



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.10.1998
COM(98) 581 final

Proposal for a
COUNCIL REGULATION (EC)

**imposing a definitive anti-dumping duty on imports of stainless steel bars originating
in India and collecting definitively the provisional duty imposed**

(presented by the Commission)

EXPLANATORY MEMORANDUM

- 1) The Commission, by Regulation (EC) No 1084, on 30 May 1998 imposed provisional anti-dumping duties on imports of stainless steel bars originating in India. On 18 July 1998 the Commission, by Regulation (EC) No 1556/98, imposed provisional countervailing duties on imports of stainless steel bars originating in India, amending the provisional anti-dumping duties.
- 2) For its definitive findings the Commission has taken into account the arguments raised by interested parties following provisional disclosure, as well as any changes subsequently made to the provisional findings. However, the essential findings of the Commission, i.e. that the Community industry has suffered material injury caused by the dumped imports from India, are confirmed.
- 3) Modifications of the dumping margins were made, where necessary, in respect of claims made by the co-operating exporters concerned.
- 4) After the imposition of provisional measures it was noted that one Indian company, which had for the purpose of provisional findings been considered as a party without export sales during the investigation period, had actually exported the product concerned to the Community during the investigation period. Consequently, an individual dumping margin was established for this exporter at the stage of definitive findings.
- 5) Revised price undercutting and injury elimination margins were also established to exclude transactions of Indian product types for which no matching Community product type ensuring, however, that the remaining transactions were sufficiently representative.
- 6) In accordance with Article 9 of Council Regulation (EC) No 384/96 the Commission therefore proposes that the Council impose definitive anti-dumping duties on imports of stainless steel bars originating in India.
- 7) When the Anti-Dumping Committee was consulted on the imposition of definitive measures a majority of the Member States was in favour of the proposal.

COUNCIL REGULATION (EC) No

of

imposing a definitive anti-dumping duty on imports of stainless steel bars originating in India and collecting definitively the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ as last amended by Regulation (EC) No 905/98 ⁽²⁾, and in particular Article 9 thereof,

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

Whereas:


A. PROVISIONAL MEASURES

- (1) By Commission Regulation (EC) No 1084/98 ⁽³⁾ (hereafter referred to as 'the provisional duty Regulation') a provisional anti-dumping duty was imposed on imports into the Community of stainless steel bars (hereinafter referred to as 'SSB' or 'the product concerned') falling within CN codes 7222 20 11, 7222 20 21, 7222 20 31, and 7222 20 81 originating in India.**

(1) OJ L 56, 6. 3. 1996, p. 1.

(2) OJ L 128, 30. 4. 1998, p. 18.

(3) OJ L 155, 29. 5. 1998, p. 3.

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- (2) The provisional duty Regulation was amended by Commission Regulation (EC) No 1556/98 ⁽⁴⁾ imposing a provisional countervailing duty on imports of the same product originating in India. Pursuant to Article 14(1) of Regulation (EC) No 384/96 (hereinafter referred to as the 'Basic Regulation') and Article 24(1) of Regulation (EC) No 2026/97 on protection against subsidized imports from countries not members of the European Community ⁽⁵⁾, this amendment was necessary in order to avoid the product being subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidization.

B. SUBSEQUENT PROCEDURE

- (3) Following the adoption of the Regulation imposing provisional duties, several interested parties submitted comments in writing. The parties who so requested were granted an opportunity to be heard by the Commission.
- (4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

⁽⁴⁾ OJ L 202, 18. 7.1998, p. 40.

⁽⁵⁾ OJ L 288, 21. 10. 1997, p. 1.

- [REDACTED]**
- (5) Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection of amounts secured by way of provisional duty. They were also granted a period in which to make representations subsequent to this disclosure.
 - (6) The oral and written comments submitted by the interested parties were considered and, where appropriate, the definitive findings were changed accordingly.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

- (7) The product concerned by the investigation is stainless steel bars and rods, not further worked than cold-formed or cold-finished, containing by weight 2.5% or more of nickel, of circular cross-section as well as of other cross sections.
- (8) Following the adoption of the Regulation imposing provisional duties, some Indian exporting producers argued that the products exported to the Community and those sold on the domestic market in India were not comparable, for instance in terms of chemical characteristics, and consequently could not be considered to be a like product.

- [REDACTED]
- (9) This claim could not be accepted since it was found that SSB produced and sold domestically in India as well as Indian SSB sold on the Community market had the same basic physical, technical and chemical characteristics and uses. The question of whether there were, on a per type basis, any differences between SSB sold domestically and on the export market was dealt with in the context of the determination of normal value and the comparison of normal value with export prices.
- (10) One exporting producer claimed that products corresponding to the standard DIN 1013 fell within the scope of the current anti-dumping proceeding and should therefore be taken into consideration. It was found, however, that these products were hot rolled bars and therefore not covered by the scope of the investigation as set out in the notice of initiation ⁽⁶⁾ and the provisional duty Regulation. In addition, it was noted that they did not fall within the relevant CN codes subject to measures. Consequently, this claim was not accepted.
- (11) As no other arguments were presented, the findings set out in recitals (9) to (12) of the provisional duty Regulation are confirmed.

⁽⁶⁾ OJ C 264, 30. 8. 1997, p. 2.

D. DUMPING

1. General

- (12) The determination of dumping in the provisional duty Regulation did not take into account any differences in diameter when classifying the various product types since it was concluded that this did not have an impact on the production costs per kilogram or on the selling price per kilogram. However, two exporting producers claimed that the diameter of the product concerned had an impact on the average cost of production per kilogram and that it should consequently be taken into consideration in the dumping determination. They also provided sufficient evidence to this effect. This claim was accepted.

2. Normal value

a) *Methodology used to determine normal value*

- (13) The majority of the exporting producers objected to the methodology used to determine normal value as set out in the third paragraph of recital (14) of the provisional duty Regulation. They argued that the normal value of the companies with insufficient or no domestic sales should have been constructed rather than based on domestic sales of other Indian exporting producers investigated. However this argument could not be accepted because this approach is specifically provided for in Article 2(1) of the Basic Regulation.

- [REDACTED]
- (14) In support of the argument that it was not appropriate to base normal value on the domestic sales of other Indian exporting producers it was also claimed that the respective domestic sales were not representative since they allegedly represented only a small percentage of total Indian exports to the Community. However, in the current proceeding normal value was established on the basis of other exporting producers' domestic sales for comparable product types only when their sales accounted for 5% or more of the volume exported to the Community by each company considered, i.e. when they were representative, as defined by Article 2(2) of the Basic Regulation, and were in the ordinary course of trade.
- (15) In view of the above, the claim concerning the methodology used to establish normal value was rejected.

b) Average profit rate of domestic sales

(16) Some exporting producers argued that the average profit rate established for domestic sales of the product concerned was unreasonable since it was substantially higher than the profit margin of 5% mentioned in recital (74) of the provisional duty Regulation and in the complaint as a reasonable profit rate for the Community industry. These exporting producers claimed that a profit rate of 5% should also be used for the determination of constructed normal value. In this respect it should be noted that, pursuant to Article 2(6) of the Basic Regulation, where an exporting producer had domestic sales of the like product in representative quantities and in the ordinary course of trade, the amount for profit used for constructing normal value was based on the weighted average of the actual amounts determined for such domestic sales of the like product. Where this was not possible, the amount for profit was based, pursuant to Article 2(6)(a) of the Basic Regulation, on the weighted average of the actual amounts determined for other exporting producers subject to investigation in respect of domestic sales of the like product which were representative and in the ordinary course of trade.

(17) In view of the above, the claim concerning the profit rate was rejected.

c) *Second quality products*

- (18) Some Indian companies, which sold second quality products on their domestic market during the investigation period, argued that these by-products were products concerned and should therefore be included in the normal value determination. However, these products differed substantially from first quality products in terms of quality, physical characteristics, market perception and selling price. Consequently, since only first quality products were exported to the Community, the claim was rejected.
- (19) Since no other comments concerning normal value were presented, the findings set out in recitals (13) to (15) of the provisional duty Regulation are confirmed.

3. Export price

- (20) Some exporting producers contested the Commission's standard practice of using monthly average exchange rates to convert the export price into domestic currency. They claimed that the exchange rates applied to actual transactions should have been used. In this respect, it was noted that the differences between daily and monthly exchange rates were only marginal. Moreover, depending on the transactions, these differences resulted in either slightly higher or lower export prices, i.e. the negative differences were offset by the positive differences. As a result, the difference between both approaches was, on average, not significant. Consequently, the approach followed for the determination of provisional findings was confirmed and, therefore, the above claim was rejected.

- [REDACTED]**
- (21) One company that made export sales to its subsidiary in the Community contested the approach explained in recital (17) of the provisional duty Regulation concerning the profit to be deducted for determining a constructed export price. This company claimed that the information on the sales of its European subsidiary should be used for the above purpose. Since no profit was made on these sales, the company contended that no profit be deducted from the price to the first independent buyer in order to construct the export price. However, according to Article 2(9) of the Basic Regulation, the adjustment to be made in order to determine a reliable export price shall include profits accruing. Following the practice consistently applied by the Commission and the Council and confirmed by the Court of Justice, it was not found appropriate to base the calculation of the profit margin on information from the related importer since this profit margin can be influenced by the relation to the exporter. The request is therefore rejected and the approach outlined in recital (17) of the provisional duty Regulation is definitively confirmed.
- (22) In the absence of any further arguments concerning the establishment of the export price, the findings as set out in recital (16) and (17) of the provisional duty Regulation are confirmed.

4. Comparison

a) Import charges and indirect taxes

(23) Some companies claimed that the adjustment granted for import charges should be extended to certain additional imported materials subject to import duties. This claim could be accepted only to the extent that it was proved that, pursuant to Article 2(10)(b) of the Basic Regulation, the materials indicated were physically incorporated into the products concerned sold for consumption in the exporting country and if the charges were not collected or refunded in respect of the product containing such material when exported to the Community.

b) Level of trade

(24) One company reiterated its claim for an allowance for differences in levels of trade on the grounds that, while it sold for export solely to distributors, it sold to both distributors and end-users on the domestic market. It was alleged that the prices charged to domestic end-users were consistently higher than the prices charged to domestic distributors. This request was not granted for the reasons given in recital (21) of the provisional duty Regulation.

c) Credit

(25) It was requested that, in order to determine the credit costs of export sales, interest rates prevailing on international markets for borrowing foreign currency should be used rather than Indian domestic interest rates. This request was granted.

d) Currency conversions

- (26) Some companies claimed an allowance for currency conversions pursuant to Article 2(10)(j) of the Basic Regulation on the grounds that the foreign currencies in which they invoiced their export sales had devalued significantly against the Indian rupee during the investigation period. These companies claimed that, for exchange rate purposes, the date of sale should be the date of the purchase order and, in addition, that the exchange rate prevailing 60 days before the purchase order date should be used for the dumping calculation. The claim that the date of purchase order should be treated as the date of sale could not be accepted since this date did not reflect the material terms of sale more appropriately than the date of invoice.
- (27) However, where applicable, an allowance for currency conversion was made in accordance with Article 2(10)(j) of the Basic Regulation by granting the exporting producers 60 days to reflect a sustained movement in exchange rates of some foreign currencies in which the export sales of the companies concerned were invoiced.
- (28) As no other arguments were presented concerning comparison of normal value and export price, the remaining findings set out in recitals (18) to (21) of the provisional duty Regulation are confirmed.

5. Dumping margins

- (29) In the absence of comments on the determination of the dumping margin, the methodology set out in recital (22) of the provisional duty Regulation is hereby confirmed.

(30) After the imposition of provisional measures it was noted that Chandan Steel Ltd., which had for the purpose of provisional findings been considered as a party without export sales during the investigation period, had actually exported the product concerned to the Community during the investigation period. Consequently, an individual dumping margin was established for this exporter at the stage of definitive findings.

(31) The definitive dumping margins expressed as a percentage of the net free-at-Community-frontier price are as follows:

- Bhansali Bright Bars Pvt Ltd. / Bhansali Ferromet Pvt Ltd., Mumbai	16.6%
- Chandan Steel Ltd., Umbergaon	26.9%
- Facor (Ferro Alloys Corp. Ltd.), Nagpur	7.4%
- Grand Foundry Ltd., Mumbai	10.2%
- Isibars Ltd., Mumbai	6.6%
- Mukand Ltd., Mumbai	14.0%
- Panchmahal Steel Ltd., Baroda	8.7%
- Parekh Bright Bars Pvt Ltd., Thane	4.2%
- Raajratna Metal Industries Ltd., Ahmedabad	13.0%
- Venus Wire Industries Ltd., Mumbai	12.4%
- Viraj Alloys Ltd. / Viraj Impoexpo Ltd, Mumbai	4.8%

(32) The dumping margin definitively established for Indian companies other than those cooperating in this investigation, expressed as a percentage of the net free-at-Community-frontier price, is 26.9%. In this respect, the Council took into consideration the high level of cooperation and set the country wide dumping margin at the highest dumping margin found for a cooperating exporting producer.

(33) For the new exporter mentioned in recital (6) of the provisional duty Regulation (Sindia Steel Ltd.) the definitive dumping margin was established according to the approach explained in recital (22) of the provisional duty Regulation. The dumping margin definitively established for this company, expressed as a percentage of the net free-at-Community-frontier price, is 9.5%.

E. INJURY

1. Preliminary remark

- (34) The findings on injury, causation and Community interest in the parallel anti-dumping and anti-subsidy investigations are identical. All company specific calculations are based on the same data.

2. Community industry

- (35) After additional verification it was found that the cumulated production volume of the Community industry of SSB does not account for 45% of total Community production, as erroneously set out in the provisional duty Regulation, but for 38% of total Community production. This percentage suffices to comply with the conditions in Articles 4(1) and 5(4) of the Basic Regulation.

3. Consumption in the Community, market shares and import volumes from India

- (36) Following the disclosure, no comments were received as regards consumption of SSB in the Community, the market shares and the volume of imports from India. Consequently, the findings made in recitals (29) to (32) of the provisional duty Regulation are confirmed.

[REDACTED]

4. Prices of dumped and subsidized imports from India and undercutting

a) Calculation of the undercutting margins

(37) As explained in the provisional duty Regulation (recitals 33 to 42), a detailed undercutting analysis was carried out for each of the Indian producers concerned showing significant undercutting margins. The undercutting margins were calculated by comparing per product type the weighted average export prices at Community frontier level with the weighted average ex-factory sales prices of the Community industry to unrelated parties. Indian product types for which no matching Community product type was found were excluded from the calculation after it had been established that the remaining transactions were sufficiently representative. If exports were made through related companies the export prices were duly adjusted for costs between importation and resale to the first independent customer in the Community as well as for profits accruing. An adjustment was made to the Community industry's sales prices for transport costs within the Community. Whereas the Indian exporters sold exclusively to traders, the Community industry sold to end-users and traders. Consequently, the Community industry's sales to end-users were adjusted to a trader level. In addition, the Indian export prices were adjusted for handling charges at Community border level.

(38) Several Indian producers reiterated their requests for an adjustment concerning differences in Indian and Community lead times between order and delivery and concerning differences in reliability of delivery time. They claimed in particular that they regularly had to issue credit notes to their customers due to late deliveries. However, credit notes for late deliveries do not indicate that longer Indian lead times or unreliability of delivery times affected the sales price when the price negotiations took place. Consequently, the claim for this adjustment cannot be granted. In this respect, it was also taken into account that the contractual delivery times of the Indian producers often varied between four and six months without this having an effect on the agreed sales price.

- [REDACTED]
- (39) All Indian producers also repeated their request for an adjustment for quality differences. In particular, they alleged that SSB produced by the Community producers had a higher machinability which would reduce cycle times in further transformation processes of the SSB. In this respect, it was noted that some Community producers did indeed sell a certain proportion of products under a trademark indicating higher machinability. However, it was found that there was no consistent price pattern indicating that the products with higher machinability were sold at higher prices and would thus have a higher market value. Consequently, an adjustment could not be granted, since an effect on prices and price comparability was not established. In addition, it was noted that all Indian producers had made an identical claim for an adjustment, disregarding potential quality differences amongst their products.
- (40) One Indian company claimed that the sales price of the Community industry consisted of a base price and a so-called 'alloy surcharge', i.e. a price element for alloys contained in SSB. The company requested that the alloy surcharge be excluded from the Community sales prices for the purpose of the undercutting and underselling calculations. This request could not be granted since the alloy surcharge was part of the sales price that was paid by the customers. In this respect, it was noted that the Indian sales prices also contained an alloy element, even if this was not expressly referred to in the invoice.

(41) Taking into account the corrections described above, the undercutting margins amount to:

- Bhansali Bright Bars Pvt Ltd. / Bhansali Ferramet Pvt Ltd., Mumbai	14.5 %
- Chandan Steel Ltd., Umbergaon	14.9 %
- Facor (Ferro Alloys Corp. Ltd.), Nagpur	13.0 %
- Grand Foundry Ltd., Mumbai	13.2 %
- Isibars Ltd., Mumbai	19.4 %
- Mukand Ltd., Mumbai	17.8 %
- Panchmahal Steel Ltd., Baroda	13.9 %
- Parekh Bright Bars Pvt Ltd., Thane	5.8 %
- Raajratna Metal Industries Ltd., Ahmedabad	15.8 %
- Venus Wire Industries Ltd., Mumbai	12.8 %
- Viraj Alloys Ltd. / Viraj Impoexpo Ltd, Mumbai	15.7 %

(42) The weighted average undercutting margin calculated for Sindia Steel Ltd. (cf. recital (33) above) amounted to 16.8%. It was concluded that these undercutting margins were significant.

b) Allegation of anti-competitive behaviour

(43) In their comments following the disclosure, the Indian companies continued to argue that the calculation of undercutting margins as well as the findings on other injury factors, causality and Community interest would be meaningless in the context of this investigation in view of the Commission decision in the competition case IV/35.814, "Alloy Surcharge" (7). This decision stated that Community producers of stainless steel flat products had modified 'in a concerted fashion the reference values used to calculate the alloy surcharge, a practice having the object and effect of restricting and distorting competition within the common market'.

(44) In this respect it is recalled that the decision related to stainless steel 'flat products' as opposed to stainless steel bars which belong to the category of long products. Moreover, the producers of flat products and the producers of SSB

(7) Commission Decision of 21. 1. 1998, OJ L100, 1. 4. 1998, p.55.

[REDACTED]

Commission and anyone interested of the applicable surcharge (Article 6.b of Decision No 37/54 of 29 July 1954 ⁽⁹⁾).

- (47) Consequently and in accordance with the Commission Decision in case IV/35.814, the application of an alloy surcharge system could only be illegal if the alloy surcharge system were applied in a concerted, i.e. anti-competitive, manner. However, no conclusive evidence of this was found in the course of the investigation.
- (48) In addition, it was found that the price of the Community producers for identical products to comparable customers in identical periods varied, resulting in different levels of profitability for the Community industry.
- (49) In the light of the above it was concluded that the findings on injury and Community interest, including the calculation of undercutting margins, were not meaningless as alleged by the Indian companies. Consequently, the Indian request that the investigation be terminated forthwith could not be granted. Similarly, it was not possible to suspend the anti-dumping investigation until the Commission had concluded its investigation relating to the alleged anti-competitive behaviour because anti-dumping investigations have to be concluded within a maximum of 15 months from initiation according to Article 6 (9) of the Basic Regulation.

⁽⁹⁾ OJ 18, 01.08.1954, p. 470

[REDACTED]

(50) However, it was noted that the Commission is continuing its investigation regarding the alleged anti-competitive behaviour. Should the Commission find that a concerted practice existed, the conditions to initiate a review *ex officio* would be fulfilled. Such a review would be carried out expeditiously, i.e. within maximum 12 months, in order to investigate whether and to what extent the relevant findings on injury, causation and Community interest are affected by such an anti-competitive practice.

5. Situation of the Community industry

(51) Following the adoption of the Regulation imposing provisional duties no comments were received as regards the situation of the Community industry in respect of production volume, capacity and capacity utilisation, sales volume, market share, sales prices, profitability, employment and stocks. Consequently, the findings as laid down in recitals (44) to (55) of the provisional duty Regulation are confirmed.

However, the Government of India questioned the conclusions drawn from these findings, in particular it was alleged that the drop in the Community production figures cannot be blamed on the decreasing Indian imports. This argument concerns causality which is dealt with below. Finally, the Government of India claimed that the Community industry increased their sales to related parties from 1994 to the IP12 (see recital 28 of the provisional duty Regulation). This does, however, not invalidate the findings and conclusions on total sales (in particular a negative development of the market share since 1994) and on sales to unrelated parties which are also used for the purpose of price undercutting calculations.

6. Conclusions

(52) On the basis of the above it was concluded that the Community industry is suffering material injury as set out in recital (56) of the provisional duty Regulation.

F. CAUSATION

- (53) Following the adoption of the Regulation imposing provisional duties, some Indian companies questioned whether the injury suffered by the Community industry was caused by the dumped and subsidized imports from India. In particular, it was alleged that the injury was caused by other factors, namely low priced imports from other countries. In addition, it was alleged that other Community producers had not followed the same trend as the Community industry.
- (54) In this respect, it is worth noting that Indian imports were present in significant volumes throughout the period considered and peaked at a level of 9.1% market share in 1996. It has also been established that these imports were made at prices significantly undercutting the Community industry's prices. Account was further taken of the fact that a number of traders buy SSB both from Indian and Community sources, which leads to the market being transparent and price sensitive.

It was noted that the above trends established for the Indian imports coincided with the deterioration of the Community industry's situation, in particular its loss of market share and the depression of its prices since 1995. In the presence of dumped and subsidized imports of SSB originating in India during the

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investigation period, the Community industry had to lower its prices significantly, regardless of the consequences for profitability. Consequently, a causal link between dumped and subsidized imports and material injury suffered by the Industry was found to exist.

(55) It was also investigated whether factors other than the dumped and subsidized imports could have contributed to the injury suffered by the Community industry. In this respect, it was noted that imports from other countries were made either in quantities below or close to the thresholds set out in Article 5(7) of the Basic Regulation and/or at higher prices than Indian imports. Consequently these imports cannot have broken the causal link between the dumped and subsidized imports from India and injury suffered by the Community industry.

(56) In addition, the allegation by some Indian producers that the situation of other Community producers was significantly better than that of the Community industry was investigated. In this respect, it should be recalled that detailed and verified data is only available for the Community industry. Taking into account the transparency and the price sensitivity of the SSB market in the Community, it seemed however, not unreasonable to conclude that other Community producers are likely to have followed a trend similar to that of the Community industry, in particular as regards prices.

(57) Finally, it was argued that the decrease in the SSB sales prices of the Community industry since 1995 was the result of a decrease in alloy prices. In this respect, it was however noted that any change in the world market prices for

concluded that a reinstatement of fair trade would lead to an improvement in its competitiveness.

- (62) Summarising, it was concluded that the findings set out in recitals (66) to (71) of the provisional duty Regulation can be confirmed. In particular, there are no compelling reasons to suppose that it would be not in the interest of the Community to impose measures.

H. ANTI-DUMPING MEASURES

- (63) Based on the above conclusions on dumping, injury, causal link and Community interest, it was considered what form and level the definitive anti-dumping measures would have to take in order to remove the trade distorting effects of injurious dumping and to restore effective competitive conditions on the Community SSB market.
- (64) Accordingly, as explained in recitals (72) to (74) of the provisional duty Regulation a non-injurious level of prices was calculated which would allow the Community industry to cover its cost of production and obtain a reasonable return for sales of the product concerned.
- (65) One Indian company argued that the calculation of the non-injurious price level was incorrect since the profit margin for all product types was identical. It should be noted that the non-injurious price level was calculated on the basis of the average sales prices per product type minus the actual weighted average profit margin of the Community industry plus a reasonable profit, as explained above. This approach was deemed to be the most appropriate for the purpose of this investigation.
- (66) The comparison of the non-injurious price levels with the export prices of the Indian producers led to the following injury margins, expressed in relation to the free at Community frontier price level:

- Bhansali Bright Bars Pvt Ltd. / Bhansali Ferromet Pvt Ltd., Mumbai	18.4%
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- Chandan Steel Ltd., Umbergaon	19.0%
- Facor (Ferro Alloys Corp. Ltd.), Nagpur	16.5%
- Grand Foundry Ltd., Mumbai	16.6%
- Isibars Ltd., Mumbai	25.5%
- Mukand Ltd., Mumbai	25.3%
- Panchmahal Steel Ltd., Baroda	17.6%
- Parekh Bright Bars Pvt Ltd., Thane	7.5%
- Raajratna Metal Industries Ltd., Ahmedabad	19.8%
- Venus Wire Industries Ltd., Mumbai	16.1%
- Viraj Alloys Ltd. / Viraj Impoexpo Ltd, Mumbai	20.2%

(67) For the newcomer, Sindia Steels Ltd., as laid down in recital (77) of the provisional duty Regulation the weighted average of the injury margins of the cooperating Indian companies is applied. This resulted in an injury margin of 22.1%.

(68) In accordance with Article 9(4) of the Basic Regulation, the duty rate should correspond to the dumping margin, unless the injury margin is lower. This led to the following rates of duty for the cooperating producers:

- Bhansali Bright Bars Pvt Ltd. / Bhansali Ferramet Pvt Ltd., Mumbai	16.6%
- Chandan Steel Ltd., Umbergaon	19.0%
- Facor (Ferro Alloys Corp. Ltd.), Nagpur	7.4%
- Grand Foundry Ltd., Mumbai	10.2%
- Isibars Ltd., Mumbai	6.6%
- Mukand Ltd., Mumbai	14.0%
- Panchmahal Steel Ltd., Baroda	8.7%
- Parekh Bright Bars Pvt Ltd., Thane	4.2%
- Raajratna Metal Industries Ltd., Ahmedabad	13.0%
- Venus Wire Industries Ltd., Mumbai	12.4%
- Viraj Alloys Ltd. / Viraj Impoexpo Ltd, Mumbai	4.8%

(69) For Sindia Steels Ltd. the duty rate should be 9.5%.

(70) In order to avoid granting a bonus for non-cooperation and to ensure that no circumvention of the anti-dumping measures takes place, it was considered appropriate to establish the duty rate for the non-cooperating companies at the level of the highest duty rate imposed, i.e. 19.0% since there was a high level of cooperation from Indian exporting producers.

(71) In accordance with Article 14(1) of the Basic Regulation no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidization. As the dumping and subsidy margins have been established on imports of the product in question ⁽¹⁰⁾ it is necessary to determine whether and to what extent the subsidy and the dumping margins arise from the same situation.

(72) In the case in question all of the investigated subsidy schemes have been found to constitute export subsidies within the meaning of Article 3(4)(a) of Regulation (EC) No 2026/97. In these circumstances it is not considered appropriate to impose both countervailing and anti-dumping duties to the full extent of the relevant subsidy and dumping margins established. Consequently, the anti-dumping duties are to be reduced by the amount of the countervailing duty established in parallel anti-subsidy investigation to reflect the actual dumping margins remaining after the imposition of the countervailing duties offsetting the effect of the export subsidies.

(73) Accordingly, the definitive anti-dumping duties are as follows:

- Bhansali Bright Bars Pvt Ltd. / Bhansali Ferromet Pvt Ltd., Mumbai	2.2%
- Facor (Ferro Alloys Corp. Ltd.), Nagpur	0%
- Chandan Steel Ltd., Umbergaon	0%
- Grand Foundry Ltd., Mumbai	0%
- Isibars Ltd., Mumbai	0%
- Mukand Ltd., Mumbai	0%
- Panchmahal Steel Ltd., Baroda	8.7%
- Parekh Bright Bars Pvt Ltd., Thane	4.2%
- Raajratna Metal Industries Ltd., Ahmedabad	0%
- Sindia Steels Ltd., Nashik	0%
- Venus Wire Industries Ltd., Mumbai	0%
- Viraj Alloys Ltd. / Viraj Impoexpo Ltd, Mumbai	0%

⁽¹⁰⁾ Cf. Council Regulation (EC) No ___/98 imposing a definitive countervailing duty on imports of stainless steel bars originating in India, published in this OJ.

- All other companies

0%

The duty rates apply cumulatively to the duty rates imposed in the parallel anti-subsidy proceeding.

I. UNDERTAKINGS

- (74) After expiry of the deadline to submit proposals for undertakings an exporting producer submitted a proposal for an undertaking. This company offered to respect certain minimum prices. This offer was examined and it was found that due to the large variety of the product types concerned and the significant price fluctuations for the product concerned it would be difficult to set prices which would eliminate the injurious effects of dumped and subsidized imports. Consequently, the offer for this undertaking could not be accepted.

J. COLLECTION OF THE PROVISIONAL DUTIES

- (75) Considering the conclusions on dumping and injury definitively established, the provisional duty should be collected: For the period between entry into force of the provisional duty Regulation and entry into force of Regulation (EC) No 1556/98 the amount secured by way of provisional anti-dumping duty should be definitively collected at the duty rate definitively calculated and set out in recitals (68) to (70) unless the provisional duty rate is lower than the definitive duty rate, in which case the provisional duty rates should prevail..

For the period following the entry into force of Regulation (EC) No 1556/98 the amount secured by way of provisional anti-dumping duty should be definitively collected at the duty rates set out in recital (73).

Amounts secured in excess of the respective definitive duty rates shall be released.

HAS ADOPTED THIS REGULATION:

[REDACTED]

Article 1


1. A definitive anti-dumping duty is hereby imposed on imports of stainless steel bars falling within CN codes 7222 20 11, 7222 20 21, 7222 20 31, and 7222 20 81 originating in India.
2. Products manufactured by the companies listed below shall be subject to the following rates of duty applicable to the net, free-at-Community frontier price:

Manufacturer	Rate of duty (%)	Taric additional code
- Bhansali Bright Bars Pvt Ltd., Bhansali Ferromet Pvt Ltd., Mumbai	2.2	8226
- Chandan Steel Ltd., Umbergaon	0	8593
- Facor (Ferro Alloys Corp. Ltd.), Nagpur	0	8400
- Grand Foundry Ltd., Mumbai	0	8401
- Isibars Ltd., Mumbai	0	8402
- Mukand Ltd., Mumbai	0	8403
- Panchmahal Steel Ltd., Baroda	8.7	8404
- Parekh Bright Bars Pvt Ltd., Thane	4.2	8594
- Raajratna Metal Industries Ltd., Ahmedabad	0	8405
- Sindia Steels Ltd., Nashik	0	8406
- Venus Wire Industries Ltd., Mumbai	0	8407
- Viraj Alloys Ltd., Viraj Impoexpo Ltd, Mumbai	0	8410
- All other companies	0	8900

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

For the period between entry into force of Regulation (EC) No 1084/98 and entry into force of Regulation (EC) No 1556/98 the amount of provisional anti-dumping duty



secured by way of Regulation (EC) No 1084/98 shall be definitively collected at the rates set out in recitals (68) to (70) of this Regulation, unless the duty rates set out in Regulation (EC) No 1084/98 are lower than those set out in recitals (68) to (70), in which case the duty shall be definitively collected in the amount corresponding to the duty rates set out in Regulation (EC) No 1084/98.

For the period following the entry into force of Regulation (EC) No 1556/98, the amount of provisional anti-dumping duties secured by way of Regulation (EC) No 1556/98 shall be definitively collected at the duty rates set out in Article 1 (2).

Amounts secured in excess of the respective definitive duty rates shall be released.

Article 3

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

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

Done at Brussels,

For the Council

The President

ISSN 0254-1475

COM(98) 581 final

DOCUMENTS

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02 11 10

Catalogue number : CB-CO-98-585-EN-C

ISBN 92-78-39905-1

Office for Official Publications of the European Communities

L-2985 Luxembourg