scrap, while the blast furnace process uses metal scrap and iron ore.

(16) Wire rod is used for welded mesh in the construction industry (pre- or post-stressing wires and wire strands used for reinforcement of concrete), and has many other uses after been drawn into wire, including in the tyre industry (tyre cord), in the nut and bolt industry (fasteners), fencing products, supermarket trolleys, steel cord, electrodes, cables, bed springs, suspension springs and welding wire.

2. Like product

(17) The investigation showed that the wire rod produced and sold by the Community industry in the Community, wire rod produced and sold on the domestic market in Brazil, which served as an analogue country, and wire rod produced in the PRC, the RM and Turkey and sold to the Community and sold on the domestic Turkish market have essentially the same basic physical and technical characteristics and the same basic use.

(18) All the aforementioned wire rod is therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Application of Article 18 of the basic Regulation

(19) One Chinese exporting producer submitted a sampling form, MET claim and answer to the anti-dumping questionnaire in due time, but failed to reply to the deficiency letter of the Commission, even after receiving a reminder.

(20) The company was informed about the proposed application of Article 18 of the basic Regulation and was given the opportunity to comment.

(21) The company claimed that the Commission had granted them too short deadlines for them to be able to submit full information in their submissions and to cooperate. Based on the fact that the company did not indicate to the Commission any time constraints within the applied deadlines, it was considered that no decisive arguments were submitted or evidence provided to reverse the decision to apply Article 18 of the basic Regulation.

(22) The company made an appeal to the Hearing Officer. After hearing the arguments of the company and the observations of the Hearing Officer, it was confirmed that the company did not signal in good time any time constraints and consequently did not cooperate with sufficient diligence in the investigation.

(23) It has been therefore considered appropriate to reject the information submitted by this company and base the findings on facts available.

2. Market economy treatment (MET)

(24) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC and the RM, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which are found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

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

— business decisions and costs are made in response to market signals and without significant State interference; costs of major inputs substantially reflect market values,

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

— there are no significant distortions carried over from the former non-market economy system,

— bankruptcy and property laws guarantee legal certainty and stability,

— exchange rate conversions are carried out at market rates.

(26) Following the initiation of the proceeding, two Chinese and one Moldovan exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadline.

2.1. People's Republic of China

(27) For one Chinese exporting producer, Article 18 of the basic Regulation had to be applied (see recitals (19) to (23)), and therefore its claim for MET was rejected.

(28) As regards the remaining Chinese exporting producer, the company could not demonstrate that it met criteria 2 and 3. Regarding criterion 2, it was found that several accounting policies of the company were not in line with IAS. These problems were found to be systemic and were not reflected in the auditors' report. Regarding criterion 3, it was found that the company was not paying the principal of certain loans, long after the term initially foreseen in the loan contracts. The company was also found to benefit from significant income tax reductions during the IP.

- (29) Consequently, it was concluded that the Chinese exporting producer did not demonstrate that it fulfilled the conditions set out in Article 2(7)(c) of the basic Regulation.
- (30) Following disclosure of the MET analysis, the Chinese exporting producer submitted a response where the company agreed on non-compliance with criterion 2 but disagreed with the negative conclusion on criterion 3. In particular, the company argued that non-repayment of the principal of a loan did not constitute a distortion carried over from the non-market economy system but a sign that the company enjoyed high credit rating. After detailed examination it was found that, during the IP, the loans in question were not covered by any contract, therefore the company was under no legal obligation to pay either interest or principal. The existence of such loans significantly distorts the financial situation of the company, and de facto constitutes a debt write off. Additionally, the non-repayment of the principal of a loan is not in line with market economy principles. This argument was therefore rejected.
- (31) Furthermore, it was argued that the income tax reduction was not a subsidy and therefore could not be treated as a distortion carried over from the non-market economy system. This argument was rejected as the application of the income tax reduction is contingent upon use of domestic equipment over imported one, and therefore constitutes a specific subsidy.
- 2.2. Republic of Moldova
- (32) The Moldovan producer could not demonstrate that it met any of the MET criteria. Regarding decision making and costs (criterion 1) it was found that the company's top management held key positions in the administration of the Transnistrian region of Moldova, the breakaway but not internationally recognised 'Transnistrian Moldovan Republic' (hereinafter TMR), and that there were significant distortions regarding costs. With regard to criterion 2, it was found that the company did not have a clear set of independently audited accounting records, and serious shortcomings were identified with regard to the accuracy and consistency of the accounts, thus rendering the accounts unreliable. Regarding criterion 3, there were distortions carried over from the non-market economy system which affected the costs. The most significant was that the privatisation process of the company was made at a price below market value. It was also detected that the company is frequently involved in barter trade practices. Regarding criterion 4, concerning the legal certainty and stability of operations, it was found that the company does not for the most comply with the Moldovan legal framework. Finally, it was also found that the company operates, *inter alia*, in a currency not internationally recognised and whose exchange rate is not freely set in response to market signals (criterion 5).
- (33) Consequently, it was concluded that the Moldovan exporting producer did not demonstrate that it fulfilled the conditions set out in Article 2(7)(c) of the basic Regulation.
- (34) The Moldovan exporting producer opposed this decision. In general, it claimed that the application of Article 2(7) of the basic Regulation to the RM constitutes a violation by the Community of its WTO commitments vis-à-vis the RM.
- (35) In reply to this argument, it should be re-called that the note to Article VI of the GATT acknowledges that, in cases of imports from certain countries where difficulties may exist in determining price comparability for the purposes of establishing whether dumping is taking place, WTO members may consider that a comparison with domestic prices in such a country may not always be appropriate. In the case of the RM, it is considered that such difficulties exist. In these circumstances, normal value will be determined in accordance with Article 2(7) of the basic Regulation. Furthermore, it is noted that Article 2(7)(a) specifically mentions the RM in the list of non-market economy countries to whom this provision applies.
- (36) It also claimed that mandatory time-limits set out in the basic Regulation were not respected. The Applicants claimed that the decision to reject MET should be annulled because the Commission failed to make the MET determination within the three-month period set forth in Article 2(7)(c) of the basic Regulation.
- (37) It is correct that the Commission did not make the MET determination within the three-month period following the initiation of the investigation. However, this does not constitute a ground for the annulment of the decision to reject MET. While Article 2(7)(c) of the basic Regulation stipulates that the MET determination shall be made within three months following the initiation of the investigation, the provision does not stipulate that missing the three-month period has any specific consequences. In particular, the provision does not stipulate that if the Commission failed to decide within the three-month period on an exporter's MET request, (i) the exporter will automatically get MET or (ii) that the institutions may no longer impose measures against the exporter. Thus, it follows that the mere fact that the Commission did not respect the three-month period does not render the decision to reject MET unlawful.
- (38) The Moldovan exporting producer further claims that there has been discrimination in comparison with Ukrainian and Russian exporting producers in prior proceedings and that the Commission's assessment is based on political grounds. Additionally it claims that there are a number of errors due to lack of evidence or because the conclusions are insufficiently reasoned, and that the principle of sound administration was thus violated. The company does not detail specific reasons for such a breach.

- (39) Concerning a claim of discrimination against the RM in regard to how MET assessments were made in previous cases against Ukraine and Russia, it must be stated that MET assessments are made on a case-by-case basis. Decisions in past cases concerning these countries cannot be automatically applied to the current proceeding. It must also be pointed out that neither Ukraine nor Russia is currently listed in Article 2(7) of the basic Regulation as non-market economy countries, therefore the current situation is not comparable with the Republic of Moldova. In light of the above, the allegation of discrimination in treatment between the RM and other former non-market economy countries is rejected.
- (40) The Moldovan company contested the Commission's analysis of compliance with the five MET criteria.
- (41) Regarding criterion 1, the company argues that there is no State interference as, for the purpose of the proceeding, references to State cannot be made with reference to the TMR authorities, which are not recognised as a State. However, it is considered that, for the purpose of this criterion, the reference to the State should be understood as the authorities effectively controlling the region, whether recognised or not, who have the capacity to interfere with the company's decision making processes. This argument was therefore dismissed.
- (42) The company also disagrees with the assessment of criterion 2, claiming the company has only one set of basic accounting records, which are independently audited in line with IAS.
- (43) However, it was found that the company had a first set of accounts which were prepared according to the so-called TMR accounting standards, which do not include a provision for bad debts, and which were not audited. The company had a second set of accounts, which were consolidated with other related companies accounts and audited, allegedly in line with IAS. This second set of accounts received a qualified opinion from the auditors, who expressed reservations on the valuation of the assets by the company in 2003 and 2005. The exact reasons for those reservations could not be made sufficiently clear during the investigation. The company later claimed that the reservations expressed by the auditors were not material, but did not provide evidence in this respect.
- (44) Therefore, the above arguments of the company in respect of criterion 2 had to be dismissed.
- (45) As for criterion 3, the company claimed that the privatisation process of the company was irrelevant for the purpose of pointing out possible distortions carried over from the non market economy system, as the company was subsequently re-sold at arm's length and fair market value. However this could not be demonstrated since the re-sale of the companies holding MMZ shares could have included other assets and no properly documented evaluation of those operations was submitted.
- (46) The company also claimed that, concerning barter trade practices, the amounts of barter trade found in the investigation were not material in view of this criterion. It is considered, however, that the materiality level of such practices is not a valid criterion for analysis, as the real value of the traded goods is only known to the parties involved on the barter trade operation. Therefore the relevant argument is that such practices, which are typical of non-market economies, were found to have been regularly employed by the company. Thus the argument of the company had to be dismissed.
- (47) Concerning a loan from a related company for which the Moldovan company could not, despite being requested to do so, produce on spot any evidence of repayment, the company claimed that this loan had been fully repaid. The company subsequently submitted copies of documents allegedly as evidence of payment, but gave no explanation on why they were not made available on spot. The fact stays that this evidence was not available during on spot verifications and that this type of submission cannot be verified at this stage of the proceeding. Therefore the claim of the company had to be dismissed.
- (48) Regarding criterion 4 the company claimed that the fact that the company was temporarily registered in the RM, and its exports took place via the RM customs should ensure that it complied with the RM legal framework. It further argued that the fact that the accounts were audited showed that the applicable laws would be sufficient to ensure legal certainty and stability. It should be noted, however, that neither the temporary registration of a company in the RM nor the auditing are conditional on the application of the RM's legal framework, and that the current ownership of the company is not legally recognised in the RM. Those claims were therefore dismissed.
- (49) Regarding criterion 5 the company claimed that exchange rate conversions in TMR roubles are carried out at market rate resulting from free sales and purchases of currencies. However, the fact that the TMR currency is not recognised or traded internationally means that it cannot be considered to have a market value, but only a value which is administratively set by the so-called TMR authorities. This argument was therefore dismissed.

3. Individual treatment ('IT')

- (50) Pursuant to Article 2(7)(a) of the basic Regulation, a countrywide duty, if any, is established for countries falling under the provisions of 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 to be granted IT.

- (51) The Chinese and Moldovan exporting producers which did not meet the MET criteria (see recitals (28) to (33)) had also all claimed IT in the event that they were not granted MET.
- (52) On the basis of information available, it was found that the Chinese exporting producer met all the requirements for IT as set out in Article 9(5) of the basic Regulation.
- (53) Regarding the sole Moldovan exporting producer, it was found that the Moldovan exporting producer did not meet the requirements for being granted IT as set out in Article 9(5) of the basic Regulation, since it could not demonstrate that export prices, quantities and conditions were set without State interference, exchange rate conversions were carried out at market rates, or that State interference was not such as to permit circumvention of measures should individual exporters be given different rates of duty.
- #### 4. Normal value
- ##### 4.1. Turkey
- (54) In accordance with Article 2(2) of the basic Regulation, the Commission first examined for each exporting producer whether the domestic sales of the product concerned to independent customers were representative, i.e. whether the total volume of such sales was equal to or greater than 5 % of the total volume of the corresponding export sales to the Community.
- (55) The Commission subsequently identified those product types sold domestically by the companies having overall representative domestic sales, which were identical or directly comparable with the types sold for export to the Community. Domestic sales of a particular product type were considered as sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the investigation period represented 5 % or more of the total volume of the comparable product type sold for export to the Community.
- (56) The Commission subsequently examined whether the domestic sales of each product type sold domestically in representative quantities by each company in each exporting country 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 each exported product type, on the domestic market during the investigation period.
- (57) Where the sales volume of a product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price. This price was calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.
- (58) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only.
- (59) Wherever domestic prices of a particular product type sold by an exporting producer could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used constructed normal value, in accordance with Article 2(3) of the basic Regulation.
- (60) Normal value was constructed by adding to each exporter's manufacturing costs of the exported types, adjusted where necessary, a reasonable amount for selling, general and administrative expenses (SG&A) and a reasonable margin of profit.
- (61) In all cases SG&A and profit were established pursuant to the methods set out in Article 2(6) of the basic Regulation. To this end, the Commission examined whether the SG&A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.
- (62) From the five Turkish exporting producers investigated, sales of the like product were representative. To a large extent, normal value was based on prices paid or payable, in the ordinary course of trade, by independent customers in Turkey, in accordance with Article 2(1) of the basic Regulation.
- (63) However, for those product types where the domestic sales were insufficient or not made in the ordinary course of trade, normal value was constructed in accordance with Article 2(3) of the basic Regulation. SG&A and profit were based on actual data pertaining to production and sales, in the ordinary course of trade, of the like product, by the exporting producer under investigation, in accordance with the chapeau of Article 2(6) of the basic Regulation.
- ##### 4.2. PRC and RM
- (64) According to Article 2(7)(a) of the basic Regulation, in economies in transition, normal value for exporting producers not granted MET has to be established on the basis of the price or constructed value in a market economy third country (analogue country). Given that none of the exporting producers in the PRC or the RM was granted MET, normal value for these companies had to be established on the basis of the data from an analogue country.

4.3. *Analogue country*

- (65) In the notice of initiation, Brazil was proposed as an appropriate analogue country for the purpose of establishing normal value for the PRC and the RM. The Commission invited all interested parties to comment on this proposal.
- (66) Despite contacts made with a number of producers in other third countries, no companies agreed to cooperate except for the one Brazilian producer.
- (67) Several interested parties submitted comments claiming that Brazil was not an appropriate choice and proposed Turkey as an analogue country. The complainant submitted further arguments in favour of the selection of Brazil. These arguments were analyzed and investigated by the Commission.
- (68) One interested party claimed that production methods in the RM and Brazil were different and therefore proposed Turkey as a more suitable analogue country for the RM. The same party additionally claimed that the level of economic development in the RM and Brazil are different. However, it was found that the production methods in Brazil are essentially the same or similar to those in the PRC. The difference in production methods between Brazil and the RM only concerns the preliminary process, which does not lead to significant differences in costs. As for the level of economic development, it is not considered per se as a criterion for the selection of an analogue country.
- (69) It was also argued that the cooperating Brazilian producer was related to the complainant, which would render the choice of Brazil inappropriate as analogue country. This argument was not accepted. It is considered that if prices and costs are not distorted, there is no reason to exclude data provided by cooperating companies related to the complainant when setting normal values based on the domestic sales in an analogue country.
- (70) One interested party claimed that the like product concerned was overpriced in the Brazilian domestic market. A second interested party claimed that competition on the domestic market was distorted due to the fact that domestic producers are vertically integrated, and two of them would allegedly have together more than 60 % of market share.
- (71) The investigation confirmed that the domestic prices in Brazil were quite high, as well as the profit margin obtained by the cooperating Brazilian producer. This could be an indication of an insufficient level of competition in the Brazilian market, caused by the fact that

there are only three producers of the like product, two of which, as confirmed by the investigation, make up for almost 90 % of the market.

- (72) Furthermore, the investigation showed that there are around 12 producers in Turkey which, taken together with imports from various sources, ensures a competitive domestic market.
- (73) In any case, and to avoid the effect of high prices in the Brazilian domestic market, and given that verified data from five Turkish exporting producers are available, it was considered more appropriate to use Turkey as analogue country rather than Brazil.
- (74) In view of the above, it is concluded that the choice of Turkey as analogue country may be considered as more appropriate than Brazil for the purpose of this proceeding, in accordance with Article 2(7)(a) of the basic Regulation.

4.4. *Export price*

- (75) In all cases where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.
- (76) One exporting producer made some export sales via a related importer in the Community. In this case the export price was constructed, pursuant to Article 2(9) of the basic Regulation, on the basis of the price at which the imported products were first resold to an independent buyer, duly adjusted for all costs incurred between importation and resale, as well as a reasonable margin for SG&A and profits. The related importer's own SG&A costs were used, and the profit margin was established on the basis of the information available from cooperating unrelated importers.

4.5. *Comparison*

- (77) The comparison between normal value and export price was made on an ex-works basis.
- (78) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (79) For all investigated cooperating exporting producers allowances for differences in transport costs, freight and insurance costs, bank charges, packing costs, credit costs and commissions were granted where applicable and justified.

5. Dumping margins

5.1. Chinese producers

- (80) For the only exporting producer granted IT, the dumping margin was established by comparing their ex-works export prices, by PCN, to the respective normal value of the analogue country.
- (81) For all non-cooperating exporters, and given the low level of cooperation, the residual dumping margin was set at the level of the highest dumping margin established for a representative quantity exported by the cooperating exporting producer.
- (82) The provisional weighted average dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, are:

Name	Dumping margin
Valin Group	36,5 %
All others	50,5 %

5.2. The Moldovan exporting producer

- (83) The calculation of the dumping margin for the Moldovan producer was made using its verified export prices with the domestic price of the analogue country. As the Moldovan producer exports to the EU are done via a related trader, the calculation of the dumping margin is based on a constructed export price for sales to an independent customer in the EU, pursuant to Article 2(9) of the basic Regulation.
- (84) The dumping margin thus calculated is 16,1 %.
- (85) As cooperation was found to be high, i.e. imports from the cooperating Moldovan producer accounted for around 85 % of all imports, a single countrywide dumping margin was established on the basis of the verified data of MMZ, i.e. at the same level as for the cooperating exporting producer.
- (86) Therefore the country wide dumping margin for the RM is established at 16,1 %.

5.3. Turkish exporting producers

- (87) Pursuant to Article 2(11) and (12) of the basic Regulation dumping margins were established on the basis of a comparison of a weighted average normal value by product type with a weighted average export price by product type as established above.

- (88) The preliminary dumping margins are as follows:

Company name	Dumping margin
Kroman Çelik Sanayli AS (Kroman)	18,8 %
Çolakoglu Metalurji A.S (Çolakoglu)	9,8 %
Iskenderun Demir ve Çelik AŞ (Isdemir)	10,5 %
Habas Sinai ve Tibbi Gazlar Istihsal Endustri AS (Habas)	7,1 %
Icdas Celik Enerji Tersane ve Ulasim Sanayii AS (Icdas)	4,1 %
All others (residual)	18,8 %

D. COMMUNITY INDUSTRY

1. Community production

- (89) All available information concerning Community producers, including information provided in the complaint and data collected from Community producers before and after the initiation of the investigation, was used in order to establish total Community production.
- (90) On that basis, total Community production was estimated to be around 24,9 million tonnes during the IP. This amount includes the production of all Community producers that made themselves known and the estimated production of producers which remained silent in the proceeding (silent producers). The silent producers account for around 30 % of total Community production. None of the known Community producers were neutral or opposed to the initiation of the investigation.
- (91) As regards the silent producers the Commission sent out questionnaires to obtain more accurate data, in particular on their sales volume and prices. However, no replies were received from these producers. Hence, in the absence of any other information, the data indicated in the complaint in respect of the silent producers was used to establish Community production and consumption.
- (92) The production volume of the Community producers which supported the complaint amounted to 11,1 million tonnes in the IP, thus representing around 45 % of the total estimated Community production, while other producers who supported the complaint but did not wish to cooperate, account for 25 %.

2. Definition of the Community industry

- (93) As mentioned in recital 92, the investigation showed that Community producers that supported the complaint and agreed to cooperate in the investigation represented around 45 % of total Community production during the IP. These producers are therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.
- (94) In view of the large number of producers that supported the complaint and agreed to cooperate in the investigation sampling for the investigation of injury was envisaged. 20 replies were received to the sampling questionnaire sent to the known Community producers. Since these 20 cooperating producers consisted of four groups of companies and two independent producers, it was decided not to apply sampling.
- (95) Given the large number of related companies included in two of the four groups, it was decided that the data provided by 11 individual companies, selected on the basis of their production volume and also their

geographic spread, would be verified on-spot at the provisional stage. For the remaining companies a desk analysis of the data submitted in their questionnaire replies was carried out.

E. INJURY

1. Community consumption

- (96) Community consumption was established on the basis of the total imports, derived from Eurostat, the total sales on the Community market of the Community industry and the other Community producers, including an estimate for the sales of the silent producers.
- (97) As mentioned under recital 91, the silent producers were contacted and asked to provide data, in particular on their production and sales of wire rod during the period considered. However, since no cooperation was forthcoming and in the absence of any other data regarding their sales on the Community market, the data provided in the complaint was used instead.

Table 1

Community consumption	2004	2005	2006	2007	IP
Tonnes	21 517 641	20 454 603	22 438 442	23 102 366	22 754 018
Index	100	95	104	107	106

Source: Eurostat, complaint data and questionnaire replies.

- (98) Overall, Community consumption expanded by 6 % over the period considered. The expansion started in 2006, after a temporary decrease of 5 % in 2005. After that, consumption recovered and increased up to 2007, followed by a slight decrease during the IP. The downturn in consumption in 2005 was a result of a lower demand in the construction industry.

2. Imports into the Community from the PRC, the RM and Turkey

2.1. Cumulation

- (99) In order to make an assessment as to the cumulation of the imports from the countries subject to this investigation, the individual situation of each country was examined in the light of the conditions set out in Article 3(4) of the basic Regulation.
- (100) As regards the imports from the PRC and RM, it was found that their import volume was above the *de minimis* threshold foreseen in Article 5(7) of the basic Regulation and that the volume of imports from these countries was not negligible. In addition, import volumes from the two countries followed a similar trend during the period considered, reaching a peak in 2007 and decreasing slightly thereafter. The investigation also showed that the conditions of competition between the relevant operators were similar, in particular during the IP. In particular, imports from these two countries were found to undercut the prices of the Community industry. Hence it was considered that the conditions for cumulation were met.

- (101) As regards imports from Turkey, the investigation showed that the cooperating exporting producers represented practically the totality of the imports of the product concerned from that country into the Community during the IP. As a consequence, the analysis of these imports was based on the data provided by the cooperating exporting producers. On that basis it was found that, similarly to the imports from the PRC and RM, the import volume from Turkey was above the *de minimis* threshold foreseen in Article 5(7) of the basic Regulation and that the volume of imports from these countries was not negligible. However, contrary to the other two countries concerned, it was found that the conditions of competition between the relevant operators were not similar, in particular as regards their price behaviour. Indeed these exporters were neither undercutting the prices of the Community industry nor were they selling their products in the Community market below the non-injurious price established for the Community industry during the IP. Hence it was considered that the conditions of cumulation of the imports from Turkey in relation to the imports from the PRC and the RM were not met.
- (102) Based on the above, it was provisionally concluded that imports from Turkey should not be cumulated with the imports from the PRC and the RM.

2.2. Dumped imports from the PRC and RM

- (103) Imports from the PRC and the RM (countries concerned) developed as follows during the period considered:

Table 2

Total dumped imports from the PRC and the RM	2004	2005	2006	2007	IP
Volumes (tonnes)	292 621	224 511	739 615	1 744 865	1 431 628
<i>Index</i>	100	77	253	596	489
Market share	1,4 %	1,1 %	3,3 %	7,6 %	6,3 %
<i>Index</i>	100	81	242	555	463
Prices (EUR/tonne)	374	430	378	409	419
<i>Index</i>	100	115	101	109	112

Source: Eurostat.

- (104) The dumped imports from the countries concerned increased significantly from around 0,3 million tonnes in 2004 to 1,4 million tonnes in 2007, i.e. almost five times. These imports peaked in 2007, after which they showed a slightly declining trend in line with the evolution of Community consumption.
- (105) Although the average prices of dumped imports from the countries concerned increased by 12 % over the period considered, it was found that they were undercutting those of the Community industry, in particular during the IP. As a result, their market share significantly increased from 1,4 % in 2004 to 6,3 % in the IP.

2.3. Price undercutting

- (106) For the purposes of analysing price undercutting, the weighted average sales prices per product type of the Community industry to unrelated customers on the Community market, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports from the countries concerned to the first independent customer, established on a cif basis, with an appropriate adjustment for post-importation costs.

- (107) Cooperation from the Chinese exporters was very low. Only one producer representing 5 % of the total export volume to the Community from the PRC cooperated in the investigation. On the basis of comparable product types, an average price undercutting margin of 4,5 % was found for this producer.
- (108) For all the other producers in the PRC, price undercutting was established on the basis of the average export price as reported in Eurostat and the average price of the Community industry. On this basis, an average price undercutting margin of 7,6 % was found.
- (109) The sole Moldovan producer, MMZ, accounted for 85 % of all imports to the Community from the RM in the IP. Therefore the undercutting margin for the RM was established based on the comparison of the average export price of the cooperating producer with the average sales price of the Community industry, for comparable product types. On this basis, an average price undercutting margin of 0,1 % was found.
- (110) The above findings should be seen in the light of the fact that the product concerned is a commodity type of product, the market of which is transparent and where all operators are aware of the prices which are quoted. In addition, the fact that the Community market experienced increases of raw material prices led to further pressure on sales prices, in particular during the IP.

3. Economic situation of the Community industry

3.1. Preliminary remarks

- (111) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic indicators for an assessment of the state of the Community industry from 2004 to the end of the IP.

3.2. Production, production capacity and capacity utilisation

Table 3

	2004	2005	2006	2007	IP
Production (tonnes)	11 475 041	10 435 463	11 464 051	11 159 222	11 122 136
<i>Index</i>	100	91	100	97	97
Capacity (tonnes)	14 164 000	14 652 000	14 627 000	14 846 000	15 049 000
<i>Index</i>	100	103	103	105	106
Capacity utilisation	81 %	71 %	78 %	75 %	74 %
<i>Index</i>	100	88	97	93	91

Source: Questionnaire replies.

- (112) As shown in the above table, the production of the Community industry decreased by 3 % over the period considered, although the Community consumption increased during the same period. The 9 % decrease in production observed between 2004 and 2005 was recovered in the next year in line with an increase of Community consumption by more than 9 %.

- (113) The Community industry increased its production capacity to around 15 million tonnes during the IP in line with positive expectations in the Community market. However, in view of stagnating sales and decreasing production volumes, the utilisation of the available capacity decreased from 81 % in 2004 to 74 % in the IP.

3.3. Sales volume and market share

- (114) As mentioned under recital 94, the Community industry is constituted, *inter alia*, of four groups which include a large number of related companies. The investigation showed that there were transfers of the product concerned between related companies. The sales figures taken into consideration in the table below relate to the volume sold to the first independent customer on the Community market.

Table 4

	2004	2005	2006	2007	IP
Sales volume (tonnes)	7 596 746	6 832 143	7 585 289	7 605 382	7 570 540
<i>Index</i>	100	90	100	100	100
Market share	35,3 %	33,4 %	33,8 %	32,9 %	33,3 %
<i>Index</i>	100	95	96	93	94

Source: Questionnaire replies.

- (115) While the Community consumption grew by 6 % during the period considered, the sales volume of the product concerned by the Community industry to independent customers on the Community market remained stable. This means that the Community industry could not benefit from the increased consumption due to the competition from the dumped imports. Consequently the Community industry's market share decreased by 6 % between 2004 and the IP.
- (116) The loss of market share occurred despite the Community industry's efforts to move towards the higher ends of product grades, as explained under recital 117.

3.4. Average unit prices of the Community industry

- (117) Average ex-works sales prices of the Community industry to unrelated customers on the Community market increased by 14 % over the period considered. The investigation showed that this increase in sales prices partially resulted from shifting to higher end products, where dumped imports were not present, but was also driven by increased production costs. It should be noted however that the standard products represented about 80 % of the Community industry sales during the IP and thus remained the core products of that industry.

Table 5

	2004	2005	2006	2007	IP
Average price (EUR/tonne)	414	409	435	468	474
<i>Index</i>	100	99	105	113	114

Source: Questionnaire replies.

- (118) Indeed, it was found that the average cost of production of the Community industry increased by 25 % between 2004 and the IP mainly because of the increase in the price of scrap which is the main raw material used in the production of wire rod. The price of scrap increased by 34 % during the same period and thus the price increase shown in the above table could cover only part of the increase of raw material prices.

3.5. Stocks

- (119) Stocks represented around 5 % of the production volume in the IP. The Community industry decreased its stock levels by 10 % during the period considered, in particular between 2007 and the IP. However, this decrease in stocks may indicate that a lower level of activity is foreseen in the future. In this context it should be noted that around 20 % of the Community industry's production is destined for captive use for further processing of downstream products. The proportion of captive use remained stable throughout the period considered.

Table 6

	2004	2005	2006	2007	IP
Stocks (tonnes)	657 667	530 578	691 413	699 508	594 408
<i>Index</i>	100	81	105	106	90

Source: Questionnaire replies.

3.6. Employment, wages and productivity

Table 7

	2004	2005	2006	2007	IP
Employment — full-time equivalent (FTE)	4 131	3 918	3 825	4 084	4 206
<i>Index</i>	100	95	93	99	102
Labour cost (EUR/FTE)	41 300	43 200	45 300	45 300	44 600
<i>Index</i>	100	105	110	110	108
Productivity (Index)	100	96	108	98	95

Source: Questionnaire replies.

- (120) As it is generally the case in metalworking industries, the number of employees cannot be easily reduced without compromising the output. Employment thus remained rather stable, increasing slightly in the IP.
- (121) Despite the increase in labour costs, the investigation showed that the Community industry made efforts to rationalise its production and reduce its costs of production in order to absorb the significant increase in raw material prices, as described above in recital 118. As a result the increase in the average cost of production was much less marked than the increase in scrap prices.
- (122) Despite the increasing Community consumption over the period considered, the Community industry was not able to increase its productivity, as could have been expected. Indeed, productivity decreased in line with the decreasing production volume, as shown in table 3 above.

3.7. Profitability, cash flow, investments, return on investment and ability to raise capital

Table 8

	2004	2005	2006	2007	IP
Profitability	14,2 %	7,1 %	8,1 %	7,7 %	6,7 %
<i>Index</i>	100	50	57	54	47
Cash flow (1 000 EUR)	499 500	260 845	354 398	276 463	262 764
<i>Index</i>	100	52	71	55	53
Investments (1 000 EUR)	147 897	136 031	231 726	221 808	200 126
<i>Index</i>	100	92	157	150	135
Return on investments	69 %	49 %	51 %	47 %	47 %
<i>Index</i>	100	72	74	68	68

Source: Questionnaire replies.

- (123) Profitability of the Community industry was established by expressing the pre-tax net profit of the sales of the like product as a percentage of the turnover of these sales. Over the period considered the profitability of the Community industry decreased from a profit of 14,2 % in 2004 to 6,7 % in the IP. The steep decrease in profitability in 2005 may be linked to the downturn in the sector and occurred at the same time as the decrease in consumption. In 2006 the profitability of the Community industry recovered slightly but started to deteriorate again in 2007 and further in the IP.
- (124) The Community industry increased its sales prices over the period considered. However, due to the low-priced dumped imports it was not in a position to pass on the increased raw material costs to its customers and benefit from the market growth which took place in those years.
- (125) The trend shown by the cash flow, which is the ability of the industry to self-finance its activities, reflects to a large extent the evolution of profitability. Although cash flow remained positive during the period considered, it was at a very low level compared in particular with 2004. The same comments can be made about the return on investments, which showed a similar negative development over the period considered.
- (126) Despite its declining financial performance, the Community industry continued to invest over the period considered. This suggests that the industry is not ready to give up production but considers the sector to be viable. The level of investments illustrates that the sector has the ability to raise the necessary capital. However, this ability became more limited as the cash flow significantly deteriorated during the period considered.

3.8. Growth

- (127) The sales volume of the Community industry on the Community market stagnated between 2004 and the IP, thus preventing the Community industry from taking advantage of the expansion of Community consumption which increased by 6 % between 2004 and the IP. As a consequence, its market share decreased by 2 percentage points during the same period.

3.9. Magnitude of the actual margin of dumping

- (128) The dumping margins for the PRC, RM and Turkey, specified above in the dumping section, are clearly above *de minimis*. Given the volumes and the prices of the dumped imports, the impact of the actual margins of dumping cannot be considered to be negligible.

4. Conclusion on injury

- (129) Certain injury indicators, such as sales prices (+ 14 %), production capacity (+ 6 %) and investments (+ 35 %) show a positive trend during the period considered.
- (130) However, other injury indicators such as production (– 3 %), capacity utilisation (– 9 %), market share (– 6 %) and productivity (– 5 %) deteriorated whereas sales volume to unrelated customers on the Community market stagnated despite the increasing consumption during the period considered. In addition, the injury indicators related to the financial performance of the Community industry such as cash flow (– 47 %), return on investment (– 32 %) and profitability (– 7,5 percentage points) were seriously affected. This means that the ability of the Community industry to raise capital was also undermined.
- (131) The investigation also showed that the costs of production of the Community industry significantly increased during the period considered, mainly due to the sharp increase in the prices of scrap (+34 %) which is the main raw material for the production of wire rod. However, in view of the undercutting practiced by the Chinese and Moldovan exporters during the IP, the Community industry could not increase its sales prices in line with the increased raw material prices.
- (132) Based on the above, although the Community industry remained profitable during the IP by focusing on higher-end market segments with higher prices, its financial situation significantly deteriorated. In the light of the foregoing, it was concluded that the Community industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

F. CAUSALITY

1. Introduction

- (133) In accordance with Articles 3(6) and 3(7) of the basic Regulation, it was examined whether the dumped imports of the product concerned originating in the PRC and the RM 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

- (134) The investigation showed that dumped imports from the PRC and the RM increased significantly, by almost five times, over the period considered, increasing by 1.1 million tonnes between 2004 and the IP. This increase was particularly marked between 2006 and the IP. In terms of market share, dumped imports from the countries concerned increased their share of the Community market from 1,4 % in 2004 to 6,3 % in the IP. In practice this corresponded to the entire increase in the Community consumption that took place during the period considered.
- (135) During the same period, although its sales volume on the Community market remained stable, the Community industry lost market share from 35,3 % to 33,3 %, namely two percentage points.
- (136) As regards prices, despite the fact that the prices of dumped imports increased by 12 % during the period considered in line with the increased raw material prices, they were still undercutting the prices charged by the Community industry on the Community market. Consequently, the Community industry was prevented from increasing its prices to cover the full increase in raw material prices. The profitability of the Community industry's sales on the Community market thus decreased from 14,2 % in 2004 to 6,7 % during the IP.
- (137) The investigation also showed that the wire rod market is a transparent market where the operators are all aware of the level of the prices offered by the various sources of supply. The presence of increasing volumes of low-priced dumped imports from the countries concerned had a negative impact on the market overall by depressing the prices, as explained further below in recital 138.

- (138) It is considered that the continued pressure exercised by the low-priced dumped imports from the countries concerned on the Community market did not allow the Community industry to adapt its sales prices to the increased raw material costs, in particular in the IP, when scrap prices peaked. This explained the loss in market share, the low level of sales prices and the loss in profitability achieved by the Community industry. It was therefore provisionally concluded that the surge of low-priced dumped imports from the PRC and the RM had a considerable negative impact on the economic situation of the Community industry, in particular in the IP.

3. Effect of other factors

3.1. Development of demand

- (139) As mentioned in recital 98 above, the Community consumption of wire rod overall increased by 6 % during the period considered. It is therefore considered that the evolution of consumption is not a factor that may have contributed to the injury suffered by the Community industry.

3.2. Prices of raw material and electricity in the Community market

- (140) Prices of raw material, mainly steel scrap or in some cases iron ore, have increased significantly over the period considered. It has been argued that the increased raw material prices had an influence on the deterioration of the economic situation of the Community industry over the period considered and in particular in the IP, when raw material prices peaked.

- (141) It has also been claimed that the increase of the cost of electricity, a major component in the cost of production (COP) of wire rod, was a cause of the injury suffered by the Community industry during the IP.

- (142) The investigation confirmed that the COP for the Community industry to produce wire rod increased by 25 % during the period considered. However, in a market governed by effective trade conditions, namely in the absence of injurious dumping, it can be expected that prices are regularly adapted to reflect the situation of the various components of the cost of production. This did not take place in this case. Although the Community industry increased its sales prices, it was not sufficient to prevent the significant fall in its profitability. Accordingly, it was rather the undercutting practiced by the Chinese and Moldovan exporters which have depressed the prices on the Community market and prevented the Community industry from passing on the increased raw material prices to their customers.

3.3. Captive production of the Community industry

- (143) In general, a higher volume of production leads to economies of scale which are beneficial for the producer concerned. The Community industry is mostly vertically integrated and the captive production is used for further processing into value added products in the downstream industry. The investigation did not point to any production problem linked to these downstream products. Indeed, as mentioned above in recital 119 captive use remained stable over the period considered.

- (144) On that basis, it was considered that the captive production of the Community industry did not contribute to the deterioration of its financial situation, in particular during the IP.

3.4. Sales of high end products by the Community industry

- (145) It has been argued that the Community industry is not suffering injury because it has shifted its production and sales on the Community market towards high end products and would therefore be shielded from dumped imports which are mainly concentrated in the standard segment of the wire rod market.

- (146) However, the above statement is contradicted by the findings of the investigation. Even if, as stated in recital 117, the Community industry partly shifted to higher-end products, in particular during the IP, it was found that 80 % of its sales volume consisted of standard products which were thus suffering from the direct competition with low-priced dumped imports from the countries concerned.

- (147) It was therefore considered that the shift to higher end products allowed the Community industry to limit the decrease in its profitability over the period considered and in particular during the IP.

3.5. *Self-inflicted injury*

- (148) One party argued that the Community industry made significant imports of wire rod from the countries concerned and that any injury suffered by that industry should thus be considered as self-inflicted.
- (149) The examination of this claim showed that the imports of the product concerned made by the Community industry were very low and represented less than 1 % of their production during the IP. Therefore any injury caused by these imports would be at most negligible.

3.6. *Export performance of the Community industry*

- (150) Although the analysis of injury and causation focused on the situation of the Community industry in the Community market, its export performance was examined as a potential other factor that may explain the injury found. The analysis showed that the export sales to unrelated parties made by the Community industry remained relatively modest (around 7 %) during the period considered. Moreover, there was a declining trend of the share of export sales during the period considered. The decrease in export sales volume, from around 900 000 tonnes in 2004 to around 500 000 tonnes during the IP, may be explained by the decrease in production during the same period. However, the export price was higher than the price that the Community industry was charging to its customers on the Community market. Hence, it was considered that the decrease in export volume cannot explain the level of injury suffered by the Community industry and in particular the significant drop in profitability during the IP.

3.7. *Imports from other third countries*

- (151) The trends in import volumes and prices from other third countries between 2004 and the IP were as follows:

Table 9

Other third countries	2004	2005	2006	2007	IP
Imports (tonnes)	1 202 566	1 417 431	1 437 307	1 070 978	1 040 648
<i>Index</i>	100	119	120	89	87
Market share	5,6 %	7,0 %	6,4 %	4,6 %	4,6 %
<i>Index</i>	100	125	115	83	82
Price (EUR/tonne)	392	419	436	495	508
<i>Index</i>	100	107	111	126	130

Source: Eurostat.

- (152) The main other third countries exporting wire rod to the Community are Switzerland, Ukraine and Brazil. As shown in the above table, the imports from other third countries lost sales volume and market share during the period considered and their prices were relatively high during the IP.
- (153) On the basis of the above, it was provisionally concluded that the imports from Turkey and from other third countries did not contribute to the material injury suffered by the Community industry.

3.8. Other producers in the Community

- (154) The analysis of data pertaining to the Community market suggested that all the other Community producers did not gain but lost market share during the period considered. The investigation did not point to any particular problem concerning the competition between Community producers, or to any trade distorting effect which may explain the material injury found for the Community industry.
- (155) Based on the above, it was provisionally concluded that the producers not included in the definition of the Community industry did not contribute to the injury suffered by the Community industry.

4. Conclusion on causation

- (156) The above analysis demonstrated that there was a substantial increase in the volume and market share of the low-priced dumped imports originating in the PRC and the RM between 2004 and the IP. In addition, it was found that these imports were made at significantly dumped prices which were below the prices charged by the Community industry on the Community market for similar product types.
- (157) This increase in volume and market share of the low-priced dumped imports from the PRC and the RM coincided with an overall increase of the demand in the Community but also with the negative development in the market share of the Community industry and a deterioration of the main indicators pertaining to its economic situation during the IP. Indeed, the Community industry's profitability more than halved between 2004 and the IP.
- (158) The examination of the other known factors which could have caused injury to the Community industry revealed that none of these factors could have had a significant negative impact on that industry, in particular during the IP.
- (159) 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 was provisionally concluded that the imports from the PRC and the RM have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

5. Imports from Turkey

Table 10

Turkey	2004	2005	2006	2007	IP
Imports (tonnes)	540 040	581 432	754 811	625 409	560 669
<i>Index</i>	100	108	139	116	104
Market share	2,5 %	2,8 %	3,4 %	2,7 %	2,5 %
<i>Index</i>	100	112	136	93	100
Price (EUR/tonne)	397	369	388	444	458
<i>Index</i>	100	93	98	112	115

Source: Eurostat.

- (160) As shown in the above table, import volumes from Turkey increased by 4 %, thus slightly less than the increase in consumption during the period considered. In contrast to imports from the PRC and the RM, import volumes from Turkey peaked in 2006, after which they showed a decreasing trend. Their market share also peaked in 2006, after which it decreased and reached the level of 2004 in the IP.

- (161) The average import prices increased by 15 % over the period considered. As described above in paragraph 2.1, imports from Turkey were not found to be undercutting the prices of the Community industry on the Community market during the IP. In addition, no under-selling was found by these imports.
- (162) In view of the above it is concluded that imports from Turkey did not contribute to the injury suffered by the Community industry.

G. COMMUNITY INTEREST

1. Preliminary remark

- (163) In accordance with Article 21 of the basic Regulation, it was examined whether, despite the provisional conclusion on injurious dumping, compelling reasons existed for concluding that it was not in the Community interest to adopt provisional anti-dumping measures in this particular case. The analysis of the Community interest was based on an appreciation of all the various interests involved, including those of the Community industry, importers and users of the product concerned.

2. Community industry

- (164) The Community industry is composed of numerous producers located throughout the Community, employing directly over 4 000 people related to the product concerned.
- (165) The Community industry has suffered material injury caused by the dumped imports from the PRC and the RM. It is recalled that most injury indicators showed a negative trend during the period considered. In particular injury indicators related to the financial performance of the Community industry, such as cash flow, return on investments and profitability were seriously affected. In the absence of measures, a further deterioration in the Community industry's economic situation appears very likely.
- (166) It is expected that the imposition of provisional anti-dumping duties will restore effective trade conditions on the Community market and that the price of wire rod will reflect the costs of the various components and the market conditions. The investigation showed that a price increase of 3 % or an increase in sales volume would be sufficient to allow this industry to quickly restore its financial situation. It can be expected that the imposition of provisional measures would enable the Community industry to regain at least part of the

market share lost during the period considered, with a further positive impact on its economic situation and profitability.

- (167) It was therefore concluded that the imposition of provisional anti-dumping measures to imports originating in the PRC and in the RM would be in the interest of the Community industry.

3. Importers

- (168) Questionnaires were sent to nine importers. Four importers explicitly stated that they did not want to cooperate whereas four other importers did not react. This indicates that the importers would not be greatly affected by the imposition of measures. Only one importer cooperated in the investigation by replying to the questionnaire and allowing an on-spot verification of its reply. According to data provided by this importer, it sources wire rod predominantly from Turkey. Therefore, should measures be imposed on imports of wire rod from the PRC and the RM, it would not be affected.
- (169) It was therefore concluded, based on the information available, that the imposition of provisional anti-dumping measures would not have a significant impact on the importers.

4. Users

- (170) Questionnaires were sent to 28 users. However only eight users, accounting for 15 % of imports of wire rod from the countries concerned during the IP, cooperated in the investigation. These users located in Italy, Spain, Poland and Belgium, representing only 1 % of Community consumption, are active in various industrial sectors, mainly in automotive, construction and mechanical engineering.
- (171) Three of the cooperating users (belonging to an Association) are active in the construction industry. During the IP they accounted together for 12 % of all imports of wire rod from the PRC and RM. In the same period they sourced the majority of their wire rod (58 %) from the two countries concerned, while the rest was purchased from either other third countries or the Community industry. In addition, it was found that wire rod accounts for a substantial proportion of their cost of production. Therefore, it cannot be excluded that the imposition of measures could have a negative impact on these users. However, taking into account the availability of alternative sources of supply, in other third countries not subject to measures as well as in the Community, this impact should be limited.

- (172) The users' association referred to above in recital 171, whose members are active in the construction sector and in some instances in direct competition with some of the vertically integrated Community producers, alleged that the imposition of measures would lead to a shortage of supply in this particular sector. It is considered, however, that given the existing spare capacity in the Community as well as alternative supply sources available in other third countries, including Turkey, there should be no risk of shortage on the Community market. In addition, the exporting producers in the PRC and the RM should be able to continue to sell the product concerned on the Community market, albeit at non-injurious prices.
- (173) One of the eight cooperating users did not import any wire rod from the countries concerned during the IP. Therefore, this company should not be affected negatively by the imposition of measures.
- (174) As regards the remaining four users in the Community, they accounted for 3 % of the total imports of wire rod from the countries concerned and are mainly active in the automotive sector and mechanical engineering. These users mainly purchased their wire rod from suppliers in the Community and other third countries and the share of imports from the countries concerned in relation to their total imports was found to be very low (5 %) during the IP. In these circumstances, it is considered that the imposition of measures would not have a significant impact on the financial situation of these companies.
- (175) Taken the above into consideration, it was provisionally concluded that, on the basis of the information available, the effect of the anti-dumping measures, if any, will most likely not have a material impact on the users of the product concerned.
- (178) For the purpose of determining the level of these duties, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (179) When calculating the amount of duty necessary to remove the effects of the injurious dumping it was considered that any measures should allow the Community industry to cover its costs of production and to obtain a profit before tax that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on sales of the like product in the Community. The pre-tax profit margin used for this calculation was of 9.9 %, established on the basis of the profit achieved by the Community industry for the years prior to the peak in dumped imports, namely 2004 to 2006. On this basis, a non-injurious price was calculated for the Community industry for the like product.
- (180) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.
- (181) In order to calculate the residual injury elimination level for all other exporting producers in the PRC, it should be recalled that the level of cooperation was low. Therefore the margin for the non-cooperators was established on the basis of the highest margin found for a representative quantity sold by the cooperating exporter on the Community market.
- (182) As regards the RM, the level of cooperation was high. Hence, data available and verified during the investigation was used to calculate the country-wide injury elimination level for the country. The margin is based on the average price found in the RM for certain transactions during the IP.

5. Conclusion on Community interest

- (176) In view of the above, it was provisionally concluded that overall, based on the information available concerning the Community interest, there are no compelling reasons against the imposition of provisional measures on imports of wire rod originating in the PRC and the RM.

H. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury Elimination Level

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

2. Provisional measures

- (183) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed on imports originating in the PRC and the RM at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule. In this case, all duty rates should accordingly be set at the level of the injury margins found.
- (184) No provisional anti-dumping duties are to be imposed on imports originating in Turkey.

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

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

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

Company	Injury elimination margin	Dumping margin	Anti-dumping duty rate
Valin Group (PRC)	8,6 %	36,5 %	8,6 %
PRC residual duty	24,6 %	50,5 %	24,6 %
RM country-wide duty	3,7 %	16,1 %	3,7 %

I. FINAL PROVISION

(188) 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 anti-dumping duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of bars and rods, hot-rolled, in irregularly wound coils, of iron, non-alloy steel or alloy steel other than of stainless steel, falling within CN codes 7213 10 00, 7213 20 00, 7213 91 10, 7213 91 20, 7213 91 41, 7213 91 49, 7213 91 70, 7213 91 90, 7213 99 10, 7213 99 90, 7227 10 00, 7227 20 00, 7227 90 10, 7227 90 50 and 7227 90 95 and originating in the People's Republic of China and the Republic of Moldova.

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:

Country	Company	Duty	TARIC additional codes
People's Republic of China	Valin Group	8,6 %	A930
	All other companies	24,6 %	A999
Republic of Moldova	All companies	3,7 %	—

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 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, 6 February 2009.

For the Commission
Catherine ASHTON
Member of the Commission
