

COMMISSION REGULATION (EC) No 128/2005**of 27 January 2005****imposing a provisional anti-dumping duty on imports of hand pallet trucks and their essential parts 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:

A. PROCEDURE

- (1) On 29 April 2004, the Commission announced, by a notice published in the *Official Journal of the European Union*⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of hand pallet trucks and their essential parts originating in the People's Republic of China (PRC).
- (2) The proceeding was initiated as a result of a complaint lodged in March 2004 by four Community producers representing a major proportion, in this case more than 60 %, of the total Community production of hand pallet trucks and their essential parts, i.e. chassis and hydraulics (the applicants). The complaint contained evidence of dumping of the said product and of material injury resulting thereof, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the applicant Community producers, other Community producers, the exporting producers, importers and users known to be concerned and the representatives of the PRC of the initiation of the proceeding. Given the large number of known exporting producers in the PRC, sampling for the determination of dumping was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. However, only four Chinese exporting producers cooperated with the investigation and, therefore, it was decided that sampling was not necessary. 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.
- (4) A number of exporting producers in the PRC, Community producers, importers, users, as well as an association of importers made their views known in writing. All parties who so requested within the above time limit, and indicated that there were particular reasons why they should be heard, were granted a hearing.
- (5) The Commission sought information, by means of questionnaires and market economy and individual treatment claim forms sent to all known parties as appropriate. The information received was verified to the extent possible and to the extent deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest. In this regard, the Commission received complete questionnaire responses, and claim forms where applicable, from the following companies:

⁽¹⁾ OJ L 56, 6.3.1996, p. 1, Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ C 103, 29.4.2004, p. 85.

- (a) *Producers in the Community*
- Bolzoni-Auramo SpA, Piacenza, Italy,
 - BT Products AB, Mjölby, Sweden,
 - Franz Kahl GmbH, Lauterbach, Germany,
 - Pramac Lifter SpA, Casole d'Elsa, Italy;
- (b) *Exporting producers in the People's Republic of China*
- Ningbo Liftstar Material Transport Equipment Factory, Ningbo,
 - Ningbo N.F.T.Z. E-P Equipment Co. Ltd, Hangzhou (exporter related to Ningbo Liftstar Material Equipment Factory),
 - Ningbo Ruyi Joint Stock Co. Ltd, Ninghai,
 - Ningbo Tailong Machinery Co. Ltd, Ninghai,
 - Zhejiang Noblelift Equipment Joint Stock Co. Ltd, Changxing;
- (c) *Importers/traders in the Community*
- Chadwick Materials Handling Ltd, Corsham, United Kingdom,
 - European Handling Equipment, Halesowen, United Kingdom,
 - Gigant Arbetsplats AB, Alingsås, Sweden,
 - Hu-Lift s.l., Barcelona, Spain,
 - Jungheinrich AG, Hamburg, Germany,
 - Mangrinox SA, Athens, Greece,
 - Manutan International SA, Paris, France,
 - Lagertechnik Fischer GmbH, Dinslaken, Germany,
 - Levante SRL, Ostiglia, Italy,
 - Linde AG, Aschaffenburg, Germany,
 - RAPID Transportgeräte GmbH, Beckum, Germany,
 - Teknion Ltd, Lancashire, United Kingdom,
 - TVH Handling Equipment N.V., Gullegem, Belgium;
- (d) *Users*
- Aldi Einkauf GmdH & Co. OHG, Essen, Germany,
 - M. Uno Trading SpA, Imola, Italy.
- (6) Verification visits were carried out in the premises of all cooperating exporting producers in the PRC and all Community producers.
- (7) In light of the need to establish a normal value for exporting producers in the PRC to which MET was not granted, a verification at the premises of the following producer in Canada, which was used as an analogue country, took place:
- Lift Rite Inc., Brampton, Ontario.
- (8) The investigation of dumping and injury covered the period from 1 April 2003 to 31 March 2004 (IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2000 to the end of the investigation period (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. General**

- (9) Hand pallet trucks are used for the handling of goods and material normally placed on pallets. They are not self-propelled, i.e. they are pushed and pulled by man power. Hand pallet trucks consist of four main parts: chassis (which is made of steel), hydraulics, handle, and wheels. The essential parts are the chassis, where the pallet is placed on, and the hydraulics which allows the geared lifting of the load.

2. The product concerned

- (10) The product concerned is hand pallet trucks, not self propelled, used for the handling of materials normally placed on pallets, and their essential parts, i.e. the chassis and the hydraulics, originating in the PRC (the product concerned), normally declared within CN codes ex 8427 90 00 and ex 8431 20 00. There are different types of hand pallet trucks and their essential parts depending mainly on the lift capacity, length of the forks, type of steel used for the chassis, type of hydraulics, type of wheels and existence of a brake. However, all different types have the same basic physical characteristics and uses. Consequently, all existing types are considered as one product for the purposes of this investigation.
- (11) During the investigation, some interested parties submitted comments as regards the definition of the product concerned. These parties claimed that the chassis and hydraulics should not be included within the scope of the product concerned, because (a) chassis' and hydraulics' markets are different from the hand pallet truck's market; (b) companies producing hand pallet trucks and chassis and/or hydraulics are different, in particular, Chinese exporting producers do not export chassis and hydraulics to the Community and (c) both chassis and hydraulics are also used for other products than only hand pallet trucks.
- (12) As regards the argument that there are different markets for chassis and hydraulics, it is noted that no evidence demonstrating the existence of separate markets for these parts for users has been submitted to the Commission. On the contrary, comments of all parties indicate that the producers of hand pallet trucks also produce the essential parts and, in certain cases, deliver these as spare parts for their own trucks. It is very difficult, if not impossible, to fit any chassis or hydraulics of one producer to a hand pallet truck of another producer. Producers normally would supply essential parts to the customers buying their products.
- (13) As regards the second argument concerning producers for chassis and hydraulics, it is noted that the verified information received from the exporting producers shows that all the exporting producers subject to the present investigation produce themselves the chassis and most of them also produce the hydraulics. Although there may exist independent producers of such parts, their production is tailor-made for producers of hand pallet trucks and this is the reason why these parts are seldom sold on the open market. Furthermore, the investigation has shown that such parts have been exported to the Community by certain of the cooperating exporting producers. Therefore, the evidence on the record indicates that the second argument should also be rejected.
- (14) As regards the third argument that chassis and hydraulics are also used in other products, it is noted that the products given as examples by the interested parties are clearly different to hand pallet trucks, not only in their physical characteristics but also in their use. Even if these products also have hydraulic systems and steel chassis, these are of different size, shape or lifting capacity than the ones used in hand pallet trucks and would thus not fall under the product concerned as defined above. Therefore, on the basis of the information available and as set out above, it appears highly unlikely that the hydraulics and/or chassis of hand pallet trucks could be integrated as such in other products.
- (15) Consequently, the comments of the interested parties were analysed, but they did not justify changing the provisional conclusion on the product concerned as set out in recital 10.

3. Like product

- (16) No differences were found between the product concerned and the hand pallet trucks and their essential parts produced and sold on the domestic market of Canada, the analogue country. Indeed, these hand pallet trucks and their essential parts have the same basic physical characteristics and uses as those exported to the Community.
- (17) Likewise, no differences were found between the product concerned and the hand pallet trucks and their essential parts produced by the complainants and sold on the Community market. They both share the same physical characteristics and uses.
- (18) Consequently, hand pallet trucks and their essential parts sold on the domestic market of Canada, as well as hand pallet trucks and their essential parts produced and sold in the Community are considered as alike to the product concerned within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment (MET)

- (19) 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, i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the like product. Briefly, and for ease of reference only, these criteria are set out in a summarised form below:
 - 1. business decisions and costs are made in response to market conditions, and without significant State interference;
 - 2. accounting records are independently audited, in line with international accounting standards and applied for all purposes;
 - 3. there are no significant distortions carried over from the former non-market economy system;
 - 4. legal certainty and stability is provided by bankruptcy and property laws;
 - 5. currency exchanges are carried out at the market rate.
- (20) Four Chinese producers 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.
- (21) The Commission sought all information deemed necessary and verified all information submitted in the MET applications at the premises of the companies in question.
- (22) For all four companies it was established that, overall, their decisions regarding prices and costs were made without significant state interference, within the meaning of Article 2(7)(c) and that costs and prices reflected market values. Their production costs and financial situation were not subject to significant distortions carried over from the former non-market economy system, there were bankruptcy and property laws guaranteeing legal certainty and stability and the exchange rate conversions were carried out at the market rate. However, none of the four companies fulfilled criterion 2, concerning the existence of independently audited accounts which are in line with international accounting standards (IAS). The companies were found to be in breach of one or several of the following standards: IAS 1, IAS 2, IAS 8, IAS 16, IAS 21, IAS 32 and IAS 36. Consequently, it was concluded that none of the following four companies fulfilled the conditions set out in Article 2(7)(c) of the basic Regulation:

- Ningbo Liftstar Material Equipment Factory, Ningbo,
 - Ningbo Ruyi Joint Stock Co. Ltd, Ninghai,
 - Ningbo Tailong Machinery Co. Ltd, Ninghai,
 - Zhejiang Noblelift Equipment Joint Stock Co. Ltd, Changxing.
- (23) The exporting producers concerned and the Community industry were given an opportunity to comment on the above findings.
- (24) All four exporting producers argued that the determination was wrong and that they should be granted MET.
- (25) One of the exporting producers argued that the ultimate objective of Article 2(7) of the basic Regulation is to establish whether the companies respond to market signals without State interference. The five criteria under Article 2(7)(c) of the basic Regulation, in particular criterion 2 concerning accounting standards, should therefore always be interpreted in the light of this ultimate objective. Since no State interference was established, the company should be granted MET.
- (26) It is noted that the five criteria listed under Article 2(7)(c) of the basic Regulation are independent of each other and each one of them needs to be met in order for the MET to be granted. State interference as such is mentioned neither as an independent criterion nor as one which could override other criteria. Indeed, if lack of State interference as such would be sufficient for MET to be granted, no other criteria would be necessary. Moreover, the apparent lack of enforcement of the IAS and the accounting rules applicable in the PRC can be also seen as a form of State interference in the normal operation of a market economy.
- (27) One of the exporting producers argued that the Commission had not made its decision on the MET within the three months' deadline provided for in Article 2(7)(c) of the basic Regulation. This exporting producer also alleged that the Commission had already received and verified its dumping questionnaire response before deciding on the merits of the MET claim, and this casts serious doubt as to the motivation of the Commission to reject the MET claim.
- (28) As regards the argument concerning the three months' deadline, it is noted that at the initiation stage of the present case, using sampling provisions was foreseen due to the large number of exporting producers involved. However, due to lack of cooperation by most of the exporting producers, it was later decided that sampling was not necessary and that only the cooperating exporting producers would be investigated both as regards MET and dumping. This procedure delayed the investigation, following which it was for practical reasons decided to carry out the on-the-spot verifications of both MET claims and the anti-dumping questionnaires at the same time. Moreover, in this respect it is noted that the non-respect of such deadline does not entail any apparent legal consequences and that the abovementioned exporter did not claim any negative impact due to the longer period needed for the MET determination. In addition, all MET claims received were deficient and required a number of substantial clarifications and additional information which delayed the investigation. In fact, three exporters, including the exporter which brought the argument under discussion, submitted further comments following the completion of the MET assessment. Given the above it was concluded that a valid MET determination could be made or adopted also after the three months period in this case.
- (29) As regards the argument concerning the verification of the questionnaire response, it is noted that the basic Regulation does not stipulate that the dumping investigation shall only start after the MET determination. In fact, Articles 5(10) and 6(2) of the basic Regulation require that all relevant information including the dumping questionnaire responses, has to be submitted within 40 days from initiation or 37 days from the selection of any sample, if sampling is used. This is in all cases before any MET determination is made. The Commission examines all MET claims on their own merits and on the basis of the criteria set out in Article 2(7)(c) of the basic Regulation. Dumping investigations are normally run in parallel with MET claims.

- (30) Three exporting producers argued that because they had accounts audited by an independent accounting firm which are in line with Chinese GAAP, criterion 2 must be fulfilled. They also argued that their practice of not converting their foreign exchange into renminbi on a daily basis was in line with the requirements of IAS 21. They argued that because the Chinese renminbi is pegged to the US dollar it made no difference whether conversions were done on a yearly or daily basis. In addition, two exporting producers argued that IAS 21 permitted deviations from the normal rule if exchange rates do not fluctuate significantly.
- (31) It is noted that according to the criteria of Article 2(7)(c) of the basic Regulation, the Commission shall examine whether the accounts of the companies are audited in line with IAS. The compliance or non-compliance with the Chinese standards is not decisive in the context of an individual MET assessment. However, it is noted that as regards two of the four companies investigated, the notes of auditors in their annual reports indicated that the accounts were prepared in breach of the Chinese accounting standards.
- (32) As regards the comparison with the US dollar, two issues are relevant: firstly, even if the majority of the transactions of the companies investigated were in US dollars, the companies which failed to meet the IAS 21 also had transactions in other currencies, and in these cases the fluctuations could be considerable. In addition, it is noted that significant export sales of the companies concerned were made to markets other than the Community, and since the investigation concerns only the Community market, such transactions have not been verified. Secondly, it is not relevant whether, looking back at a certain period, one notes retrospectively that there were minor fluctuations. This cannot be known at the beginning of the same period, a year or even more, when the companies concerned fixed the currencies exchange rates to be used for recording export sales in their accounts. Since there can be movements that have not been foreseen and which can have a considerable impact on the companies pricing and revenue, an exchange rate fixed in advance cannot be in line with the practice of companies operating under market economy conditions.
- (33) As regards the requirements of IAS 21, it is noted that IAS 21 provides for as follows: 'A foreign currency transaction should be recorded, on initial recognition in the reporting currency, by applying to the foreign currency amount the exchange rate between the reporting currency and the foreign currency at the date of the transaction.' A following explanation is also provided for in relation to this standard: 'The exchange rate at the date of the transaction is often referred to as the spot rate. For practical reasons, a rate that approximates the actual rate at the date of the transaction is often used, for example, an average rate for a week or a month might be used for all transactions in each foreign currency occurring during that period. However, if exchange rates fluctuate significantly, the use of an average rate for a period is unreliable'. Consequently, IAS 21 makes it clear that in principle daily rates are to be used. Weekly or monthly averages are only allowed as approximate rates to the actual rate of the date of transaction if exchange rates do not fluctuate significantly. In the present case however, the companies updated their accounting rate once a year or even less frequently. Such practice cannot be considered to be in line with IAS 21. Moreover, even the Chinese accounting standards require the use of daily or monthly exchange rates in such case. Therefore, the fact that the auditors had not commented on the practice concerning foreign currency transactions above, indicates that the audit was not carried out in accordance with the IAS. This casts doubts on the reliability of the accounting data.
- (34) Consequently, it is concluded that the comments arguing that MET should be granted are not justified.

2. Individual treatment

- (35) Further 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, in accordance with Article 9(5) of the basic Regulation, that their export prices and quantities as well as the conditions and terms of the sales are freely determined, that exchange rates are carried out at market rates, and that any State interference is not such as to permit circumvention of measures if exporters are given different rates of duty.

- (36) The four exporting producers, as well as requesting MET, also claimed individual treatment (IT) in the event they were not granted MET. On the basis of information available it was found that all four companies met all the requirements for IT as set forth in Article 9(5) of the basic Regulation.
- (37) It was therefore concluded that IT should be granted to the following four exporting producers in the PRC:
- Ningbo Liftstar Material Transport Equipment Factory, Ningbo,
 - Ningbo Ruyi Joint Stock Co. Ltd, Ninghai,
 - Ningbo Tailong Machinery Co. Ltd, Ninghai,
 - Zhejiang Noblelift Equipment Joint Stock Co. Ltd, Changxing.

3. Normal value

3.1. *Analogue country*

- (38) According to Article 2(7)(a) of the basic Regulation, for non-market economy countries and, to the extent that MET could not be granted, for countries in transition, normal value has to be established on the basis of the price or constructed value in an analogue country.
- (39) In the notice of initiation, the Commission indicated its intention to use Canada as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment on this.
- (40) The investigation showed that Canada has a competitive market for hand pallet trucks with around 50 % of the market supplied by local production and the rest by imports from third countries. The production volume in Canada constitutes more than 5 % of the volume of Chinese exports of the product concerned to the Community. The Canadian market was therefore deemed sufficiently representative for the determination of normal value for the PRC.
- (41) Two exporting producers and an importers/traders association objected to the proposal to use Canada as an analogue country. The arguments against the choice of Canada were that: (a) the Canadian products are different because they are manufactured using sturdier components according to US standards, not Community standards; (b) the Canadian and Chinese markets are not comparable as they have different level of developments and size and (c) the cooperating Canadian producer is related to one of the Community producers. The exporting producers in question suggested Malaysia or India as appropriate analogue countries.
- (42) Following these comments, the Commission contacted seven Indian and one Malaysian known producer of hand pallet trucks by sending them the relevant questionnaire. However, none of these producers cooperated with the investigation and no information concerning normal value was made available to the Commission from these two countries. It was therefore not possible for the Commission to consider any of the countries proposed by the exporting producers as alternative analogue countries.
- (43) As regards the comments of the parties concerning the differences of quality and standards of the Canadian products, it was claimed in essence that the average weight and fork width of the Canadian trucks is greater than that of the Chinese trucks. However, the Commission did not establish any overall significant difference either as regards the weight or the fork width between the Canadian and the Chinese products. Both Canadian and Chinese products have different categories of weight and fork width and a large amount of the products were comparable with each other. For those products that were not directly comparable, appropriate adjustments could be made as explained in recital 51. Another important factor is the lifting capacity of the truck. In this respect, no major overall differences were found as regards the lifting capacity of Chinese and Canadian hand pallet trucks. Therefore, it was concluded that there are no significant differences in the quality of the Canadian and the Chinese products.

- (44) As regards the comments of the exporting producers relating to the level of development and size of the Canadian and Chinese markets, it is noted that a decisive element is whether the market in question is large enough to be representative in comparison to the volume of the exports of the product concerned to the Community. As stated in recital 40, in the present case the Canadian market is found to be large enough to be representative in this respect. The fact that the Chinese market is overall larger than that in Canada is irrelevant to the assessment of the appropriateness of Canada as a possible analogue country in this case. Regarding the fact that the PRC is considered a developing country whereas Canada is not, it is noted that as stated in recital 43, the quality of the Canadian and Chinese products is comparable. On the basis of on-the-spot verifications carried out at the premises of both Chinese and Canadian producers, it was concluded that there were no significant differences between the production facilities and methods of the Chinese and Canadian producers. For these reasons, the status of the PRC as a developing country is not a relevant issue in this respect and it does not render the choice of using Canada as an analogue country in this case an unreasonable one.
- (45) Regarding the allegation that the relationship between the Canadian cooperating producer and a Community producer casts serious doubts as to the objectivity and accuracy of the data provided, no basis for this allegation was found during the investigation. The Commission checked whether the relationship had any distorting effect on the prices, costs of production and profitability of the Canadian producer, in particular during the on-spot-verification of the company's data. No indication was found of any such distortions. The Commission established that the information provided was accurate and reliable and could be used for the purposes of this investigation.
- (46) In view of the above, it is provisionally concluded that Canada constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

3.2. *Determination of normal value*

- (47) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the cooperating exporting producers was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of prices paid or payable on the domestic market of Canada for comparable product types, since these were found to be made in the ordinary course of trade.
- (48) As a result, normal value was established as the weighted average domestic sales price to unrelated customers per type by the cooperating producer in Canada.

4. **Export prices**

- (49) All export sales to the Community of two exporting producers were made directly to independent customers in the Community. Therefore, the export price was established pursuant to Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable. As regards the two other exporting producers, part of their export sales to the Community was made to importers with which the exporters had a compensatory contractual arrangement which rendered the prices unreliable. In these cases, in accordance with Article 2(9) of the basic Regulation, the export price was constructed on the basis of resale prices to independent customers in the Community. Adjustments were made for all costs incurred between importation and resale, including selling, general and administrative expenses, and for profit. The profit used for this purpose was the average profit attained by the cooperating unrelated importers of the product concerned.

5. **Comparison**

- (50) The comparison between the normal value and the export price was made on an ex-factory basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were demonstrated to affect prices and price comparability. On this basis, allowances for differences in transports costs, insurance cost, handling and loading costs, packing costs, credit costs and discounts were made where applicable.

- (51) As regards the analogue country Canada, the investigation established that a hand-break was used in all Canadian hand pallet trucks, whereas this was not the case as regards the majority of Chinese products. Therefore, an appropriate adjustment was made under Article 2(10)(a) of the basic Regulation for the Canadian prices to eliminate the effect of the hand-break. In addition, some Canadian products were also with forks having a lower height than the Chinese products. Therefore, an appropriate adjustment was also made to the Canadian prices under Article 2(10)(a) of the basic Regulation as regards these products to eliminate the effect of this difference.

6. Dumping margin

6.1. Dumping margin for the cooperating exporting producers granted IT

- (52) For the four exporting producers granted IT, the weighted average normal value for each type exported to the Community established for the analogue country was compared with the weighted average export price of the corresponding type exported to the Community by the exporting producers, as provided for under Article 2(11) of the basic Regulation.

6.2. Dumping margin for all other exporting producers

- (53) In order to calculate the country-wide dumping margin applicable to all other exporters in the PRC, the Commission first established the level of cooperation. A comparison was made between the total imports of the product concerned originating in the PRC as reported in Eurostat statistics and the volumes exported by the four cooperating exporting producers. Given that the total export volumes as reported by the cooperating exporting producers were significantly lower than the import volume reported in Eurostat statistics during the IP, it was provisionally concluded that there was significant non-cooperation (around 47 % of total imports of the product concerned in the Community). In order to avoid that exporting producers benefit from their non-cooperation and since there were no indications that the dumping margins of the non-cooperating producers were lower, the country-wide dumping margin was established as an average of the dumping margins established for the most exported product types of the cooperating exporting producers, which was found higher than the highest individual dumping margin established for a cooperating exporting producer.

6.3. Provisional dumping margins for the PRC

- (54) The provisional dumping margins expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, are:

Ningbo Liftstar Material Transport Equipment Factory	37,6 %
Ningbo Ruyi Joint Stock Co. Ltd	29,7 %
Ningbo Tailong Machinery Co. Ltd	40,3 %
Zhejiang Noblelift Equipment Joint Stock Co. Ltd	35,9 %
All other companies	49,6 %

D. COMMUNITY INDUSTRY

1. Community production

- (55) The investigation established on the basis of information submitted by cooperating companies that during the IP hand pallet trucks were manufactured by:

- the four applicant Community producers,
- one other producer, which has however ceased production after the IP and become importer.

There may be some other very small producers with insignificant production volumes, which have not cooperated with the investigation.

- (56) Hence, it is provisionally concluded that hand pallet trucks produced by the five abovementioned producers constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

- (57) The complaint was lodged by four producers, Bolzoni SpA, BT Products AB, Franz Kahl GmbH and Pramac Lifters SpA, which have cooperated with the investigation. Together these producers represent more than 60 % of total Community production of hand pallet trucks. They are therefore deemed to constitute the 'Community industry' within the meaning of Articles 4(1) and 5(4) of the basic Regulation and will hereinafter be referred to as such.

E. INJURY

1. Community consumption

- (58) Community consumption was based on the combined volume of all imports of hand pallet trucks into the Community, based on Eurostat statistics, the total verified sales of the Community industry and the sales of one other Community producer which ceased production in 2004.
- (59) Community consumption of hand pallet trucks was approximately 493 000 units during the IP. This figure is 17 % higher than at the beginning of the period considered.

Community consumption	2000	2001	2002	2003	IP
Hand pallet trucks (in units)	422 008	428 255	413 561	491 648	492 814
<i>Index</i>	100	101	98	117	117

2. Imports of hand pallet trucks from the PRC into the Community

(a) Volume and market share of imports

- (60) On the basis of Eurostat data, the volume of imports from the PRC increased significantly over the period considered, i.e. by 138 %. The increase of imports was particularly marked between 2002 and 2003 when they increased by 51 %.

Total dumped imports (units)	2000	2001	2002	2003	IP
Imports from the PRC (in units)	118 392	157 379	183 282	277 304	282 339
<i>Index</i>	100	133	155	234	238

- (61) The market share of the dumped imports increased sharply by more than 100 % during the period considered. This increased market share was wholly taken from the share previously held by the Community industry.

Market share of dumped imports	2000	2001	2002	2003	IP
Market share of imports from PRC	28 %	37 %	44 %	56 %	57 %
<i>Index</i>	100	131	158	201	204

(b) Prices of the dumped imports

- (62) According to Eurostat data, the average price of the dumped imports from the PRC decreased between 2000 and the IP by 34 %. The prices remained stable until 2001, then they decreased by 12 % in 2002 and even further decreased by another 25 % between 2002 and 2003.

Dumped imports price per unit	2000	2001	2002	2003	IP
Price per unit	127	127	112	84	84
<i>Index</i>	100	100	88	66	66

(c) Price undercutting

- (63) For the determination of price undercutting the Commission analysed price data for the IP. The weighted average net ex-works sales price to unrelated customers of the Community industry after deduction of discounts and rebates was compared to the weighted average import price of the cooperating Chinese exporting producers' comparable types at the same level of trade, i.e. sales to distributors. The import prices were at CIF level and an appropriate adjustment was made to include any customs duties normally paid on importation. In two cases, where importers were found to have compensatory contractual arrangements with Chinese exporting producers, resale prices to unrelated customers of these importers were used.
- (64) On that basis, the existence of price undercutting was provisionally established for imports from the PRC. The level of undercutting, expressed as a percentage of the Community industry's average selling price was found for all exporting producers to be above 55 %.

3. Situation of the Community industry

(a) Preliminary remark

- (65) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry from 2000 (the base year) to the IP.

(b) Production, capacity and capacity utilisation

Production in the Community	2000	2001	2002	2003	IP
Production (in units)	272 017	235 742	205 824	196 275	181 114
<i>Index</i>	100	87	76	72	67
Capacity (in units)	381 680	401 735	400 030	392 625	393 255
<i>Index</i>	100	105	105	103	103
Capacity utilisation	71 %	59 %	51 %	50 %	46 %
<i>Index</i>	100	82	72	70	65

- (66) During the period considered, the Community industry production decreased by 33 %. As production capacity remained more or less unchanged during the same period the capacity utilisation decreased in line with the production.

(c) Stocks

	2000	2001	2002	2003	IP
Stocks in units	12 196	15 491	11 223	13 262	13 929
<i>Index</i>	100	127	92	109	114

- (67) As a result of falling sales, there has been a small overall increase in the stock levels. Nevertheless, the investigation showed that the development of stocks is not regarded as a particularly relevant indicator of the economic situation of the Community industry, as Community producers generally produce according to specific orders and therefore stocks are usually goods awaiting dispatch to customers.

(d) Sales volume, sales price and market share

Sales in the EC	2000	2001	2002	2003	IP
Volume (in units)	147 002	144 166	126 821	113 701	111 374
<i>Index</i>	100	98	86	77	76
Market share	35 %	34 %	31 %	23 %	23 %
<i>Index</i>	100	97	88	66	66
Sales price (EUR/unit)	290	285	278	267	267
<i>Index</i>	100	98	96	92	92

- (68) Although Community consumption increased between 2000 and the IP, the volume of sales of the Community industry has decreased considerably. Consequently, its market share fell sharply as shown above. This is to be seen in contrast with the development of imports from the PRC whose market share increased considerably over the period considered.
- (69) The Community industry lost 34 % of its market share between 2000 and the IP.
- (70) Unit prices of the Community industry's own production for sales to unrelated customers in the Community decreased during the period considered. The decrease was particularly marked between 2001 and 2003 when sales prices decreased by 6 %.
- (71) Traditionally, in this market, prices were driven by the quality of the product, the after sales service and the warranties offered by the producers. During the period considered this situation has, however, changed radically and price has become the determining sales factor during the IP. Whilst unit sales prices decreased by 8 % between 2000 and the IP, the unit cost of production has increased, because the price for the main raw material, steel, which accounts for an important part of the cost of production, has been increasing, in particular during the IP.
- (72) As Community industry's prices could not match increases in costs of production, because of the price suppression linked to dumped imports, the Community industry experienced a drop in profitability.

(e) Factors affecting Community prices

- (73) The investigation showed that dumped imports were undercutting the average depressed sales price of the Community industry by more than 59 % in the IP (see recital 64). This undercutting clearly led to loss-making prices for the Community industry at a time when they needed to increase to cover increased costs.

(f) Growth

- (74) Between 2000 and the IP, when the Community consumption increased by 17 %, the sales volumes of the Community industry on the Community market declined by 24 %. The Community industry lost 12 percentage points of market share whereas, as already seen, dumped imports gained 29 percentage points of market share during the same period.

(g) Profitability

- (75) The Community industry's profitability has fallen sharply over the period, leading to losses in 2002, which continually worsened during 2003 and the IP.

Profitability	2000	2001	2002	2003	IP
Pre-tax profit/loss margin	0,28 %	0,51 %	-0,60 %	-1,89 %	-2,31 %
<i>Index</i>	100	181	-212	-665	-815

(h) Investments, return on investment, cash flow and the ability to raise capital

	2000	2001	2002	2003	IP
Investments (in EUR)	727 783	2 297 136	2 570 831	1 378 790	1 552 986
<i>Index</i>	100	316	353	189	213
Return on investment	0,05	0,10	-0,14	-0,36	-0,45
<i>Index</i>	100	220	-290	-776	-963
Cash flow (in EUR)	231 559	1 511 068	1 253 486	-81 556	-659 913
<i>Index</i>	100	653	541	-35	-285

- (76) Major investments were made during the period considered, particularly in 2001 and 2002. It should be noted that the Community producers are well-established companies with a long tradition in the hand pallet trucks production. Therefore, replacement investments, which formed major part of the investments, were necessary in order to remain competitive.
- (77) Due to the change of market conditions and more specifically the decline of sales prices, new investments during the IP were to a large extent postponed or cancelled, in spite of the growing expansion of Community consumption.
- (78) The return on investment, expressed in terms of net profits of the Community industry and the net book value of its investments, followed the profitability trend and decreased by 1 063 % during the period considered.
- (79) The Community industry's cash flow deteriorated by 385 % during the period considered, in line with the trend of profitability.

- (80) The investigation established that it became more difficult for the Community industry to raise capital during the period considered, in particular because of increasing losses suffered towards the end of this period and in the IP.

(i) Employment, productivity and wages

	2000	2001	2002	2003	IP
Employment	489	488	468	452	434
<i>Index</i>	100	100	96	92	89
Average labour costs per employee (EUR)	29 439	29 261	29 455	29 647	29 393
<i>Index</i>	100	99	99	99	99
Productivity (per employee)	3 804	3 443	3 395	3 372	3 287
<i>Index</i>	100	91	89	89	86

- (81) The employment for the like product has declined during the period considered. The productivity per employee (established on the basis of the number of units produced divided by the number of employees) decreased between 2000 and 2002 by 11 % and by another 3 % between 2003 and the IP. However, this is due to the faster decrease of the production volume than employment. The average employment cost per employee, reflecting wages, did not even increase in line with inflation, but rather remained stable during the period considered.

- (82) Efforts to rationalise the production facilities have been taken by the Community producers with the closure of factories and reduction in numbers of employees. The Community producers have been able to limit the number of redundancies by moving part of the workforce to more profitable operations of their business.

(j) Magnitude of dumping, recovery from past dumping or subsidisation

- (83) The impact on the Community industry of the magnitude of the actual margin of dumping cannot be considered negligible given the volume and the prices of the imports concerned.
- (84) Furthermore, there were no indications that the Community industry was recovering, during the IP, from the effects of any past dumping or subsidisation.

4. Conclusion on injury

- (85) During the period considered the presence of low-priced dumped imports from the PRC significantly increased on the Community market and all relevant injury indicators for the situation of the Community industry showed a negative development.
- (86) Some indicators worsened very substantially during the period considered. This was the case for production volume, sales volume, market share, profitability, return on investments and cash flow.
- (87) Taking into account all factors, in particular the fall of market share of the Community industry at a time of rising consumption and the significant financial losses leading to falling levels of investment during the IP, it is provisionally considered that the Community industry has suffered material injury within the meaning of Article 3(1) and 3(5) of the basic Regulation.

F. CAUSATION OF INJURY

1. Introduction

- (88) In accordance with Articles 3(6) and 3(7) of the basic Regulation, the Commission examined whether the dumped imports of hand pallet trucks originating in the PRC have caused the material injury suffered by the Community industry. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (89) Dumped imports from the PRC increased by 138 % over the period considered. This increase took place at a faster pace than that of the Community consumption, which increased by 17 % during the same period. These increased imports and rising consumption coincided with a period of decreasing sales volumes for the Community industry. The market share of the dumped imports increased by more than 100 % during the period considered. This increased market share of imports coincided with a commensurate fall in the market share of the Community industry in the IP. It is therefore clear that the imports took over the part of the market share lost by the Community industry.
- (90) These increased imports also undercut the prices of the Community industry by very substantial margins so it can be reasonably said that they were responsible for the falling prices which led to losses for the Community industry. The low price levels of the dumped imports also caused price suppression and the Community industry could not increase its prices to cover costs increases. In addition, the Community industry could not increase its capacity utilisation, as could have reasonably happened given the increase in consumption observed over the period considered.
- (91) It is therefore provisionally concluded that the pressure exerted by the imports concerned, which significantly increased their volume and market share and which were made at low, dumped prices, played a determining role in causing the deterioration of the situation of the Community industry, in particular in terms of lost sales and market share, profitability, return on investment and ability to raise capital.

3. The effects of other factors

(a) The export performance of the Community industry

- (92) It is noted that the export performance of the Community industry has decreased during the IP. However, the volume of exports outside the Community during the period considered represented only 11 % of the total sales volume of the Community industry. On average, export prices were found lower than prices in the Community during the period considered. However, this is mainly due to the different product mix. It should be noted that the presence of Chinese producers on the export markets has led to reduced profits for the exports of the Community industry. Nevertheless, contrary to sales in the Community, exports were still earning minor profits until the IP and therefore could not have contributed significantly to the injury suffered by the Community industry.

Export sales outside the EC	2000	2001	2002	2003	IP
Volume (in units)	28 454	20 996	19 774	16 714	14 736
<i>Index</i>	100	74	69	59	52
Sales price (Euro/unit)	245	232	223	222	226
<i>Index</i>	100	95	91	91	92

- (93) Taking into consideration the small contribution of the export sales to the overall business of the Community industry, this cannot be considered as a factor causing any material injury to the companies concerned.

(b) Investments of the Community industry

- (94) It has been noted that large and significant investments were made during the period considered. The large investments made during 2001 and 2002 had been planned as far back as 1999, which is before the large-scale entry of China onto the Community market and would normally have been considered as sound decisions in the absence of dumped imports. Moreover, the major part of the investment consisted of replacement investment.

(c) Imports from other third countries

- (95) Concerning imports from other third countries, any material injury cannot result from these imports as so few imports come from sources other than the PRC. The other imports only represent 11 % of total imports and their market share, which has declined since 2000, was only 4 % during the IP.

	2000	2001	2002	2003	IP
Other imports (units)	29 442	20 426	13 742	19 804	18 927
<i>Index</i>	100	69	47	67	64
Market share of other imports	7 %	5 %	3 %	4 %	4 %
<i>Index</i>	100	68	48	58	55

- (96) The investigation has also shown that the enlargement of the Community has not changed these findings made on the basis of the 'old' 15 Member States. There is no major production in the new Member States, as there are only some small producers in Poland, the Czech Republic, Slovakia and Slovenia.

(d) EUR/USD exchange rate

- (97) Certain interested parties claimed that any injury suffered by the Community industry was a consequence of the preferential EUR/USD exchange rate for the Chinese producers.
- (98) In the particular case of the product concerned, imports from countries other than the PRC have also benefited from the appreciation of the Euro. However, their volumes decreased during the period considered, while imports from the PRC have increased throughout the same period by 138 %. Although *prima facie* it cannot be excluded that the appreciation of the euro *vis-à-vis* the USD might have favoured the imports of the product concerned from the PRC, the fact that currency fluctuations did not have an effect on imports from other countries, indicates that it can not be considered as a causal factor for the surge of dumped imports from the PRC.

(e) Selling behaviour

- (99) Certain interested parties also claimed that the Community industry was offering products to some of their largest customers at prices that are significantly lower than the prices of hand pallet trucks imported from the PRC. According to them, the reason for this is that hand pallet trucks are used as a 'selling tool' for larger and more expensive handling materials. This could have caused the injury alleged by the Community industry.
- (100) It is noted that a hand pallet truck is indeed often used as a 'selling tool' in order to convince customers to buy a package of hand pallet trucks and/or other more expensive material handling equipment. However, there is no indication that these would be in significant quantities or at particularly low prices.

- (f) Strategic mistakes made by the EC producers; such as low quality products and production of own parts
- (101) Community importers have alleged that the injury suffered by the Community industry is caused, *inter alia*, by the introduction of low quality products on the Community market and the outsourcing of parts.
- (102) In fact, the investigation has found that some Community producers have introduced new models of a lower quality and at a lower price compared to their standard models. However, they insist that this is in reaction to the high inflow of dumped imports from the PRC of such products rather than a normal market development.
- (103) The same reason is given by Community producers as to why they have outsourced the supply of certain parts. They feel compelled to maximize profits and reduce losses while the Chinese dumping is continuing.

4. Conclusion on causation

- (104) The investigation has shown that large quantities of dumped imports have caused the prices of the Community industry to fall significantly as this industry has fought unsuccessfully to maintain market share and a satisfactory capacity utilisation, mainly because of Chinese price undercutting and price suppression. Over the same period, the volume of imports from the PRC and their market share have continued to increase sharply. The Commission has provisionally concluded that Chinese imports are the main, if not the only, cause of this injury suffered by the Community industry.
- (105) Given the above analysis, which has properly distinguished and separated the effects, if any, of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is provisionally concluded that these other factors did not contribute to any material degree to the injury suffered by the Community industry. Therefore, it is provisionally concluded that the material injury suffered by the Community industry, as evidenced by the deterioration of all injury indicators and, in particular, its loss making situation, negative returns on sales and investments and difficulties in raising capital, was caused by dumped imports originating in the PRC.

G. COMMUNITY INTEREST

1. General remarks

- (106) The Commission examined whether, despite the provisional conclusion on the existence of injurious dumping, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

2. Interests of Community industry

- (107) The Community industry was in the past composed of a large number of both small and large producers of hand pallet trucks. The investigation showed that several companies have ceased production before, during and immediately after the period considered. Several of these former manufacturers have changed their core business and are now acting as importers/traders of the product concerned. The four companies constituting the Community industry have also had to take drastic restructuring actions, such as closure of production plants and the implementation of major redundancy policies during 2003 and the IP.
- (108) Following the imposition of anti-dumping measures, it is expected that both sales volumes and sales prices of the Community industry on the Community market will rise. This will improve the profitability of the Community industry and alleviate the threat of further closures. Further to this, it is also envisaged that some of the production plants that had to be closed down may be reopened with new employment opportunities.

- (109) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the Community industry will continue. The Community industry will likely continue to lose market share and losses will continue to rise in the short term. In the longer term, production in the Community would cease.

3. Interests of Community suppliers

- (110) No Community suppliers of hand pallet trucks have made representations in this investigation by replying to the questionnaire. However, it is clear that if no measures are imposed, several suppliers would be seriously affected and would probably have to close down. The reason for this is that these small suppliers of parts to the production of the hydraulics or suppliers of wheels are dependent for their livelihood on their sales of parts to the Community producers of hand pallet trucks.

4. Interest of unrelated importers/traders

- (111) A large number of unrelated importers/traders replied to the questionnaire within the time limit and cooperated with the investigation. They all objected to the imposition of measures.
- (112) The importers/traders that made representation in this case vary a lot both depending on their size and the importance of the hand pallet trucks business in their operations. It is correct that a small number of importers/traders are rather dependent on the hand pallet trucks business which can represent up to 95% of their turnover. However, for the majority of importers and traders the investigation showed that sales of hand pallet trucks represent less than 3% of their total turnover. Should any anti-dumping measures be imposed, it is not likely that these traders would be seriously affected, as the hand pallet trucks business is not their core business activity and it is very easy for them to shift their product portfolio. Furthermore, many of these importers/traders are, or used to be, customers of the Community industry and can switch, if necessary, their business should measures be imposed.
- (113) The importers also raised the argument that Community production is insufficient to meet the demand and that imports were therefore necessary. They also claimed that the Community producers could not provide the same quality and flexibility when it comes to delivery of the product concerned. It is clear that Community production cannot meet consumption needs in the Community, but there is very significant un-utilised capacity in the Community and there are other sources of imports which could make up some of the shortfall. Moreover, the purpose of anti-dumping measures is not to eliminate dumped imports, but to ensure that they enter the Community at fair prices.
- (114) It is therefore provisionally concluded that should any measures be imposed, they will not have any significant impact on the situation of unrelated importers and traders of hand pallet trucks in the Community.

5. Interest of users

- (115) Major users of hand pallet trucks include warehouses, supermarkets, transport and handling companies. Replies to the relevant questionnaire were received from two users. These users were neutral as to the imposition of measures. Furthermore, no element as to the likely impact of any anti-dumping measures on their business was submitted. In any event, it is considered that hand pallet trucks are of a minor importance in their business.
- (116) The absence of further cooperation of users in this case leads to the provisional conclusion that anti-dumping measures will not have any significant impact on the situation of users in the Community.

6. Conclusion on Community interest

- (117) It should be noted that the Community industry's loss making situation has resulted from its difficulty to compete with the unfairly low-priced dumped imports.

- (118) It is considered that the imposition of measures will restore fair competition on the market. The Community industry should then at least be able to increase the volume and, perhaps to a limited extent, prices of its sales, thereby generating the necessary level of return to justify continued investment in its production facilities. The non-imposition of measures would seriously threaten the viability of the Community industry, the disappearance of which would reduce supply and competition to users.
- (119) On the basis of the above, it is provisionally concluded that the imposition of provisional anti-dumping measures would not be against the Community interest.

H. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (120) In view of the provisional conclusions reached with regard to dumping, 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.
- (121) For the purpose of establishing the level of the provisional measures, account has been taken of both the dumping margin found and the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (122) The provisional measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and obtain overall a profit before tax that could be reasonably achieved by an industry of this type on sales of the like product in the Community under normal conditions of competition, i.e. in the absence of dumped imports. The pre-tax profit margin used for this calculation was 5 % of turnover, since it was demonstrated that this was the profit level that could reasonably be expected in the absence of injurious dumping, since it was the profit level of the Community industry before the Chinese imports into the Community started to significantly increase during the period considered. On this basis, a non-injurious price was calculated for the Community industry of the like product. The non-injurious price has been obtained by adding the above mentioned profit margin of 5 % to the cost of production.
- (123) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculations, with the average non-injurious price 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 average import cif value. These differences were in all cases above the dumping margin found.

2. Provisional measures

- (124) As the injury elimination level is higher than the dumping margin established, the provisional measures should be based on the latter, in accordance with Article 7(2) of the basic Regulation. The rate of the provisional anti-dumping duty for PRC should be as follows:

People's Republic of China	AD duty rate
Ningbo Liftstar Material Transport Equipment Factory, Zhouyi Village, Zhanqi Town, Yin Zhou District, Ningbo City, Zhejiang Province, 315144, PRC	37,6 %
Ningbo Ruyi Joint Stock Co. Ltd, 656 North Taoyuan Road, Ninghai, Zhejiang Province, 315600, PRC	29,7 %
Ningbo Tailong Machinery Co. Ltd, Economic Developing Zone, Ninghai, Ningbo City, Zhejiang Province, 315600, PRC	40,3 %
Zhejiang Noblelift Equipment Joint Stock Co. Ltd, 58, Jing Yi Road, Economy Development Zone, Changxin, Zhejiang Province, 313100, PRC	35,9 %
All other companies	49,6 %

- (125) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (126) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

I. FINAL PROVISION

- (127) 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 duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of hand pallet trucks and their essential parts, i.e. the chassis and the hydraulics, falling within CN codes ex 8427 90 00 and ex 8431 20 00 (TARIC codes 8427 90 00 10 and 8431 20 00 10), 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, for products manufactured by the companies listed below shall be as follows:

People's Republic of China	Rate of duty (%)	TARIC additional code
Ningbo Liftstar Material Transport Equipment Factory, Zhouyi Village, Zhanqi Town, Yin Zhou District, Ningbo City, Zhejiang Province, 315144, PRC	37,6	A600
Ningbo Ruyi Joint Stock Co, Ltd, 656 North Taoyuan Road, Ninghai, Zhejiang Province, 315600, PRC	29,7	A601
Ningbo Tailong Machinery Co. Ltd, Economic Developing Zone, Ninghai, Ningbo City, Zhejiang Province, 315600, PRC	40,3	A602
Zhejiang Noblelift Equipment Joint Stock Co. Ltd, 58, Jing Yi Road, Economy Development Zone, Changxin, Zhejiang Province, 313100, PRC	35,9	A603
All other companies	49,6	A999

⁽¹⁾ European Commission
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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 30 days 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, 27 January 2005.

For the Commission
Peter MANDELSON
Member of the Commission
