COMMISSION DECISION No 1758/2000/ECSC

of 9 August 2000

imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of non-alloy steel originating in the People's Republic of China, India and Romania, accepting an undertaking with regard to India and Romania and collecting definitively the provisional duties imposed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2277/96/ECSC of 28 November 1996 on protection against dumped imports from countries not members of the European Coal and Steel Community [1], as amended by Decision No 1000/1999/ECSC [2], and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Decision No 307/2000/ECSC [3] (the 'provisional Decision') imposed a provisional anti-dumping duty on imports into the Community of certain hot-rolled flat products of non-alloy steel originating in the People's Republic of China, India and Romania and falling within CN codes ex 7208 51 30, ex 7208 51 50, ex 7208 51 91, ex 7208 51 99 and ex 7208 52 91.

B. SUBSEQUENT PROCEDURE

(2) Following the imposition of the provisional anti-dumping duty, the exporting producers and the complainant made written representations; interested parties which so requested were granted an opportunity to be heard. 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 the provisional duty. They were also granted a period within which to make representations subsequent to this disclosure.

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

C. PRODUCT CONCERNED AND LIKE PRODUCT

(4) It is recalled that recital 9 of the provisional Decision described the product concerned as flat products of non-alloy steel, not in coils, not further worked than hot-rolled, without patterns in relief, with a thickness of more than 10 mm and a width of 600 mm or more falling within CN codes ex 7208 51 30 (TARIC code 7208 51 30 10), ex 7208 51 50 (TARIC code 7208 51 50 10), ex 7208 51 91 (TARIC code 7208 51 91 10) and ex 7208 51 99 (TARIC code 7208 51 99 10), or with a thickness of 4,75 mm up to 10 mm and a width of 2 050 mm or more falling within CN code ex 7208 52 91 (TARIC code 7208 52 91 10) and originating in the People's Republic of China, India and Romania.

(5) In the absence of any new arguments concerning the definition of the product concerned and the like product, the findings set out in recitals 9 to 11 of the provisional Decision are confirmed.

D. DUMPING

1. Normal value

PEOPLE'S REPUBLIC OF CHINA, INDIA AND ROMANIA

Determination of normal value

(6) Since no comments concerning normal value were presented the findings set out in recitals 12 to 25 of the provisional Decision are confirmed.

2. Export price

PEOPLE'S REPUBLIC OF CHINA, INDIA AND ROMANIA

(7) Since no comments concerning export price were presented the findings set out in recitals 26 to 29 of the provisional Decision are confirmed.

3. Comparison

(8) The Romanian exporting producer claimed that the cif price at Community frontier level had not been calculated correctly since undue account had been taken of insurance and ocean freight. Since it was found that this claim was justified, adjustments were made to the export price for these elements in accordance with the evidence obtained.

Since no other comments concerning the comparison were presented the findings set out in recitals 30 and 31 of the provisional Decision are confirmed.

[1] OJ L 308, 29.11.1996, p. 11.
[2] OJ L 122, 12.5.1999, p. 35.
[3] OJ L 36, 11.2.2000, p. 4.

4. **Dumping margins**

Methodology

(9) Several Chinese exporting producers requested more explanation of the Commission's decision not to grant individual treatment. In this respect it should be noted that all of the companies were either wholly or majority State-owned, the independence from State interference could not be guaranteed and there was thus a risk of circumvention of the measures. Therefore, in line with the consistent practice of the Community institutions, it was decided not to grant individual treatment.

(10) The Chinese exporting producers, representing 74 % of the total exports to the Community registered by Eurostat, objected to the calculation of the dumping margin using a categorisation of the product concerned based on CN codes and requested a more refined methodology, differentiating between different qualities of steel. This request was granted. Each product type exported by the cooperating Chinese exporting producers was, therefore, compared with the Indian normal values of the corresponding product types (also taking into account the quality of steel).

(11) For the remaining Chinese sales, representing 26 % of total export sales to the Community registered by Eurostat, findings had to be made on the basis of facts available, in accordance with Article 18(1) of the basic Decision. In this case it was found that the most reasonable approach was to use the same methodology as that used to determine the injury elimination margin. Thus the residual dumping margin was determined by using the same product categories and quarters used to determine the residual elimination margin (see recital 59). This approach was considered appropriate since there was no reason to believe that a non-cooperating exporting producer had dumped at a level lower than the cooperating exporting producers. Moreover, parties should not be given a bonus for non-cooperation.

Level of dumping

(12) Weighted average normal value per product type was compared with the weighted average export price on an ex-works basis and at the same level of trade in accordance with Article 2(11) of Decision No 2277/96/ECSC (the 'basic Decision').

(13) After revision of the calculations, the dumping margins definitively established, expressed as a percentage of the cif price at Community frontier level, are as follows:

People's Republic of China	55,5 %
India	
— Steel Authority of India Ltd	51,1 %
— Residual	51,1 %
Romania	
— Sidex SA	12,1 %
— Residual	52,6 %

E. **INJURY**

1. **Community industry**

(14) No new information has been submitted with respect to the definition of the Community industry. Therefore, the findings set out at recitals 39 to 44 of the provisional Decision are confirmed.

2. **Consumption**

(15) As no new information has been received regarding the data on consumption determined at the provisional stage, the findings set out at recitals 45 and 46 of the provisional Decision are confirmed.

3. **Imports from the countries concerned**

Cumulation

(16) Chinese and Romanian exporting producers repeated the arguments made at the provisional stage that the effects of their imports to the Community should not be cumulatively assessed with those of the other countries concerned, without however providing any further information or evidence. The findings set out at recitals 47 and 48 of the provisional Decision in respect of cumulation of dumped imports from the People's Republic of China, India and Romania are therefore confirmed.

Volume and market shares

(17) As no new information was received regarding volumes and market shares of dumped imports, the findings set out at recital 49 of the provisional Decision are confirmed.

Price undercutting

(18) Romanian exporters contended that the calculation of price undercutting should be revised as regards the cif Community frontier price calculation and the physical differences between imported Romanian products and the Community industry's products.

Chinese exporting producers also alleged that the importer's margin used by the Commission at the provisional stage was too low. In addition, they requested that price undercutting be calculated taking into account the quality of steel.

cif Community frontier price

(19) As for the calculation of the dumping margin (see recital 10), the Romanian cif Community frontier import prices were revised to take into account the additional information submitted.

The Chinese request with regard to price undercutting was accepted and the calculations were adjusted in line with the methodology described in recital 59.

Importer's margin

(20) As regards the importer's margin, 8 % was added, at the preliminary stage, to the cif Community frontier price to cover customs clearance and post importation costs. This amount reflected 4 % importer's profit, and miscellaneous import costs. This amount, as set out in recital 50 of the provisional Decision, was based on information collected from unrelated importers in the course of the investigation.

In claiming that the above margin was too low, the Chinese exporting producers relied on information provided by two unrelated importers that had not cooperated in the investigation and had made themselves known at a very late stage in the proceeding. As, therefore, the Commission was not in a position to verify the information supplied, which in any event referred to the period following the investigation period (the 'IP'), the conclusions reached in recital 50 of the provisional Decision are confirmed.

Adjustment for physical differences

(21) An adjustment was requested by the Romanian exporting producer to take into account alleged physical differences between Romanian and Community products. Analysis of the evidence available, however, does not justify an adjustment, as in fact both Romanian and Community products conform to international standards. There are therefore no grounds for granting any adjustment as regard differences in physical characteristics.

Conclusion on price undercutting

(22) In the light of the above, the appropriate amendments have been made to the price undercutting calculations. It is recalled that at the provisional stage the price undercutting margins were established by quarter for each category, and were then weighted by tonnage imported. At the definitive stage, it became apparent that the weighting between categories should be more accurately expressed by weighting on the basis of the hypothetical turnover, obtained by multiplying the average price per category of the Community industry by the tonnage of the comparable imported categories; this method was found appropriate since it takes into account both the quantity imported and the amplitude of price variations between different categories of the Community-like product.

(23) The definitive price undercutting margins are therefore:

People's Republic of China	7,5 %
India	
— Steel Authority of India Ltd	12,9 %
— Other	12,9 %
Romania	
— Sidex SA	7,1 %
— Other	14,7 %

4. **Situation of the Community industry**

(24) It was argued by some exporting producers that the annual data examined by the Commission in its provisional Decision could not lead to the conclusion of a deterioration of the situation of the Community industry. In addition, it was questioned whether the subsequent quarterly analysis made by the Commission was pertinent, given the excellent performance of the Community industry in the IP as a whole. In particular, it was argued that a trend during the IP could not take precedence over actual performance throughout this period. The compatibility of the Commission's methodology as regards Article 6(1) of the basic Decision was questioned, in particular in relation with the analysis by quarter of the IP.

In addition, it was claimed that the Commission had taken into consideration post-IP information, without sufficiently explaining why it had derogated from its normal practice. This was also alleged to be contrary to the provisions of Article 6(1) of the basic Decision.

(25) The Commission examined these claims, in particular as regards the relevant provisions of both Article 3 and Article 6 of the basic Decision. In fact, the provisional analysis took into consideration the volume of the dumped imports and the effect of the dumped imports on prices in the Community market, and the consequent impact of those imports on the Community industry. The examination of the latter impact included an evaluation of all relevant economic factors and indices having a bearing on the state of the industry.

(26) At the provisional stage, the Commission's analysis referred to annual data for a large range of indicators in the period considered, and was supplemented by an examination on the basis of half-yearly information during the period considered of the volumes and prices of dumped imports, and of the prices and profitability of the Community industry. Finally a quarterly analysis of the prices and profitability of the Community industry in the IP completed the examination. This was done, as explained at recital 59 of the provisional Decision, because it was considered that an examination of prices and profitability during the IP as a whole (a period of 15 months) would have led to inappropriate conclusions, the Community market having experienced pronounced changes over this period.

(27) In their claims, the exporting producers did not submit any information contradicting the finding that the Community market had changed profoundly during the IP, and that this situation was exceptional as compared to previous periods. In fact, they limited themselves to contesting the Commission analysis and submitting very general additional information. This information did not lead to the conclusion that the economic indicators set out in the provisional Decision had been inappropriately assessed.

(28) In fact, nothing in Article 6(1) of the basic Decision prevents the quarterly analysis of data for the IP. Further, it was necessary to take into consideration a longer IP of 15 months, in order to reflect as precisely as possible the circumstances of the Community industry. In any case, it should be noted that an IP of six months, a length which is foreseen in Article 6(1) of the basic Decision, would have led to the same conclusions on the existence of material injury in this case.

(29) The Commission analysis at the provisional stage took into consideration all relevant economic indicators available. It is clear that some indicators seen in isolation could lead to different conclusions. However, if as suggested by some exporting producers, the examination was limited to an analysis of annual economic indicators only, this would lead in fact to incomplete conclusions in the present case. Based on the above, and in the absence of any new elements indicating that the economic indicators established and evaluated at the provisional stage are inaccurate, the conclusions set out at recital 68 of the provisional Decision on the deterioration of the situation of the Community industry are confirmed.

5. **Conclusion on injury**

(30) Taking into account the significant price undercutting by the dumped imports and their increasing volume and market share as well as the deterioration of the situation of the Community industry, it is confirmed that the Community industry suffered material injury within the meaning of Article 3(1) of the basic Decision.

F. **CAUSATION**

1. **Effect of dumped imports**

(31) Exporting producers contended that a link between the dumped imports, which cumulatively reached their greatest volumes in the two first quarters of the IP, and the situation of the Community industry, which showed its greatest deterioration in the last two quarters of the IP, had not been established.

(32) In this context, it should be noted that in the early part of the IP, apparent consumption was good and prices in the Community were consequently at relatively high levels. However, it soon became clear, as pointed out at recitals 75 to 77 of the provisional Decision, that this increased apparent consumption and the significant volume of dumped imports was disproportionate as compared to the actual consumption at that time. Indeed, stocks reached substantial levels. When the mismatch became too important in the second part of the IP, the market deteriorated significantly. Indeed, at that point in time, the price level of the Community industry decreased by around 25 %.

It is recalled from recital 71 of the provisional Decision that there is a time lag between importation of dumped products and their effect on the situation of the Community industry becoming clear. Apart from the stock effect mentioned above, the link between the rise in imports and the deterioration of the situation of the Community industry therefore exists by way of its price and quantity effects on the Community market. The existence of high stock levels depressed prices on the market, and led to falling orders for the Community industry, with the resultant financial deterioration observed.

Further, this phenomenon was reinforced by the fact that dumped imports from the countries concerned, although showing some reductions later in the IP, remained at sustained levels.

(33) Based on the above analysis, the provisional conclusion set out at recital 79 of the provisional Decision is confirmed. It is clear that dumped imports from the countries in question, made in quantities quite disproportionate to what the market could absorb, and with significant price undercutting, caused material injury to the Community industry.

2. **Effect of other factors**

Consumption

(34) It was alleged by exporting producers that falling demand from the tube and shipbuilding industries was responsible for the injury experienced by the Community industry.

(35) It should first be noted that no data supporting this allegation was presented by the exporting producers concerned. Further, despite the sending of questionnaires in the framework of the Community interest aspects of the investigation, no information on the situation in either of these downstream industries was provided.

(36) The tube and shipbuilding industries are, however, important consumers of the product concerned and there may therefore be an element of injury arising from falling demand from these industries. However, this is not such as to break the link between the injury suffered and the dumped imports, in view in particular of the increased consumption which occurred between 1995 and the IP (see recital 80 of the provisional Decision).

Situation of the other Community producers

(37) It was alleged by exporting producers that other Community producers were responsible for the loss of market share of the Community industry and its deteriorating situation. However no information was submitted in support of this.

(38) The position of other Community producers is set out at recitals 82 and 83 of the provisional Decision. It is clear from this that to some extent an increase in market share of these producers occurred between 1997 and the IP when the market share of the Community industry decreased. From the information available to the Commission, it was also concluded that the decreasing sales volumes of these producers in the period considered and their falling market share between 1995 and the IP occurred at a time when dumped imports increased.

In any event, however, while it cannot be excluded that other Community producers may have contributed to the deterioration of the situation of the Community industry, given their sales volume and market share during the IP, this is not sufficient to break the causal link between the injury suffered and the dumped imports.

Oversupply

(39) Exporting producers alleged that some injury may have been caused by the Community industry's overproduction, with consequent oversupply in relation to consumption.

(40) An examination of the trends in production of the Community industry and consumption, however, demonstrates that no situation of oversupply on the part of the Community industry existed. In tonnes per month, production and consumption variations between two consecutive periods developed as follows:

Variation	1996/1995	1997/1996	IP/1997
Production	– 9 673	+ 31 114	– 28 746
Consumption	– 50 748	+ 36 220	+ 46 360

(41) It is clear from the above that Community industry's production did not develop in excess of market demand, and was in fact significantly below the growth of the market between 1997 and the IP. This suggests that any element of oversupply was clearly due to the dumped imports and the resultant situation of overstocking, and was not the result of the behaviour of the Community industry.

Anti-competitive behaviour of the Community industry

(42) The allegation of anti-competitive behaviour on the part of the Community industry addressed at recitals 85 to 87 of the provisional Decision was repeated, without however any further information or evidence being provided.

The provisional findings are therefore confirmed.

Imports from other third countries

(43) Exporting producers claimed that the imposition of duties only on the countries subject to investigation was discriminatory and raised substantial issues of causality. In support of this, they pointed out that imports from other countries, notably FYROM, Poland, the Czech Republic, Bulgaria and Ukraine, had also been substantial during the IP. The market share of the latter countries in the IP was 10,5 % as compared to a share of 13,6 % for the countries subject to the investigation, while their prices averaged 325 euro/tonne compared to 317 euro/tonne for the dumped imports. In sum, they claimed that the export performance of these other countries was similar to that of the countries investigated.

(44) It is recalled that this issue was examined at length in recitals 88 to 96 of the provisional Decision, and the above claim by exporting producers has not brought to light any new consideration in this respect.

(45) The conclusions at recital 96 of the provisional Decision are therefore confirmed. Even if imports from other third countries may have contributed to the injury suffered by the Community industry, this alone is considered insufficient to break the causal link established between the dumped imports concerned and the injury of the Community industry.

Situation of the world market

(46) Certain exporting producers continued to claim that the instability of the world steel market, and in particular the Asian crisis, disrupted the Community market and was responsible for the situation of the Community industry.

(47) It is not contested that fluctuations in world prices and developments in world trade had a negative effect on the Community industry. It is recalled however that, as stated in recital 101 of the provisional Decision, this alone cannot explain the sharp price depression and consequent deterioration of the Community industry's profitability. In addition, international developments cannot justify trade at unfair prices which is found to be injuring the Community industry.

The conclusions at recitals 100 and 101 of the provisional Decision are therefore confirmed.

3. **Conclusion on causation**

(48) In the light of the above, the conclusion on causation set out at recital 102 of the provisional Decision is confirmed. In summary, while other factors, such as imports from other third countries, the behaviour of other Community producers and the worldwide instability of the steel market, may have contributed to the difficult situation of the Community industry, this does not detract from the fact that imports of the product concerned from the People's Republic of China, India and Romania, taken in isolation, have caused material injury to the Community industry.

G. **COMMUNITY INTEREST**

(49) Since the publication of the provisional Decision, the Commission has received comments on the Community interest from neither the Community industry, nor from users or importers/traders of the product concerned. The findings set out at recitals 103 to 109 of the provisional Decision are confirmed.

H. **GENERAL CONSIDERATIONS**

(50) Romanian exporting producers alleged that the imposition of anti-dumping measures in this proceeding would slow down the process of restructuring the Romanian industry and jeopardise the process of accession to the Community.

(51) In this context, the Commission notes that the Community will pursue the aim of intensifying its economic links with Romania. At the same time, however, they expect Romanian exporting producers to operate on the Community market in accordance with international agreements.

It should be noted that anti-dumping measures are not aimed at removing products originating in Romania from the Community market but at ensuring that a competitive environment unaffected by dumping practices is re-established.

I. **DEFINITIVE MEASURES**

1. **Injury elimination level**

(52) The Indian exporting producer argued that the anti-dumping duty should be set at the level of the undercutting margin found, i.e. 12,6 % for India, a level far below the level of the duty imposed at the provisional stage (21,8 %).

(53) It should be borne in mind that in line with the relevant jurisprudence, the price-undercutting margin expresses the price effect of the dumped imports on the Community industry, as provided for in Article 3 of the basic Decision. The undercutting margin is therefore an injury indicator, among others, which has to be taken into consideration in the injury analysis.

(54) Once the existence of material injury has been established, the Commission will, in order to comply with the lesser-duty-rule, establish an injury elimination margin in order to examine whether a duty based on a level below the dumping margin will be sufficient to remove injury caused by the dumped imports. The purpose of the determination of the injury elimination margin is therefore completely different from that of the calculation of the undercutting margin.

This argument is therefore irrelevant.

(55) The Indian exporting producer also contested the method used for calculating the injury elimination margin and by way of consequence the duty imposed at the provisional stage. It also proposed an alternative methodology for the calculation of the injury elimination margin.

(56) In this context, it is recalled that the calculation of the injury elimination margin has to be made in the light of the circumstances of each case and is aimed at removing the injury suffered by the Community industry.

(57) At the provisional stage, the Commission calculated the injury elimination margin for each category of the product concerned and for each quarter of the IP. These margins were the differences, expressed as percentages, between the non-injurious prices of the Community industry and cif import prices at the Community frontier, divided by these cif prices. Individual margins were then calculated for each category for the IP as a whole by weighting the results of the quarterly analysis by the tonnage imported in each quarter. This was done to eliminate distortions arising from the sharp fall in prices (–25 %, see recital 66 of the provisional Decision) that occurred between the first and last quarters of the IP. Finally, the injury elimination margin for the product concerned was calculated by weighting by tonnage the individual margins calculated in the IP for each category.

(58) If adopted, the calculation suggested by the Indian exporting producer would in fact minimise the effect of the dramatic price fall that occurred, and treating the IP as a whole would introduce the price distortions the Commission's calculation avoids. It would also fail to accurately reflect the injury to be removed. The Indian claim therefore cannot be accepted.

(59) As for the price undercutting determination (see recital 18), the Chinese and Romanian exporting producers also requested that the calculation of the injury elimination margin be revised on the basis of the additional information they submitted. The necessary modifications have duly been made where appropriate.

As regards the injury elimination margin for Chinese exporting producers, this was calculated by using the information provided by the cooperating exporting producers, taking into account the quality of steel.

It is recalled that exports by these cooperating companies represented around 74 % of the total exports shown by Eurostat (see recital 10). For these 74 %, a margin was calculated using the methodology applied to Romanian and Indian exporting producers. For the remaining 26 %, a margin was calculated using the highest injury elimination margins found in the IP, by quarter and by category of product, for cooperating exporting producers. These injury elimination margins were finally weighted by the tonnages represented by the 74 % and 26 % above.

(60) Finally, the weighting of the injury margins has also been revised in line with the method described in recital 22 for price undercutting.

Based on the above, the definitive injury elimination margins are therefore as follows:

People's Republic of China	8,1 %
India — Steel Authority of India Ltd	22,3 %
Romania — Sidex SA — Other	5,7 % 11,5 %

In the case of Romania, due to the low level of cooperation, the residual injury margin was calculated by reference to the category of products which was exported in representative quantities and for which the highest margin was found.

2. **Level of definitive duties**

(61) As the margins calculated above are lower than the dumping margins finally established, it is considered that a definitive anti-dumping duty should be imposed at the level of the injury elimination margins in accordance with Article 9(4) of the basic Decision.

(62) The individual company anti-dumping duty rates specified in this Decision 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 Decision 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'.

(63) Any claim requesting the application of these individual company anti-dumping duty rates, (for example 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, for example that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation with the Advisory Committee, amend the Decision accordingly by updating the list of companies benefiting from individual duty rates.

3. **Undertakings**

(64) The following exporting companies in Romania have offered a joint price undertaking in accordance with Article 8(1) of the basic Decision: Sidex SA, Sidex Trading SRL, Metalexportimport SA, Metanef SA, Metagrimex Business Group SA, Uzinsider SA, Uzinexport SA, Shiral Trading Impex SRL, Metaltrade International '97 SRL, Romilexim Trading Limited SRL and Metal SA. The price undertaking offered concerns sales of the products, covered by the undertaking, which are produced by Sidex SA and sold directly (i.e. invoiced and shipped) by Sidex SA, or one of the other signatories, to an unrelated customer in the Community. In the case of India, an undertaking has also been offered by the Steel Authority of India Ltd for the products it produces and sells directly in the Community.

[1] European Commission
Directorate-General for Trade
Directorate C
DM 24-8/38
Rue de la Loi/Wetstraat 200
B-1049 Brussels

(65) The Commission considers that the undertakings offered by these companies can be accepted since they will eliminate the injurious effect of the dumping. Furthermore, the regular and detailed reports which the companies have undertaken to provide to the Commission will allow an effective monitoring of the undertakings.

(66) In order to ensure that the undertakings are respected, when the request for release for free circulation pursuant to the undertakings is presented, exemption from the duty is conditional upon presentation to the relevant Member States' customs service of a valid 'undertaking invoice' clearly identifying the producer and containing the information listed in the Annex to this Decision. Where no such invoice is presented, or when it does not correspond to the product presented to the customs service, the appropriate rate of anti-dumping duty will be payable in order to avoid circumvention of the undertaking.

(67) In the event of a breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Articles 8(9) and 10 of the basic Decision.

J. **COLLECTION OF PROVISIONAL DUTIES**

(68) Given the magnitude of the dumping margins found for the exporting producers, and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty under the provisional Decision should be definitively collected at the rate of the duty definitively imposed. Where the rate of the definitive duty imposed is higher than the rate of the provisional duty, only the amount secured at the level of the provisional duty should be definitively collected,

HAS ADOPTED THIS DECISION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain flat products of non-alloy steel, not clad, plated or coated, not in coils, not futher worked than hot-rolled, other than with patterns in relief of a width of 600 mm or more and a thickness exceeding 10 mm or of a width of 2 050 mm or more and a thickness of 4,75 mm or more but not exceeding 10 mm, originating in the People's Republic of China, India and Romania and falling within CN codes ex 7208 51 30, ex 7208 51 50, ex 7208 51 91, ex 7208 51 99 and ex 7208 52 91 (TARIC codes: 7208 51 30 10, 7208 51 50 10, 7208 51 91 10, 7208 51 99 10 and 7208 52 91 10).

2. The rates of duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following companies, shall be:

Country	Company	Rate of anti-dumping duty	TARIC additional code
People's Republic of China	All companies	8,1 %	—
India	All companies	22,3 %	A999
Romania	Sidex SA	5,7 %	A069
	All other companies	11,5 %	A999

3. The duties shall not apply to imports of the product concerned, manufactured by Steel Authority of India Ltd and originating in India or manufactured by Sidex SA and originating in Romania, when the goods are directly exported (i.e. shipped and invoiced) by the companies named in Article 2(1) to the importer in the Community and the conditions of Article 2(2) are fulfilled.

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

Article 2

1. The undertakings offered by the following companies in connection with this anti-dumping proceeding are hereby accepted.

Country	Company	TARIC additional code
India	Steel Authority of India Ltd, New Delhi	A178
Romania	Sidex SA, Galati	A069
	Sidex Trading SRL, Galati	A179
	Metalexportimport SA, Bucarest	A179
	Metanef SA, Bucarest	A179
	Metagrimex Business Group SA, Bucarest	A179
	Uzinsider SA, Bucarest	A179
	Uzinexport SA, Bucarest	A179
	Shiral Trading Impex SRL, Bucarest	A179
	Metaltrade International '97 SRL, Bucarest	A179
	Romilexim Trading Limited SRL, Bucarest	A179
	Metal SA, Galati	A179

2. When the request for release for free circulation pursuant to an undertaking is presented, exemption from the duty shall be conditional upon presentation to the relevant Member States' customs service of a valid Undertaking Invoice issued by the companies mentioned in Article 2(1). The essential elements of the undertaking invoice are listed in the Annex to this Decision. Imports accompanied by such an invoice shall be declared under the TARIC additional code provided for in Article 2(1).

Exemption from the duty shall further be conditional on the goods declared and presented to customs corresponding precisely to the description on the undertaking invoice.

Article 3

The amounts secured by way of the provisional anti-dumping duty on imports originating in the People's Republic of China, India and Romania under Decision No 307/2000/ECSC shall be collected at the rate of the duty definitively imposed by this Decision. Amounts secured in excess of the rate of definitive anti-dumping duty shall be released. Where the rate of the definitive duty imposed is higher than the rate of the provisional duty, only the amount secured at the level of the provisional duty should be definitively collected.

Article 4

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

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

Done at Brussels, 9 August 2000.

For the Commission
Pascal LAMY
Member of the Commission

ANNEX

Elements to be indicated in the undertaking invoice referred to in Article 2(2):

1. The invoice date and the invoice number.
2. The export licence number.
3. The CN code, TARIC code and TARIC additional code under which the goods on the invoice are customs-cleared at Community borders (as specified in Article 2(1)).
4. The exact description of the goods, including:
   — the product reporting code number (PRC) as established in the undertaking offered by the exporting producer in question, including quality of steel, width and thickness of invoiced plates,
   — quantity (to be given in tonnes).
5. The description of the terms of the sale, including:
   — price per tonne,
   — the applicable payment terms,
   — the applicable delivery terms,
   — total discounts and rebates.
6. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by … (company), and accepted by the European Commission through Decision No 1758/2000/ECSC. I declare that the information provided in this invoice is complete and correct.'