COMMISSION

COMMISSION DECISION

of 27 May 1998

terminating the anti-dumping proceeding concerning imports of pure silk typewriter ribbon fabrics originating in the People's Republic of China

(98/349/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 last amended by Regulation (EC) No 905/98 [2], and in particular Article 23 thereof,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [3], and in particular Articles 14 and 15 thereof,

After consulting the Advisory Committee,

Whereas:

A. ANTI-DUMPING MEASURES IN FORCE

(1) In July 1990, a provisional anti-dumping duty of 24,6 % was imposed on pure silk typewriter ribbon fabrics originating in the People's Republic of China, by Commission Regulation (EEC) No 1937/90 [4]. By the same Regulation, the Commission accepted a price undertaking from the China National Silk Import and Export Corporation — Zhejiang Branch (the only known exporter in the People's Republic of China, hereinafter referred to as 'the exporter'). This exporter was thus exempted from the definitive anti-dumping duty which was subsequently imposed by Council Regulation (EEC) No 3200/90 [5], still at a level of 24,6 %.

B. REQUEST FOR REVIEW

(2) In August 1991, the exporter lodged a request for a review of the undertaking, alleging changed circumstances since the entry into force of the measures. The main grounds were as follows:

(a) There was no longer significant Community production of pure silk typewriter ribbon fabrics, since the only Community producer had switched to producing mixed fabrics of polyester/silk.

(b) The Community producer had not increased its selling prices since the entry into force of the undertaking, and was aiming to secure a monopoly of the Community market.

(c) Since the exporter had not exported any pure silk typewriter ribbon fabrics to the Community since 1989, it could no longer be causing injury to the Community industry.

(3) The Commission was satisfied that there was sufficient evidence of changed circumstances to justify the initiation of a review of the measures in force.

C. REVIEW INVESTIGATION

(4) In January 1992, the Commission published a notice of initiation [6] of a review of Regulation (EEC) No 1937/90 accepting an undertaking with regard to imports of pure silk typewriter ribbon

[1] OJ L 56, 6. 3. 1996, p. 1.
[2] OJ L 128, 30. 4. 1998, p. 18.
[3] OJ L 209, 2. 8. 1988, p. 1.
[4] OJ L 174, 7. 7. 1990, p. 27.
[5] OJ L 306, 6. 11. 1990, p. 21.
[6] OJ C 12, 18. 1. 1992, p. 5.

fabrics originating in the People's Republic of China, and of Regulation (EEC) No 3200/90 imposing a definitive anti-dumping duty on the above imports, and reopened the investigation in accordance with Article 14 of Regulation (EEC) No 2423/88.

The Commission officially advised the Community producer, the exporter and importers known to be concerned, as well as the representatives of the exporting country. All parties directly concerned were given the opportunity to make their views known in writing and to request a hearing within the time-limit set in the Notice of initiation.

(5) The following interested parties all completed the Commission's questionnaire and made their views known in writing:

(a) *Complainant:* International Association of users of Yarn of man-made Fabrics and of Natural Silk (Aiuffass), on behalf of the sole Community producer.

(b) *Community producer:* Spinnhütte GmbH Co. KG, Celle, Germany, hereinafter referred to as 'Spinnhütte' or 'Community producer'.

(c) *Unrelated importer:* Delacamp GmbH & Co. KG, Hamburg, Germany.

(d) *Exporter in the People's Republic of China:* China National Silk Import and Export Corporation, Zhejiang Branch.

Verification visits were carried out at the premises of the Community producer and the importer.

The Community producer and the exporter requested and were granted hearings.

The investigation of dumping covered the period from 1 January 1991 to 31 December 1991 (hereinafter referred to as 'the investigation period'). Originally, the examination of injury had covered the period from 1989 up to the end of the investigation period.

(6) In October 1993, in view of the length of the investigation and the different arguments put forward by the parties about the changed situation on the market for the product concerned, it was thought appropriate to update the data up to and including 1993.

Spinnhütte did not provide some essential information, such as a breakdown of sales and audit/management reports, despite the granting of various extensions of the deadline.

(7) As the initial measures would normally have expired on 6 November 1995, a Notice [1] was published in accordance with Article 15(4) of Regulation (EEC) No 2423/88, indicating that the anti-dumping measures would remain in force beyond the end of the five-year period, pending the outcome of the review.

D. PRODUCT CONCERNED/LIKE PRODUCT

Description of the product concerned

(8) The product concerned is the same as in the original investigation, namely plain woven silk fabric made out of raw silk of a weight of 40 g/m^2 or more, but not excededing 50 g/m^2. This product (hereinafter referred to as 'silk typewriter ribbon fabrics') is used by the office supplies industry, and for the further manufacture of typewriter ribbon spools.

Spinnhütte requested that the definition of the like product be widened so as to extend the weight range of 40 to 50 grams per m^2 (g/m^2) to a weight between 30 g/m^2 and 70 g/m^2. It was further proposed to extend the product definition to include a mixed silk/polyester product produced by Spinnhütte, which had been introduced on the market after the initiation of the original investigation.

In respect of the request for an extension of the definition of the product concerned, the following should be noted:

First, no evidence has been submitted suggesting that an extension of the weight criteria is justified. The fact that the Community industry has knowledge of offers or transactions marginally outside the relevant weight range only demonstrates the existence of a market for different products, and does not in itself justify extending the scope of measures to these; in any event, Spinnhütte did not produce any evidence of unfarily traded imports resulting from such offers.

Secondly, although the mxied product in question is said to be interchangeable and to compete directly with the silk typewriter ribbon fabrics concerned in this proceeding, it has to be noted that the basic physical characteristics of both products differ significantly. In any event, as will be shown in Parts E and F, the conclusion reached with respect to injury and recurrence of injury would not have been different had the mixed product been considered part of the product concerned in this investigation, given the decline in demand in the Community for typewriter ribbon fabrics in general.

[1] OJ C 291, 4. 11. 1995, p. 20.

E. INJURY

As there is only one producer in the Community, data is given in indexed form for reasons of confidentiality.

1. Community production, consumption, capacity utilization and employment

(9) Over the period from 1989/90 to 1992/93, Spinnhütte's total production of typewriter ribbon fabrics, namly silk typewriter ribbon fabrics and mxied silk/polyester typewriter ribbon fabrics, fell by more than 60 %. As regards the 'like product', the fall in production over this period was much higher, at around 85 %.

In this context, it has to be noted that Spinnhütte in 1989 introduced a new typewriter ribbon fabric manufactured from a mixture of silk and polyester. In 1989, Spinnhütte hoped that this patented new product would come to represent 50 % of its production, thus gradually replacing the pure silk version, which is now of minor importance, given a severe fall in demand.

As to consumption, as there have been no imports of the product concerned and as there is only one supplier on the Community market, sales made by Spinnhütte represent total Community consumption of the like product.

In 1989, according to Spinnhütte, 30 % of its weaving mill capacity was engaged in the production of silk typewriter ribbons fabrics. It is estimated that only 10 % of capacity was used for the like product by the end of the period examined.

Over the period, total employment appeared to be stable at about 35 people.

2. Imports of the product concerned

(10) According to the undertaking reports made by the Chinese producer, as confirmed by the relevant Eurostat figures, there have been no imports of the product concerned since 1989.

3. Spinnhütte's sales of the product concerned on the Community market

(11) Spinnhütte's sales volumes, in m^2, of silk typewriter ribbon fabrics on the Community market declined between 1 January 1989 and 30 June 1993 by 72 %, while prices fell by 66 % over the same period.

4. Profitability

(12) On the basis of the information available, and in the light of the fact that sales prices fell by less than volumes, together with a lowering of the price of raw silk, the Community producer has apparently been able, by the end of the period, to restore a satisfactory level of profitability on a per-unit level and to obtain a reasonable return on capital. On an indexed basis, with 1988/89 as 100, profitability had reached 112 in 1992/93.

5. Conclusion on injury

(13) While the investigation has shown that the Community industry has experienced substantial economic difficulties in terms of decreases in production, sales and prices, it is clear that these developments are, in the absence of imports, due solely to reduced demand, arising from the general diversification away from the use of cloth typewriter ribbon to plastic ribbon and from typewriters to word-processors. In the face of such a basic shift, Spinnhütte could do little, except restructure its range of production (see below).

F. RECURRENCE OF INJURIOUS DUMPING

(14) The absence of exports following the imposition of anti-dumping measures is not in itself a sufficient reason for their removal. It has to be examined whether removing the measures would lead to a foreseeable and imminent recurrence of injury caused by dumped imports from the People's Republic of China.

1. Recurrence of dumping

(15) The Commission recalls that in this particular case, normal value had to be constructed on the basis of cost of production plus a reasonable profit calculated by reference to those incurred and realised by the Community producer.

In this respect, the investigation has shown that there has been a sharp decline in normal value as compared to the original investigation. The information available, and Spinnhütte's submission of 5 December 1995, show that the price of raw silk, the major cost element for the product concerned, has declined by 50 % since 1989/90, and that there have been favourable developments in manufacturing and other costs since that time. In addition, there are now increased opportunities for obtaining raw silk on the world market; the Community producer is no longer dependent on Chinese supplies of raw silk. Moreover, the provisional application of the Agreement between the Community and China, which was the subject

of Council Decision 95/155/EEC [1], should prevent situations whereby finished goods are exported at prices of about, or below, the price of the raw silk content.

A combination of these factors leads the Commission to the view that the decline of constructed normal value would tend to remove, or at least greatly reduce, the margin of dumping, although, as discussed below, it is not at all clear that, given the fall in demand, exports would resume if the present measures were to expire. Moreover, the sole Chinese producer capable of offering silk typewriter ribbon fabrics produces more than 35 other products in addition to silk typewriter ribbon fabric, and is not, therefore, likely to be interested in the product concerned which has been subject to sharply decreasing demand.

Further, according to information submitted by the Chinese producer, its total output is destined for the Chinese market, and any increased production to supply the Community market is unlikely; changing looms would not be profitable, given the better returns available from other silk products in the face of declining demand for the product concerned.

(16) The Community producer recognized that there was no evidence on Chinese imports of the product concerned between November 1989 and 1 October 1995 — that is, since before the imposition of the anti-dumping measure in 1990 — although, it was maintained that the measures were being circumvented in various ways, for example by transhipment via third countries with misdeclaration of origin, misdescription of product, and manipulation of the weight limits covered by the definition of the product concerned.

Further, it was alleged that there were indications that the Chinese exporter was still interested in the Community market.

First, offers had apparently been made by another Chinese exporter for sales on the Community market of silk typewriter ribbon fabrics of Chinese origin. In addition, the reportedly poor financial results of the Chinese silk industry suggested that a recurrence of injurious dumping was likely if measures were to expire. Reference was also made to several other offers and transactions, at prices below the normal value of the Chinese product, entering the Community market via Switzerland.

Secondly, the Community producer contested the view that the total output of the sole Chinese producer of the like product was destined solely for the Chinese market, since it claimed to have evidence that sales of the Chinese product were being made in the United States of America. In addition, overcapacity in the Chinese silk industry and the recent bilateral EC-China agreement, which did not cover the product concerned, were put forward as reasons why exports of silk typewriter fabrics would be of interest to the Chinese producer. Resumption of such exports would cause a recurrence of injurious dumping, and anti-dumping measures are the only means of protection against this. Finally, the request for a review proceeding made by the Chinese in August 1991, and the adjustment of the price undertaking in February 1994 at the request of the Chinese exporter, were adduced as evidence of continuing interest in the Community market.

(17) The Commission examined these contentions, but cannot accept them.

As to circumvention, no evidence was produced to corroborate the allegations. In particular, as to the imports transited through Switzerland, it was established that these did not concern typewriter ribbon fabrics, since they did not conform to the necessary length requirements of 220 yards per roll, as is recognized by the Community producer.

As to the offers made by another Chinese exporter, it was found that these were not relevant; indeed, according to the complaint itself, the exporting company in question is not authorized to handle exports of the product concerned.

With respect to possible sales on the US market and the potential effects of overcapacity in the Chinese silk industry, the Commission recalls that its information indicates that the total output of the sole producer in China is intended for domestic sales. Notwithstanding these conflicting indications on export sales to third-country markets, however, the Commission maintains the view expressed above, namely that any increase in Chinese production of the like product for export to the Community, where the market has been in sharp decline, is unlikely, given the advanced stage of the product's life-cycle and the cost of switching production to the product concerned, when better returns are available on other silk products. Further, given its product mix, the Chinese producer would not seem to be dependent on the production and sale of typewriter ribbon fabrics.

As to the Chinese request for a review and the adaptation of the price undertaking, these, in isolation, cannot be evidence of a threat of a recurrence of injury, particularly in the absence of imports into the Community since 1989 — that is to say, before the introduction of measures.

[1] OJ L 104, 6. 5. 1995, p. 2.

2. **Recurrence of injury**

(18) It was claimed by the Community producer that anti-dumping measures were still necessary to prevent a recurrence of injury while the company, which is small, was completing an ongoing restructuring. Although production was being diversified away from silk typewriter ribbon fabrics, the transformation was said to be as yet incomplete, and the production of the like product remained essential for Spinnhütte's survival.

(19) In this context, it should first be noted that the purpose of any anti-dumping measure is not to facilitate the Community industry's restructuring process, but to eliminate the trade-distorting effects of injurious dumping and thus to enable the Community industry to compete on equal terms with the dumped imports.

Further, it should be recalled that no imports have taken place since November 1989, and therefore that no injury could have been caused to the Community industry by dumped imports of the product concerned since then.

Since the Community producer and the Chinese producer are the only two producers of silk typewriter ribbon fabrics in the world, the Community producer has been enjoying a monopoly position within the Community since 1989.

It is clear, therefore, that a recommencement of imports would, by increasing competition on the market, affect the position of Spinnhütte. However, as outlined above, it is unlikely that exports of the product concerned at dumped prices would re-start if the measures were repealed.

(20) Finally, as it believes that injurious dumping is likely to re-occur if the existing measures lapse, the Community producer requested that Regulation (EEC) No 3200/90 imposing a definitive duty be maintained, but that the measures be immediately suspended pursuant to Article 14(4) of Regulation (EC) No 384/96.

The Commission cannot agree to this request. As they were intended to address entirely different situations, the application of the provisions of Article 14(4) of Regulation (EC) No 384/96 is inappropriate in the circumstances of this proceeding.

G. **CONCLUSION**

(21) In view of the above, the Commission concludes that there is no evidence pointing to a current risk that the removal of anti-dumping measures would lead to a foreseeable and imminent recurrence of injury due to dumped imports from China. Indeed, it seems likely that the Community industry will continue to experience difficulties, not from Chinese imports, but from the substitute products and the growth in the demand for word processors and personal computers, which will inevitably continued to reduce sales of conventional typewriters using textile ribbons.

(22) It is considered, therefore, that, in the light, in particular, of the decline in demand for the product concerned, the apparent restoration of profitability, and the fact that a recurrence of injurious dumping is unlikely, the measures in force should be allowed to expire.

(23) The Commission informed interested parties, including the Community industry, of its conclusions. After being informed by the Commission of the above facts and conclusions, representatives of the Community industry made further representations, both in writing and orally, concerning the impact of the Chinese imports in question on the Community industry. However, no information or argument was provided which could, on examination, reverse the above conclusions.

(24) Member States did not raise any objections to the termination of the proceeding,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of pure silk typewriter ribbon fabrics falling within CN codes ex 5007 10 00, ex 5007 20 11, ex 5007 20 19 and ex 5007 20 21 originating in the People's Republic of China is hereby terminated.

Done at Brussels, 27 May 1998.

For the Commission
Leon BRITTAN
Vice-President