COMMISSION DECISION

of 13 June 1997

terminating the anti-dumping proceeding concerning imports of synthetic fibre ropes originating in India

(97/400/EC)

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], as amended by Regulation (EC) No 2331/96 [2], and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) In April 1996, the Commission announced by a notice published in the *Official Journal of the European Communities* [3], the initiation of an anti-dumping proceeding concerning imports into the Community of synthetic fibre ropes originating in India.

(2) This proceeding was initiated as a result of a complaint lodged on 23 February 1996 by the Liaison Committee of European Twine, Cordage and Netting Industries (Eurocord) (hereinafter referred to as 'the complainant') on behalf of the Community industry. The complaint was supported by 20 Community producers representing approximately 81 % of the Community production of the product concerned.

The complaint contained *prima facie* evidence of dumping of the product concerned originating in India and of material injury resulting therefrom which was considered sufficient to justify the opening of a proceeding. As a result, the Commission commenced an investigation concerning imports on synthetic fibre ropes originating in India.

(3) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainants, about the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing.

(4) The Commission sent questionnaires to all producers, exporters and importers known to be concerned and received replies from two Indian producers. One importer in the Community replied to the Commission's questionnaire. The Indian producers requested and obtained oral hearings.

(5) In view of the number of Community producers expressly supporting the complaint, the Commission investigated injury on the basis of a representative selection of Community producers. Questionnaires were sent to, and information was received from a representative sample of these producers.

(6) The Commission sought and verified all information it deemed necessary for the assessment of the facts and carried out investigations at the premises of the following companies:

a. *Community producers (sample):*

- Irish Ropes (Newbridge, Co. Kildare, Ireland)
- Oliveira SA (Porto, Portugal)
- Oliveira Holland BV (Rotterdam, The Netherlands)
- Exporplas (Porto, Portugal)
- Cotesi (Porto, Portugal)
- Cerfil (Porto, Portugal)
- Lankhorst Touwfabrieken BV (Sneek, The Netherlands)

b. *Producers/exporters:*

- Krishna Filament Limited, Mumbai, India
- Garware-Wall Ropes Limited, Poona, India.

(7) The investigation of dumping covered the period from 1 April 1995 to 31 March 1996 (hereinafter referred to as 'the investigation period').

The examination of injury covered the period from 1992 to the end of the investigation period.

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No C 102, 4. 4. 1996, p. 16.

Disclosure

(8) The parties were informed in writing of the essential facts and considerations on the basis of which it was intended to recommend the termination of the proceeding. The parties were also granted a reasonable period within which to make representations subsequent to the disclosure.

The written comments presented by the parties were considered and, where appropriate, were taken into account by the Commission.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(9) The product under consideration is twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics of polyethylene or polypropylene other than binder and baler twine measuring more than 50 000 decitex (5g/m), plaited and other. The product as described above falls within CN Codes 5607 49 11, 5607 49 19, 5607 50 11 and 5607 50 19.

This product is used for a wide variety of naval and industrial applications, in particular for shipping (especially for mooring purposes), and the fishing industry. It is produced in many different types depending on the raw material composition and on the number of strands making up the ropes.

(10) The investigation showed that the different types of synthetic fibre ropes sold in India are alike in their physical characteristics, application and use to those exported to the Community. Similarly, the ropes manufactured in the Community and those exported from India to the Community have the same characteristics and compete with each other. It is therefore concluded that they must be considered like products within the meaning of Article 1 (4) of Regulation (EC) No 384/96 (hereinafter referred to as the 'Basic Regulation').

C. DUMPING

1. Normal value

(11) It was first examined whether each of the two co-operating producers'/exporters' domestic sales volumes were representative in accordance with Article 2 (2) of the Basic Regulation. To this end, it was first established whether the total volume of domestic sales of the product concerned constituted 5 % or more of the total volume of export sales of the like product to the Community, i.e. whether domestic sales were representative. This assessment revealed that the co-operating producers/exporters had representative global sales of synthetic fibre ropes on the domestic market during the investigation period.

(12) For each of the types sold by the producers/exporters on their domestic market and found to be directly comparable to types sold for export to the Community, the Commission established whether total domestic sales per product type were made in sufficient quantities. Domestic sales of each type were considered to have been made in sufficient quantities, within the meaning of Article 2 (2) of the Basic Regulation, where the volume of each product type sold in India during the investigation period represented 5 % or more of the volume of the corresponding types sold for export to the Community.

(13) As one co-operating producer/exporter was not in a position to provide the Commission with sufficient information concerning the breakdown of domestic sales between the different types of ropes, the Commission was not able to verify by product type the representativeness of the domestic sales of this company. The Commission had, therefore, to establish normal value for this company on the basis of the facts available, in accordance with Article 18 (1) of the Basic Regulation. Given the similarity between the products manufactured by the two co-operating producers/exporters, these were found to be the other producer's normal values.

(14) As far as the other co-operating producer/exporter is concerned, it was found that its sales of each product type on the domestic market during the investigation period were representative.

(15) With regard to the latter producer/exporter mentioned, the Commission subsequently examined whether the domestic sales of each type of synthetic fibre ropes could be considered to have been made in the ordinary course of trade by looking at the proportion of profitable sales of each type in question, in accordance with Article 2 (4) of the Basic Regulation.

Where, per product type, the weighted average selling price of 20 % or more of the sales by volume was lower than the weighted average unit cost, normal value was established on the basis of

the weighted average prices actually paid for the remaining profitable sales only, provided that the volume of the latter exceeded 10 % of sales being used to determine normal value.

Where there were no sales of the like product or where the profitable sales were 10 % or less of the total domestic sales of the product type in question, normal value was constructed in accordance with Article 2 (3) of the Basic Regulation.

The constructed normal value was determined by adding to the manufacturing costs of the exported types a reasonable amount for selling, general and administrative costs and a reasonable margin of profit, in accordance with Article 2 (6) of the Basic Regulation. The amount for selling, general and administrative costs and profits was established on the basis of the domestic sales of the product concerned in the ordinary course of trade by this producer/exporter.

2. Export price

(16) As the two co-operating producers/exporters made export sales in the Community directly to independent importers, export prices were, in accordance with Article 2 (8) of the Basic Regulation, established on the basis of the prices actually paid or payable by these independent importers.

3. Comparison

(17) In accordance with Article 2 (10) and (11) of the Basic Regulation, for each cooperating producer/exporter the weighted average normal value by product type was compared to the weighted average export prices at the ex-factory level and at the same level of trade.

(18) For the purpose of a fair comparison, due allowance in the form of adjustments was made in accordance with Article 2 (10) of the Basic Regulation where it was claimed, and satisfactory evidence was supplied to demonstrate, that the differences in the factors concerned affected price comparability. These adjustments were made in respect of indirect taxes, transport, insurance and packing.

(19) As far as the request for adjustments concerning import charges is concerned, it should be noted that this request could not be granted as the exporter/producer was not in a position to show that the imported raw materials, on which the duties were borne, were used for the manufacturing of the product concerned intended for the domestic market.

(20) With regard to the request for adjustments concerning the level of trade for domestic sales to end-users, on the basis that export sales to the Community were mainly made to distributors, whereas the domestic sales were made to various categories of customers, i.e. distributors, retailers and end-users, the examination of the prices charged to these various categories of domestic customer did not reveal any significant or consistent differences. Consequently, given that there was insufficient evidence that this alleged difference in level of trade had affected price comparability, this request was rejected.

4. Dumping margin

(21) The comparison of the normal value with the export price showed the existence of dumping, the dumping margin being equal to the amount by which the normal value exceeds the price for export to the Community.

(22) The weighted average dumping margins established for the two co-operating producers/exporters, expressed as a percentage of the free-at-Community frontier price, duty unpaid, are as follows:

— Krishna Filaments Limited: 77,8 %

— Garware - Wall Ropes Limited: 68,3 %.

(23) For those producers/exporters in India which neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping margin was determined on the basis of the facts available in accordance with Article 18 (1) of the Basic Regulation.

(24) Given that a comparison of the data concerning exports to the Community provided by the co-operating Indian producers/exporters and the Eurostat statistics indicated a very high level of co-operation, i.e. nearly the totality of all exports, the Commission considered that the most reasonable facts available were those established in the investigation and that, since there was no reason to believe that a non-co-operating producer/exporter had dumped at a lower level than the highest found, the highest dumping margin found was the most appropriate for these purposes.

Thus, for non-co-operating producers/exporters the dumping margin was fixed at 77,8 % expressed as a percentage of the free-at-Community-frontier price.

D. COMMUNITY INDUSTRY

(25) The complainant producers that co-operated with the Commission in the present investigation represented 81 % of the Community production of the product concerned and were therefore representative of the Community industry in accordance with Articles 4 (1) and 5 (4) of the Basic Regulation.

E. INJURY

1. Preliminary remarks

(26) As indicated in Recital 7, for the purposes of establishing injury in the present proceeding, the Commission has analysed data relating to the period 1992 to March 1996. The geographical scope of the investigation was the Community as composed at the time of initiation of the proceeding, i.e. the Community of fifteen Member States. The injury assessment made by the Commission was based on the relevant economic factors as provided for under Article 3 of the Basic Regulation.

It should be noted, however, that prior to 1995, reliable information relating to certain injury factors (e.g. consumption, market share, production and sales) was only available for the Community of twelve and given that the size of this market is representative of the Community of fifteen, the injury analysis for these factors was carried out for the Community of twelve.

2. Collection of injury data

(27) The Commission requested information from all the complaining industry relating to production, sales and market share ('global information'). However, in view of the large number of producers supporting the complaint and the time limits established in Article 6 (9) of the Basic Regulation, the Commission based the remaining injury indicators on a representative selection of Community producers ('sampled information').

The selection was made according to geographical location and the size of the companies in terms of production and sales. In addition, the Commission took into account the level of co-operation that the companies provided. In particular, it should be noted that one of the selected companies withdrew its co-operation at a very late stage in the proceeding, thus reducing the relevant information available to the Commission and affecting the normal course of the Commission's investigation.

The selected companies accounted for 37 % of production and sales of the product concerned of the complaining industry during the investigation period representing 30 % of total Community output.

In this context, it should be noted that more than half of the Community production is located in one Member State. Notwithstanding this, the Commission included producers in other Member States in its selection.

3. Community consumption

(28) Community consumption decreased from 21 709 tonnes in 1992 to 20 697 tonnes in 1993 and increased to 23 097 tonnes in 1994, to 24 046 tonnes in 1995 and to 24 253 tonnes in investigation period. This represents an overall increase of 11,7 % of consumption during the period under consideration.

4. Volume and market shares of the dumped imports

(29) The total volume of all dumped imports of synthetic fibre ropes originating in India increased from 129 tonnes in 1992 to 440 tonnes in 1993, to 342 tonnes in 1994, to 1 180 tonnes in 1995 and in the investigation period. The market share of synthetic fibre ropes imported from India increased from 0,6 % in 1992 to 2,1 % in 1993, to 1,5 % in 1994 and to 4,9 % in 1995 and during the investigation period.

5. Prices of the dumped imports

(30) In order to determine whether the exporting producers were undercutting the prices of the Community producers during the investigation period, the Commission compared the prices of the selected Community producers with comparable prices of the exporters concerned in the Community by Member State. Due to the large number of different types of synthetic fibre ropes, the price comparison was made on the basis of a selection made from transactions representing more than 70 % of the volume of sales of all types of synthetic fibre ropes made by the Community producers. For comparison purposes, synthetic fibre ropes manufactured and sold by Community producers and those exported from India to the Community have been divided into comparable product groups depending on the raw material composition and the number of strands making up the rope, i.e. three and four strands, and eight strands.

The sales prices of the Community industry considered were those to independent customers, adjusted where necessary to ex-works level. The exporters' selling prices (CIF Community frontier) were increased to take account of customs duty and an allowance in respect of post importation costs and profit (based on information collected during the investigation). Transactions from the exporters, representing 51 % of the total volume of Indian imports in the Community during the investigation period, were used. All prices were compared at net level, after excluding all discounts and rebates and at comparable levels of trade.

(31) The complainants argued in the complaint that imports of the product concerned into one Member State benefited from shipping end-use relief provisions pursuant to Commission Regulation (EC) No 3009/95 of 22 December 1995 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff [1] and were exempt from duties on importation. It should be noted that no importers co-operated in the present proceeding. However, enquiries made by the Commission to the customs authorities in the relevant Member State indicated that only a very small volume (6 tonnes) of imports from India had benefited from the aforementioned provisions. The Commission, in the pricing analysis, has therefore not taken into consideration the duty exemption arising from the aforementioned provisions.

(32) The results of the comparison (conducted on an average-to-average basis) showed that during the investigation period, price undercutting margins expressed as a percentage of the Community industry's average selling price ranged from 0 % to 53,57 % with an overall weighted average of 16,47 %. It should be noted that the differences in these margins reflect the large variety of ropes falling within the definition of the product concerned of which not all were being undercut by the Indian imports. Furthermore, no clear pattern was found as regards the Indian exporters' pricing strategies in relation to specific product types or sales in specific Member States.

6. Situation of the Community Industry

(a) *Production (global information)*

(33) Overall production levels of the product concerned produced by the Community industry remained relatively constant throughout the period. Production was at a level of 18 505 tonnes in 1992 and at 18 598 tonnes during the investigation period.

(b) *Sales volume (global information)*

(34) The volume of sales of the Community industry during the period considered also remained relatively constant, with the sales levels at the beginning of 1992 (14 971 tonnes) similar to those achieved during the period of investigation at 14 829 tonnes.

(c) *Market share (global information)*

(35) The development of sales volume compared to that of apparent Community consumption shows that the market share held by the Community industry decreased during the period under consideration. The market share of the complainants fell from 68,9 % in 1992 to 61,1 % in the investigation period. However, a slight improvement occurred between 1995 and the investigation period.

(d) *Capacity and capacity utilisation (sampled information)*

(36) As regards capacity, it should be noted that the production facilities for synthetic fibre ropes are also used in the production of other products not concerned by the present proceeding which are subject to seasonal fluctuations of demand in the market, e.g. agricultural twines. As a consequence, it was difficult to determine accurate capacity and capacity utilisation levels for the product concerned.

Based on an estimate of the capacity normally attributed to the production of the product concerned by the Community industry, capacity increased from 10 330 tonnes in 1992 to 10 220 in 1993, to 10 650 in 1994 to 10 940 in 1995 and to 10 940 tonnes during the investigation period representing an average increase of 6 % between 1992 and the investigation period.

The rate of capacity utilisation averaged 69 % over the period. In 1992 capacity utilisation was 72 %, in 1993 it was 63 %, in 1994 74 %, and in 1995 and the investigation period it was 68 %.

Furthermore, it is noted that this rate of capacity utilisation should be seen in the light of the possibility of using the same machinery to produce products other than those concerned by this proceeding.

(e) *Stocks (sampled information)*

(37) The investigation has shown that the product concerned is usually produced to order within the Community. Generally, therefore, no significant levels of stocks were maintained by the Community producers.

[1] OJ No L 319, 30. 12. 1995, p. 1.

(f) *Price evolution (sampled information)*

(38) The weighted average prices of the product concerned sold by the selected companies on the EU market decreased by 10 % between 1992 and 1994, but rose by 19 % in 1995.

(g) *Profitability (sampled information)*

(39) It should be noted that the selected companies could not provide the Commission with sufficient information relating to profitability for the period under consideration. With respect to the investigation period, a weighted average loss of 1,6 % was found.

(h) *Employment (sampled information)*

(40) Employment levels in the selected Community producers for the product concerned fell during the period examined by 29 %. However, it should be noted that the major decrease in employment in the industry occurred between 1992 and 1994 when it fell by 27 %. This decrease should be seen in the context of difficulties that the Community industry was facing at that time. A slight increase occurred in the investigation period.

7. Conclusion on injury

(41) Although the Community industry lost market share during the period examined, sales and production remained stable and prices significantly increased. Profitability was inconclusive given the insufficient information available. Employment decreased overall but appeared to show some improvement in the investigation period.

In the light of the above, some factors appear to indicate the existence of injury.

F. CAUSE OF INJURY

(42) Although the significant increase of Indian imports between 1994 and the investigation period coincided with the loss of market share of the Community industry, it should be noted that the production and sales volume of the Community industry remained constant in the period considered.

The Community industry appeared to be facing difficulties in the early 1990s with consequent job losses, the majority of which occurred between 1992 and 1994. This took place before Indian imports entered the Community in significant volume. Consequently, the majority of job losses cannot be attributed to the Indian imports.

As regards profitability, it should be noted that insufficient information was available, thus preventing the Commission from establishing a causal link between the development of the financial situation of the Community industry and the Indian imports.

G. CONCLUSION

(43) The problems encountered by the Community industry were apparent before Indian imports began to rise and other factors including increases in the cost of raw materials were influential. Although the dumped imports may have exacerbated any difficulties faced by this industry as regards the product concerned, the overall degree of injurious impact of dumped imports was not sufficiently established to justify the imposition of measures in the present case.

H. TERMINATION OF THE PROCEEDING

(44) The complainant and other interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to terminate this proceeding. Subsequently, the complainants made known their views which were then examined in detail by the Commission.

(45) The Advisory Committee has been consulted and the majority was in favour of the proposal put forward by the Commission,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of synthetic fibre ropes falling within CN codes 5607 49 11, 5607 49 19, 5607 50 11 and 5607 50 19 originating in India is hereby terminated.

Done at Brussels, 13 June 1997.

For the Commission

Leon BRITTAN

Vice-President