COMMISSION REGULATION (EC) No 1069/97

of 12 June 1997

imposing a provisional anti-dumping duty on imports of cotton-type bed linen originating in Egypt, India and Pakistan

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 of 2 December 1996 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 13 September 1996, the Commission announced by a notice published in the *Official Journal of the European Communities* [3] the initiation of an anti-dumping proceeding with regard to imports into the Community of cotton-type bed linen originating in Egypt, India and Pakistan and commenced an investigation.

(2) The proceeding was initiated as a result of a complaint lodged on 30 July 1996 by the Committee of the Cotton and allied Textile Industries of the European Communities (Eurocoton), on behalf of Community producers representing a major proportion of Community production of cotton-type bed linen. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the producers/exporters and importers known to be concerned as well as their associations, the representatives of the exporting countries and the complainants about the initiation of the proceeding.

(4) Interested parties were given the opportunity to make their views known in writing and to request a hearing. A number of producers/exporters in the countries concerned, as well as Community producers, importers, traders and one consumer organization made their views known in writing. All parties who so requested were granted a hearing.

(5) In view of the large number of Community producers expressly supporting the complaint, the Commission decided to make use of sampling techniques and sent questionnaires to and received detailed information from a representative sample of Community producers, as set out in recitals (58) to (61).

(6) In view of the large number of producers/exporters in the exporting countries concerned, sampling was also used with regard to them and the Commission sent questionnaires to and received detailed information from a representative sample of producers/exporters, as set out in recitals (15) to (21).

(7) The Commission sent questionnaires to fourteen importers known to be concerned and only received replies from three.

In addition, the Commission sent out questionnaires to 28 large purchasers of bed linen including wholesalers, retailers and mail order companies in order to take account of their economic interests and to assess the likely effects on them and on their purchasing decisions. However, only four replied to the questionnaire.

(8) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping and injury, including the carrying out of verification visits at the premises of the following sampled companies:

(a) *Community producers*

Germany

— Bierbaum Textilwerke GmbH & Co KG, Borken,

— Irisette GmbH & Co KG, Zell im Wiesental,

— Gunter Meckelholt GmbH, Bocholt,

— Wilh. Wulfing GmbH & Co, Borken,

— Luxorette GmbH, Wendlingen;

France

— Société Industrielle Mulliez Frères SA, Roubaix,

— Hacot Colombier SA, Houplines,

— Éts Vanderschooten, Nieppe,

— Joseph Hacot SA, La Gorgue,

— Groupe Fremaux SA, Haubourdin,

— C Bera SA, Noyelles-sur-Selle,

— Jalla SA, Paris;

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No C 266, 13. 9. 1996, p. 2.

Italy

— Vincenzo Zucchi SpA, Milan,
— Bassetti SpA, Milan,
— Bossi SpA, Mortara,
— Gabel Industria Tessile SpA, Rovellasca;

Portugal

— Lameirinho Indústria Têxtil SA, Pevidém;

(b) *producers/exporters*

Egypt

— Damietta Spinning & Weaving Co., Damietta,
— El Nasr Wool and Selected Textiles Co (STIA), Alexandria,
— Orient Linen & Cotton Co., Alexandria,
— Stephanie Textile, Cairo;

India

— Anglo French Textiles, Pondicherry,
— Madhu Industries Ltd, Ahmedabad,
— Madhu International, Ahmedabad,
— Omkar Exports, Ahmedabad,
— Prakash Cotton Mills Ltd, Bombay,
— The Bombay Dyeing & Manufacturing Co Ltd, Bombay,
— Nowrosjee Wadia & Sons Ltd, Bombay;

Pakistan

— Al-Abid Silk Mills Ltd, Karachi,
— Al-Abid Export (Pvt) Ltd, Karachi,
— Al-Karam Textile Mills (Pvt) Ltd, Karachi,
— Fateh Textile Mills, Hyderabad,
— Gul Ahmed Textiles Mills Ltd, Karachi,
— Excel Textile Mills Ltd, Karachi,
— Mohammad Farooq Textile Mills Ltd, Karachi;

(c) *related importer*

— Barkat Limited, Brentford, United Kingdom.

(9) The investigation of dumping covered the period from 1 July 1995 to 30 June 1996 (hereinafter referred to as 'the investigation period'). The examination of injury covered the period from 1992 up to the end of the investigation period.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(10) The proceeding covers bed linen of cotton-type fibres, pure or mixed with man-made fibres or flax, bleached, dyed or printed. Bed linen includes bed sheets, duvet covers and pillow cases, packaged for sale either separately or in sets.

The fabrics made of cotton-type fibres used to produce bed-linen are identified by two pairs of numbers. The first one indicates the count (or weight) of yarns employed respectively for the warp and for the weft. The second one indicates the number of threads per centimeter or per inch respectively of the warp and of the weft.

The fabrics are bleached, dyed or printed. Then they are cut and stitched into different size flat sheets, fitted sheets, duvet covers and pillow cases. The final product is packaged for sale either separately or in sets.

Notwithstanding the different possible product types due to different weaving construction, finish of the fabric, presentation and size, packing, etc., all of them constitute a single product for the purpose of this proceeding because they have the same physical characteristics and essentially the same use.

2. Like product

(11) The Commission examined whether cotton-type bed linen produced by the Community industry and sold on the Community market, as well as cotton-type bed linen produced in Egypt, India and Pakistan and sold on the Community market and on their domestic markets were alike.

(12) The representatives of certain interested parties requested that bleached bed linen should be excluded from the scope of the current proceeding on the grounds that it should not be treated as a like product. They claimed that bleached bed linen is technically different from printed and/or dyed bed linen, that it is not substitutable with Community production which is based on printed and/or dyed bed linen and that it has different end users (hospitals and hotels).

(13) The investigation revealed that although there are different processes in finishing the fabrics (bleaching, dying, printing), products of all finishes are substitutable and compete with each other on the Community market. This is supported by the fact that retailers are buying all types of bed linen (bleached, dyed and printed). It was also found that there is production in the Community of bleached bed linen and that certain types of the product are not used exclusively by any particular category of users.

(14) The Commission concluded that although there were differences in the mix of products produced in the Community and that sold for export to the Community or sold domestically in the countries concerned, there were no differences in the basic characteristics and uses of the different types and qualities of bed linen of cotton-type fibres. Therefore domestic and export types in the countries concerned and types produced in the Community were considered like products within the meaning of Article 1 (4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the basic Regulation').

C. SAMPLING OF EXPORTERS/PRODUCERS IN THE COUNTRIES OF ORIGIN

1. General

(15) In view of the large number of exporters in the countries concerned, the Commission decided to apply sampling techniques in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to select a sample, exporters and representatives acting on their behalf, were, pursuant to Article 17 (2) of the basic Regulation, requested to make themselves known within three weeks of the initiation of the proceeding and to provide basic information on their export and domestic turnover, the stages of production performed and the names and activities of all related companies in the bed linen sector. The authorities of the countries concerned were in this context also contacted by the Commission.

2. Pre-selection of the sample

(16) The companies which identified themselves, provided the requested information within the three weeks period and had exported the product concerned to the Community during the investigation period, were considered as cooperating companies and were taken into account in the selection of the sample.

These companies represented approximately 100 %, 82 % and 77 % of the total exports to the Community from Egypt, India and Pakistan respectively.

(17) The companies which were not finally retained in the sample, were informed that any anti-dumping duty on their exports would be calculated in accordance with the provisions of Article 9 (6) of the basic Regulation, i.e. without exceeding the weighted average margin of dumping established for the companies in the sample.

(18) The companies which did not make themselves known within the three weeks period were considered as non-cooperating companies.

3. Selection of the sample

(19) For all the countries concerned, the selection of the sample was made in agreement with the representatives of the companies, associations and/or governments concerned.

(20) The companies selected in the sample and which fully cooperated with the investigation were attributed their own dumping margin and individual duty rate.

(21) The Commission also selected reserve companies which though having to reply to the questionnaire would only be investigated in the event that companies in the main sample would subsequently refuse to cooperate.

These companies were also informed that any anti-dumping duty on their exports would be calculated in accordance with the provisions of Article 9 (6) of the basic Regulation unless they were selected to replace a company in the original sample in which case they would have their own dumping margin and individual duty rate.

4. Individual examination of companies not selected in the sample

(22) Seven co-operating companies not selected in the sample requested the calculation of individual margins of dumping and accompanied this request with a reply to the questionnaire within the deadlines set for this purpose. In accordance with Article 17 (3) of the basic Regulation, their requests, however, could not be accepted in the current investigation since the number of exporters was so large that individual examinations would have been unduly burdensome and prevented completion of the investigation in good time. The seven companies in question were informed accordingly.

D. DUMPING

1. Normal value

(a) *India*

(23) In accordance with Article 2 (2) of the basic Regulation, the Commission first examined whether global domestic sales of cotton-type bed linen by each exporter/producer were representative, i.e. whether the total volume of such sales was greater than or equal to 5 % of the total volume of the corresponding export sales to the Community.

This assessment revealed that only one exporter/producer had representative sales of cotton-type bed linen on the domestic market during the investigation period.

(24) The Commission then examined whether the different product types exported to the Community were sold in representative quantities on the domestic market. In this context, the Commission found that domestic and export types which had similar size, weaving construction, finish of fabric and final presentation were comparable products.

Domestic sales of a particular type were considered as sufficiently representative when the volume of that type sold on the domestic market during the investigation period represented 5 % or more of the total volume of the comparable type sold for export to the Community.

For the sole company with representative global domestic sales, this assessment revealed that five types of cotton-type bed linen exported to the Community had also been sold in representative quantities on the domestic market during the investigation period.

(25) The Commission subsequently examined whether the domestic sales of each of the five representative types of this company could be considered as being made in the ordinary course of trade pursuant to Article 2 (4) of the basic Regulation.

It was found that the five types in question had been sold at a loss i.e. at prices below cost of production plus selling, general and administrative costs (hereafter 'SG&A'). Therefore, it was considered that these types were not sold in the ordinary course of trade and that the domestic prices did not provide an appropriate basis for establishing normal value.

(26) For all types sold for export to the Community by all companies normal value had, therefore, to be constructed in accordance with Article 2 (3) of the basic Regulation.

The constructed value was determined by adding to the cost of production of the exported types of each company, a reasonable amount for SG&A and a reasonable amount for profit.

Since only one company had representative global domestic sales and the profitable domestic types represented less than 80 % but more than 10 % of total domestic sales, the amount for SG&A and profit used for the construction of normal value for all companies investigated were those respectively incurred and realised by this company, in accordance with Article 2 (6) of the basic Regulation.

(b) *Egypt*

(27) The global representativeness assessment (see recital (23)) revealed that three out of the four companies in the sample had representative sales of cotton-type bed linen on the domestic market during the investigation period.

(28) On the basis of the comparability criteria (see recital (24)), the Commission found that domestic and export types of all three Egyptian companies with representative domestic sales did not permit a proper comparison.

(29) Therefore, for all types sold for export to the Community by all Egyptian companies in the sample, the normal value was calculated on the basis of a constructed value for the products exported to the Community, in accordance with Article 2 (3) of the basic Regulation.

In order to determine a reasonable amount for profits it was further examined with regard to the three companies with overall representative sales whether these sales were made in the ordinary course of trade. It was found that for two of the three companies with representative domestic sales all domestic types were sold at a loss (i.e. at prices below cost of production plus SG&A). Therefore, it was considered that domestic sales for these two companies were not made in the ordinary course of trade and could consequently not be used as a basis for the determination of 'a reasonable amount for profits'.

For the third company it was found that less than 80 % but more than 10 % of all types sold domestically were profitable (i.e. sold at prices above cost of production plus SG&A). Therefore, these sales were considered as made in the ordinary course of trade and the profit realized in these sales was used in constructing normal value for all Egyptian companies.

(30) Accordingly for the only company with sufficient profitable domestic sales of the product concerned during the investigation period the constructed normal value was based on cost of production of the exported types plus its own SG&A and profit margin.

(31) For the two companies with representative domestic sales but not made in the ordinary course of trade, their own cost of production and SG&A plus the profit margin of the company with sufficient profitable domestic sales were used to construct normal value.

(32) To construct normal value for the company without representative domestic sales, the Commission used its own cost of production for each exported type to which it added the actual weighted average domestic SG&A of the companies with representative domestic sales and the profit margin of the company with sufficient profitable domestic sales.

(c) *Pakistan*

(33) The global representativeness assessment (see recital (23)) revealed that only one company in the sample had representative sales of cotton-type bed linen on the domestic market during the investigation period.

(34) On the basis of the comparability criteria (see recital (24)), the Commission found that domestic and export types of the company with representative domestic sales did not permit a proper comparison.

(35) Therefore, for all types sold for export to the Community by all Pakistani companies in the sample, the normal value was calculated on the basis of a constructed value for the products exported to the Community, in accordance with Article 2 (3) of the basic Regulation.

For the company with representative domestic sales it was found that less than 80 % but more than 10 % of the domestically sold types were profitable (i.e. sold at prices above cost of production plus SG&A). Therefore, these sales were considered as made in the ordinary course of trade. Consequently, the SG&A incurred and the profit margin earned in these profitable sales were used in constructing normal value for all Pakistani companies in the sample.

On this basis, the Commission determined the constructed value by adding to the cost of production of the exported types of each company the amount of SG&A and profit incurred and realized respectively by the company with representative profitable domestic sales.

(36) Two companies claimed that, due to exceptional circumstances resulting from civil disorder on a major scale in Karachi during the investigation period, costs corresponding to idle capacity should not be taken into account in calculating constructed normal value. Given that these companies did not submit sufficient accounting evidence from their records which would justify a deviation from the cost allocations historically utilised, the Commission provisionally did not accept these claims when calculating the dumping margins.

2. Export price

(37) In general, sales of cotton-type bed linen made by the exporters/producers on the Community market were made to independent customers. Consequently the export price was established by reference to the prices actually paid or payable in accordance with Article 2 (8) of the basic Regulation.

(38) One Pakistani exporter/producer, however, sold part of its exports to a related importer based in the Community. For the transactions made through the related importer the export prices were adjusted in accordance with Article 2 (9) of the basic Regulation to take account of all costs, including duties and taxes, incurred between importation and resale and of profits normally accruing, so that a reliable export price could be established.

3. Comparison

(39) For the purpose of ensuring a fair comparison between normal value and export price, due allowances in the form of adjustments were made where applicable and justified for differences affecting price comparability in accordance with Article 2 (10) of the basic Regulation.

The adjustments made were as follows:

— India: allowances for differences in import charges and indirect taxes, transport and handling, ocean freight, ocean insurance, packing costs, credit and commissions;

— Egypt: allowances for differences in ocean freight, packing costs, credit and commissions;

— Pakistan: allowances for differences in import charges and indirect taxes, ocean freight, inland transport, credit and commissions.

(40) The Indian exporter/producer with representative global domestic sales requested an adjustment to normal value of 5 % for differences in levels of trade based on the fact that export sales to distributors in the Community are made in much larger quantities than sales through three distinct sales channels on the domestic market (exclusive wholesalers for branded products, other wholesalers and industrial users).

As a result of this request, the Commission examined whether such an adjustment could be granted under Article 2 (10) of the basic Regulation.

An adjustment for differences in quantities was not justified since no indication was found that distributors in the domestic market had benefited from discounts or rebates because of the larger quantities allegedly purchased by them.

An adjustment for differences in levels of trade could not be granted either, since the company concerned limited itself to refer to the different distribution channels in the domestic and export markets but failed to show that the alleged difference between the levels of trade of the export price and the normal value had affected price comparability as demonstrated by consistent and distinct differences in the functions and prices between the different levels of trade in the domestic market.

(41) The same company also requested an adjustment to normal value of 10 % for differences in brand promotion expenses on the basis that it was incurring excessive promotion expenses when selling to its exclusive domestic wholesalers which were not incurred in its exports to the Community. In order to evaluate whether such a difference in promotion expenses borne could have affected price comparability, the Commission looked at the total of SG&A incurred by this company with respect to domestic sales to exclusive wholesalers which bought only branded products and found that it was the same as that incurred on domestic sales to other wholesalers which bought non-branded products only. Furthermore, no evidence was supplied that customers had been consistently paying higher prides for branded products. Since exports to the Community of the company concerned consisted of non-branded products, it was concluded that brand promotion expenses was not a factor affecting price comparability. Consequently, the request for such an adjustment was also rejected.

(42) Finally, it should be noted that the quantification of both adjustments requested (see recitals (40) and (41)) was not supported by any verifiable data and was found to exceed the total level of SG&A expenses incurred by the company concerned during the investigation period.

(43) All Indian exporters/producers claimed an adjustment for credit granted in respect of export sales on the basis of their actual credit costs. However, since the basic Regulation provides in Article 2 (10) (g) that such adjustment shall be made when the credit granted is a factor taken into account in the determination of prices charged, the Commission calculated this adjustment on the basis of the credit agreed at the time of sale, i.e. cost calculated on payment terms/number of days and prevailing interest rate.

(44) The Indian exporter/producer with representative global domestic sales claimed an adjustment for credit costs in respect of domestic sales. This had to be rejected on the ground that there was no evidence during the investigation period that any payment terms had been agreed at the time of sale. In fact the investigation revealed that the delivery of the goods always took place after payment.

(45) An adjustment to normal value was claimed by all Pakistani exporters/producers in respect of import charges and duties borne by the materials physically incorporated in the like product, when intended for consumption in Pakistan and refunded on export of the product under consideration pursuant to the Pakistani legislation. However, the investigation revealed that the amounts of import charges and duties refunded exceeded the verifiable amounts actually included in the cost of the raw materials utilized. Therefore, in accordance with Article 2 (10) (b) of the basic Regulation the adjustment was restricted to the amounts actually included in the cost of the raw materials.

4. Dumping margins

(a) *General methodology*

(46) In general, weighted average constructed normal value by type was compared with weighted average export price by type. However, with regard to five Pakistani exporters/producers, every export transaction referred to a different product type. A comparison of individual normal values, as determined for these companies under recital (35), with individual export prices to the Community on a transaction by transaction basis, as determined under recitals (37) and (38), was therefore made in respect of these Pakistani exporters/producers.

(b) *Methodology for groups of companies*

(47) It has been the consistent practice of the Commission to consider related companies or companies belonging to the same group as one single entity and, therefore, to establish for all of them one single dumping margin. Indeed, calculating individual dumping margins might encourage circumvention of anti-dumping measures, thus rendering them ineffective, by enabling related producers to channel their exports to the Community through the company with the lowest individual dumping margin.

In accordance with this practice, related exporters/producers belonging to the same group were regarded as one single entity and attributed one

single dumping margin. For exporters/producers belonging to a same group it was decided to first calculate a dumping margin per company. Then, a weighted average of these dumping margins was established and attributed to the group as a whole.

(c) *Specific application*

(48) The above methodology was applied to two Indian and two Pakistani groups of companies. However, with regard to both one Indian and one Pakistani group, the exports to the Community of one company of each group were considered minor and have not been taken into account in the calculations.

With regard to Egypt, the majority of the cooperating companies (13 out of 21) are directly or indirectly State-owned and managed by the Government. Therefore, in accordance with the practice mentioned in recital (47) all these stated-owned companies were regarded as one single entity.

Among the four Egyptian exporters/producers selected in the sample three of them were State-owned. One weighted average dumping margin was calculated for these three companies and was applied to all cooperating State-owned companies, whether investigated or not. An individual dumping margin was calculated for the fourth company investigated. Finally, cooperating non State-owned companies not included in the sample were attributed the weighted average dumping margin of the four companies in the sample, weighted on the basis of their export turnover to the Community.

(d) *Dumping margins for companies in the sample*

(49) The comparison, as described under recital (39) and (46) to (48), showed the existence of dumping in respect of all companies which fully cooperated in the investigation. The provisional dumping margins expressed as a percentage of the cif import price at the Community frontier are the following:

India

— Anglo French Textiles, 27,3 %,
— The Bombay Dyeing & Manufacturing Co., Ltd, 9,4 %,
— Nowrosjee Wadia & Sons Ltd, 9,4 %,
— Madhu Industries Ltd, 19,5 %,
— Madhu International, 19,5 %,
— Omkar Exports, 16,5 %,
— Prakash Cotton Mills Ltd, 3,9 %;

Egypt

— Damietta Spinning & Weaving Co., 13,5 %,
— El Nasr Wool and Selected Textiles Co. (STIA), 13,5 %,
— Oirent Linen & Cotton Co., 13,5 %,
— Stephanie Textile, 9,1 %;

Pakistan

— Al-Abid Silk Mills Ltd, 8,2 %,
— Al Abid Export (Pvt) Ltd, 8,2 %,
— Al-Karam Textile Mills (Pvt) Ltd, 2,6 %,
— Fateh Textile Mills Ltd, 7,9 %,
— Gul Ahmed Textile Mills Ltd, 0,2 % *(de minimis)*,
— Excel Textile Mills Ltd, 0,2 % *(de minimis)*,
— Mohammed Farooq Textile Mills Ltd, 6,6 %.

(e) *Dumping margin for cooperating companies not in the sample*

(50) Cooperating companies not selected in the sample (see recitals (17) and (21)) were attributed the average dumping margin of the companies in the sample, weighted on the basis of their export turnover to the Community. In accordance with Article 9 (6) of the basic Regulation, when calculating this average dumping margin de minimis margins established have been disregarded. Expressed as a percentage of the cif import price at the Community frontier, these provisional dumping margins are the following:

— India 13,6 %,
— Egypt 13,5 % *(for State-owned companies)*,
— Egypt 13,0 % *(for other companies)*,
— Pakistan 6,5 %.

(f) *Dumping margin for non-cooperating companies*

(51) For non cooperating companies a dumping margin was determined on the basis of the facts available in accordance with Article 18 of the basic Regulation. Since the level of cooperation was high, it was considered appropriate to set the dumping margin for non cooperating companies in each country concerned at the level of the highest dumping margin established for a company in each sample because it would constitute a bonus for non-cooperation to assume that the dumping margin attribuable to exporters/producers which did not make themselves known is lower than the highest found for a cooperating exporter/producer.

These provisional dumping margins expressed as a percentage of the cif import price at the Community frontier, are the following:

— India	27,3 %,
— Egypt	13,5 %,
— Pakistan	8,2 %.

E. COMMUNITY INDUSTRY

1. Definition of the Community industry

(52) After elimination from the list of companies included in the complaint of seven of them found not to be complainants, the Commission found that the remaining companies represented a major proportion of Community production of bed linen and satisfied the requirements of Article 5 (4) of the basic Regulation.

After initiation of the proceeding, a number of organizations representing exporters and importers of bed linen from the countries concerned alleged that several of the producers which made up the Community industry were also importing the dumped product from the countries subject to the proceeding. In these circumstances, the Commission re-examined whether, in the light of the provisions of Article 4 (1) (a) of the basic Regulation, these companies should be excluded from 'the Community industry'.

(53) For the purposes of carrying out this reexamination, and in accordance with consistent practice of the Community institutions, it appeared appropriate to determine whether those companies were primarily producers in the Community with an additional activity based on imports and merely supplementing their Community production, in order to be able to offer a complete range of products, or whether they were importers with relatively limited additional production in the Community.

(54) In all but one case, companies alleged to be importing bed linen from the countries concerned were among those selected in the sample of Community producers (see recitals (58) to (61)). The Commission was therefore able to examine the extent of these imports during the course of its on-the-spot verification visits. For all but one of these sampled companies, the investigation showed that the imports of dumped products from the countries concerned had accounted for less than 10 % of the turnover of the companies in question in the period examined. It is therefore the opinion of the Commission that these companies were not shielded from the effects of dumped imports and that for the purposes of Article 4 of the basic Regulation these companies may be considered along with the other cooperating producers, as belonging to the Community industry.

In the case of the one other sampled company, it was found that a higher proportion of its bed linen sales in the investigation period were of Pakistani origin and also that only a minor part of its sales were of its own production. It appeared in addition that the company's future activity was likely to be further focused on imports. This company, whose core interests were deemed clearly not to be in the production of bed linen within the Community, was therefore eliminated from the Community industry.

(55) Since all but one of the sampled companies alleged to be importing bed linen from the countries concerned were found, on examination, not to be doing so in quantities sufficient to warrant exclusion, it has been considered that the allegations made by the exporters in this regard were excessive and unreliable. Consequently, on the basis of the findings concerning the sample, no exclusion of the one non-sampled company is warranted. This company should, therefore, be retained in the definition of the Community industry. In any event, this issue has no substantial influence on the question of the representativity of the Community industry.

(56) Three other companies were eliminated. In one case the company was found no longer to produce bed linen. In two other cases the companies did not respond to the requests for information which were addressed, via Eurocoton and the national associations, to those complainants which were not selected in the sample of Community producers, in order to obtain information on the Community industry as a whole.

(57) The remaining 35 companies, which cooperated with the enquiry and are located in France, Germany, Italy, Spain, Portugal, Austria and Finland, represented a major proportion of total Community production in the investigation period. These companies were therefore deemed to make up the Community industry under the terms of Article 4 (1) of the basic Regulation.

2. Sampling

(58) Because of the number of companies in the Community industry it was decided to resort to sampling, in accordance with Article 17 of the basic Regulation.

(59) 27 of the 35 companies, representing 96,7 % of Community industry production and 32,5 % of total Community production in 1995, (the latest figures available at the time of sample selection) were situated in Germany, Italy, France and Portugal.

(60) As a general rule, Community producers sell a large proportion of their bed linen production in their own Member State, in part because of differences between Member States in standard products and sizes. This is true of Germany, France and Italy which are both the largest producers of bed linen in the Community and very important importers. The producers in these Member States were therefore clear candidates for assessing the impact of the imports on the Community industry.

Producers in Portugal, for their part, sell a large proportion of their production in other Member States and represent about one third of the production of complainant companies. Even though Portugal is not a significant importer, therefore, it was decided that the effect of the imports on the producers there should be assessed and that Portugal should be represented in the sample.

(61) In consultation with the complainant Eurocoton an initial list of 19 companies was arrived at (eight from France, six from Germany, four from Italy and one from Portugal).

In the course of the enquiry one of these companies was eliminated from the sample for failing to cooperate with the enquiry. As a result of this exclusion, and of the exclusion of the other company under Article 4 (1) (a) of the basic Regulation (see recital (54)), in the following injury analysis information given for 'sampled producers' is based on information supplied by the remaining 17 producers which represented 20,7 % of total Community production and 61,6 % of the production of the Community industry. They included the largest Community industry companies in Germany, Italy and Portugal, and also smaller producers. The Commission therefore considered this sample to be representative of the Community industry.

F. INJURY

1. Collection of data

(62) Data for the examination of injury caused to the Community industry was collected and analysed at three different levels, as follows:

— at the level of the entire Community (EU-15), for trends concerning production, consumption in the Community, imports, exports and market share. Data was obtained from Eurocoton and from recognized industry sources, notably the CITH *(Centre d'Information Textile et Habillement)* which produces a series of production figures across the Community for the whole of textile category 20. This category is very slightly broader than the definition of the product conerned in the present proceeding. However, the difference is very slight, as the extra products it includes are of very minor significance,

— at the level of the Community industry, as defined above, for trends concerning production, sales by value and employment,

— at the level of the sampled Community producers, for the factors mentioned above and also for trends concerning prices and profitability.

2. Consumption

(63) Community consumption of the product concerned (as measured by production plus imports minus exports) decreased from 200 000 tonnes in 1992 to 186 000 tonnes in the investigation period, a decrease of 7 %.

3. Cumulative assessment of the effects of the dumped imports

(64) The Commission considered, in the light of Article 3 (4) of the basic Regulation, whether cumulative assessment of injury caused by the three exporting countries was justified.

(65) With regard to the conditions laid down in Article 3 (4) (a) the margin of dumping established in relation to the imports from each country is more than the minimis and the volume of imports from each country is not negligible. In this respect India and Pakistan are both subject to quotas on their exports of bed linen to the Community. Both countries used these quotas in full (at least 98 %) in each of the 1993, 1994 and 1995 quota years and increased the effective quotas by transferring quota allocation from other categories. In addition, it appears that in 1995, India exported to the Community a volume of bed linen 20 % higher than the amount licensed for the 1995 quota year.

All three exporting countries involved in this proceeding increased their exports of the product concerned between 1992 and the investigation period. The largest exporter, Pakistan, increased its exports by volume by 6 %, and the second largest, India, increased its exports by 56 %. Exports from Egypt, which are not subject to quotas, rose by 282 % between 1992 and the investigation period though remained well below the other two countries.

In accordance with the terms of Article 3 (4) (b), the conditions of competition between imported products, and between imported products and the like Community products, were analysed. It was found that the imports compete directly with each other and with the like Community product, and that in particular a number of large purchasers of bed linen buy both from the Community industry and from the countries concerned. While there are variations in the proportions by type and destination of exports from each of the countries concerned, it was found that products from each exporting country were substitutable and competed with each other and with the products of Community producers on the Community market.

(66) It was therefore held that a cumulative assessment of the effects of the imports was appropriate in terms of Article 3 (4) of the basic Regulation.

4. Volume and market share of dumped imports

(67) Dumped imports from the three countries concerned increased from 33 825 tonnes in 1992 to 46 656 tonnes during the investigation period i.e. an increase of 12 831 tonnes or 38 %. During the same period their market share increased from 16,9 % to 25,1 %.

5. Prices of the imports concerned

(68) The Commission examined whether the exporting producers' sales in the Community were at prices that undercut the prices of the sampled Community producers during the investigation period.

(69) Given the great diversity of products involved, the Commission defined certain reference products of particular importance in each of the principal markets analysed (France, Germany, Italy) for which price and cost data would be determined for the sampled Community producers. Because of different habits and traditions these products were different in each of the Member States examined.

For each of the reference products and for certain other bed linen products of particular interest in specific markets sold by the sampled Community producers the Commission established average prices during the investigation period using information obtained from the sampled Community producers. These prices were then compared with imported products of similar size, weaving construction and finish, where these were sold to clients in the Member State concerned.

(70) Certain exporters contended that even when products corresponded in size, weaving construction and finish they should not be regarded as comparable, in particular because the imported goods were of poorer quality. These quality differences were alleged to arise, for example, from lower weaving production technology.

(71) Differences in production technology do not of themselves, however, mean that there are physical differences between the articles produced. In addition, the Commission received evidence that exporters in the countries concerned produced bed linen using the most modern machinery.

It was also found that the products were often sold alongside each other, for example appearing on the same page of mail order catalogues without any indication of origin. In any event, no quality differences could be established.

The Commission therefore considered that there were no reasons not to compare the prices of products corresponding in size, weaving construction and finish, as envisaged in recital (69) above.

(72) Certain exporters also claimed that the imported and Community products were sold through different sales channels and were not therefore in competition. They alleged that while the exporters sold to large hypermarket chains, mail order companies etc, in particular for lower-priced 'promotion' sales, the European producers concentrated on branded goods sold through specialists or department stores etc.

On examination it was found that the mix of sales channels did indeed differ to the Community producers and for importers, and indeed differed between Community producers. However, large purchasers such as hypermarkets and mail order companies were also important to the majority of the sampled Community producers, and were sometimes their dominant clients. It was also found that selling to these clients for promotional sales was an important part of this output. It was therefore held that prices of imported and Community-produced goods could be compared.

(73) The Commission examined how quantities and prices of the imports concerned and of the sampled Community producers varied by sales channel. The results varied between Member States. In France and Germany, for example, Community producers made more than 80 % of their sales directly to retailers, and small quantities at relatively high prices to wholesalers and distributors. Imports were

divided between retail and wholesalers and some exporters sold exclusively to wholesalers. In these circumstances the Commission considered that a comparison of prices by sales channel would not be appropriate: the prices of Community producers to wholesalers and distributors could not be considered to be representative ones with which the prices of imports sold in higher volumes could be compared.

(74) The comparison was therefore made between average prices of the imports, expressed duty paid cif Community frontier, and average ex-works prices of the Community producers for each reference product. The prices of the Community producers were adjusted downwards by a margin calculated to give the average price through the cheapest sales channel (eg. discount stores in Germany, hypermarkets in France). The resulting price was further adjusted to take account of importers' costs.

(75) Certain exporters observed that some product types (notably a particular quality called seersucker, and white (bleached) products which are often destined for use by institutions such as hotels and hospitals) were important in their exports but were not represented among the reference products. They claimed that this showed that the products they exported to the Community and the products sold by Community producers were not in competition with each other, that a valid undercutting analysis could not be carried out or that these types should be excluded from any measures imposed.

(76) The Commission considered these arguments but concluded that a difference of product mix did not invalidate the finding that there was competition between the products sold by the exporters and the products sold by Community producers. The Commission found that the concentration by Community producers on other products was a reflection of the level of competition from the dumped imports, and decided that the analysis undertaken according to the methodology set out above was a valid measure of the degree of price undercutting practised by the exporters.

(77) The reference products used for the undercutting analysis, which in effect represent a product sample, were found to be represented among the Community sales of all the sampled exporters from the countries concerned except one Egyptian company, with a variable degree of importance among the rest. Where the degree of representativity was particularly low, the Commission examined the prices of other products (or a per kilo basis) to check that those used for the undercutting analysis were in line with the prices of the rest of their sales to the Community.

(78) The Egyptian company whose exports to the Community contained no reference products was one of the three State-owned producers. The company exported almost exclusively bleached articles to the Community in the investigation period. A calculation was made using the prices of these articles which matched reference products in all respects apart from the fact that they were bleached, adjusted upwards for dyeing costs.

(79) All the sampled exporters were found to be undercutting the prices of the reference products of the Community producers. In India, the level of undercutting ranged from 13,8 % to 40,8 %, in Pakistan from 11,9 % to 34,7 % and in Egypt from 23,8 % to 53,7 %, expressed as percentages of the adjusted average prices of the Community industry.

(80) The Commission assessed the development of the average prices of imports from the countries concerned. It was established that since 1992 the prices of Indian and Egyptian imports had fallen by up to 18 %. While the prices of Pakistani imports had risen in that period, the rise had been at a much slower rate than the very sharp increases in the world price of raw cotton.

6. Situation of the Community industry

(a) *Production*

(81) Total output of bed linen by producers in the Community fell by 9,6 % from 138 400 tonnes in 1992 to 125 100 tonnes in the investigation period. This fall in production arose essentially through the closure of enterprises or their cessation of bed linen production within the Community (see recital (91) below). It should also be noted that total exports by Community producers have increased by 50 %, from 14 027 tonnes in 1992 to 21 756 in the investigation period. Without this export performance, Community bed linen production would have suffered further than the figures given above.

The pattern observed for total Community production was not replicated at the level of the 35 producers of the Community industry, whose production rose by 8,7 % from 39 370 tonnes in 1992 to 42 781 tonnes in the investigation period. The Commission concluded that the Community industry represented those companies which were strong enough to survive the competition from dumped imports and which to a certain extent had benefited from the demise of those which had not so survived.

Indeed, in the course of its investigation the Commission acquired evidence of 29 companies other than the Community industry which ceased

or reduced bedlinen production in the Community between 1992 and the investigation period. It is estimated that total loss of production amounted to at least 10 000 tonnes per annum.

The sales, employment and profits of companies which have since disappeared are not included in the aggregated data for the Community industry, thus artificially improving the apparent trends for the survivors.

(b) *Sales by volume*

(82) At the level of the total Community producers, sales by volume in the Community, as measured by production minus exports, fell by 17 % from 124 400 tonnes in 1992 to 103 350 tonnes in the investigation period.

Sales by the sampled producers of the Community industry also declined, from 23 706 to 23 347 tonnes, a decrease of 1,5 %.

(c) *Sales by value*

(83) Sales by the Community industry rose by 4,2 % from ECU 428,6 million in 1992 to ECU 446,6 million in the investigation period. Sales by the sampled producers also rose, from ECU 280,6 million in 1992 to ECU 285,3 million (a rise of 1,7 %). It should be noted that these rises in nominal terms do not take account of inflation and represent a fall in real terms, since consumer prices in ecus rose by 5,5 % over the same period for the EU-15 countries. It should also be noted that these rises were overtaken by rises in the price of raw cotton (see recital (88) below).

It should be noted that among the sampled producers it was observed that sales have been maintained by seeking higher value market niches as the lower value, mass market items are undercut by imports. This pattern is indicated by developments on prices (see recital (87) below).

(d) *Market share*

(84) The market share by volume of producers at the level of the entire Community fell from 62,2 % in 1992 to 55,6 % in the investigation period. In that period the sampled producers from the Community industry increased their market share slightly, from 10,7 % to 11,3 %. The reason why the market share of survivors has slightly increased is that they have taken over some of the sales of those which had not survived the competition from dumped imports, particularly the sales of higher value niche products.

(85) An estimated analysis was done of market share by value. The patterns observed were the same as for market share by volume: producers at the level of the entire Community lost market share (from 77,8 % in 1992 to 72,0 % in the investigation period), while the Community industry as a whole and sampled producers gained market share, from 22,4 % to 25,1 % and from 14,7 % to 16,0 % respectively.

(e) *Price development*

(86) The Commission examined the development in average prices achieved by the sampled Community producers for the defined reference products between 1993 and the investigation period, using a constant product mix of the reference products. This showed that prices, in index terms, fell from 100 in 1993 to 97,6 in 1994, recovering to 98,3 in 1995 and 99,2 in the investigation period. This represents a greater fall in real terms, since in the same period average consumer prices measured in ECUs rose by 5,5 % in the Community.

(87) The development in average prices per kilogram of the sampled producers was also measured. This measure showed an average price development from 100 in 1992 to 97,8 in 1993 to 103,2 in the investigation period. The fact that this measure has developed more positively than prices for the defined reference products further reflects the fact the sampled producers have been forced to move into niche markets and away from high volume, mass market products.

(88) The Commission also examined the development of the standard measure for prices of cotton, the principal raw material. This measure showed increases of 48 % from 1992 to the investigation period and of 59 % between 1993 and the investigation period. Since the raw material can represent typically 15 % of the costs of the finished product, it follows that the prices achieved by the sampled Community producers were far from reflecting the rises in the costs of that material.

(f) *Profitability*

(89) The profitability of the sampled companies declined by more than 50 % between 1992 and the investigation period, from a figure of 3,6 % to 1,6 % of sales. This is well below the figure of 5 % which can be regarded as a minimum level which was achieved by these companies in 1991 when the dumped imports concerned were 30 % lower than in the investigation period. It is also below profit levels achieved by importers, which explains why certain producers have ceased production and switched to importing.

(90) It should be recalled again that the sampled companies are among those which have been able to survive the competition of dumped imports. It should also be noted that the industry in question is not capital intensive and that it contains a large number of SMEs, which means that any move into loss-making can lead to immediate exit rather than remaining in business waiting for better times. This is why the companies that are left are those that are profitable or, as in this case, only just profitable.

(g) *Employment*

(91) Direct employment by the 35 companies of the Community industry on the product concerned declined by 5,3 % between 1992 and the investigation period, from around 7 000 jobs to 6 700.

In analysing data on the Community industry, account should be taken of the 29 companies other than the Community industry which ceased or reduced bed linen production in the Community between 1992 and the investigation period (see recital (81)). The associated job losses numbered over 2 400.

(h) *Conclusion on injury*

(92) The Commission took into account all the economic indicators mentioned above in determining whether or not the Community industry was suffering material injury. Account was taken of the fact that the number of companies making up the Community industry was reduced in comparison with the start of the injury investigation period. The production, sales, employment and profits of companies which have since disappeared are not included in the aggregated data for the Community industry, thus improving the apparent trrends for the survivors.

(93) The Commission noted the decline in the total production and market share of Community producers. This background demonstrates the difficult conditions in which the remaining Community industry was operating. The fact that these surviving companies were able to maintain production and market share should not detract from the assessment of the overall situation. Above all, the remaining Community industry suffered declining and inadequate profitability, as further evidenced by prices which had not been able to reflect increases in the costs of raw cotton or to keep pace with inflation in prices of consumer goods.

(94) Accordingly the Commission reached the view that the Community industry had suffered material injury.

G. CAUSATION

1. Introduction

(95) The Commission examined the volume and prices of the dumped products from the exporting countries concerned and their consequent impact on the situation of the Community industry. As part of this examination the Commission also examined the effects of other factors in order to ensure that these effects were not incorrectly attributed to the dumped imports. This examination had to take into account the existence of quotas, which might have limited the potential for growth in sales on the Community market by the countries concerned and other third countries.

2. Effects of the dumped imports from the countries concerned

(96) The investigation of the Community industry showed as the main injury indicator the unsatisfactory development of sales prices and the consequent declining profitability. It was also established that the dumped imports were sold at prices which significantly undercut those of the Community producers and in substantial and increasing quantities, reaching 25 % market share in the investigation period.

(97) In order to assess the full impact of the dumped imports, it should be noted that the market for bed linen is characterised by product substitutability and transparency. Large retailers were found to sell the imported products and the Community-produced products alongside each other, without the ultimate consumer being informed of the product's origin. The transparency of the market was found not to be significantly affected by the differences in standard products among Member States: several sampled exporters in the countries concerned sold products in three or more Member States, in each case adapting their production to supply the standard products of the territory concerned. In view of the price sensitivity of the large purchasers it can be concluded that the consistently low prices of the imports concerned, coupled with their substantial and increasing market share (see recitals (67) to (80)), have applied continuous downward pressure on prices on the Community market.

(98) It was observed among sampled producers that they had been obliged increasingly to shift production and sales to high value niche markets in order to maintain production and sales levels. The undercutting calculation provided evidence that this shift was caused by the imports concerned. Undercutting

margins were lower in the lower value qualities, indicating that the imports significantly influence price levels in this market segment and have forced down Community producers' prices. Where higher value items were imported the undercutting margins were higher, indicating that imports of these qualities were not yet at sufficient volume to bring down Community prices to the same extent.

It is worth noting that the Commission has received indications from importers, from Community producers and from suppliers of textile machinery to the exporting countries to the effect that exporters in the countries concerned are increasingly moving to higher value items.

(99) Since price suppression and consequent decreasing profitability to inadequate levels were the main indicators on which the Commission's finding of injury was based, and in view of the coincidence in time between the deterioration of the situation of the Community industry and the significant increase of the dumped imports, it can be concluded that there was a direct causal link between these imports and the material injury found.

3. Effects of other factors

(a) *Imports from third countries*

(100) Imports from other third countries not covered by this proceeding fell between 1992 and the investigation period, both in absolute terms (from 41 600 tonnes to 35 800 tonnes) and in terms of market share (from 20,8 % in 1992, considerably above the total of the countries concerned in this proceeding, to 19,3 % in the investigation period, considerably below). These imports originate in a wide range of third countries outside the countries concerned by this investigation. The most significant in terms of volume was, with its 1995 market share, Turkey (3,6 %). However Eurostat statistics show that imports from Turkey declined between 1992 and 1995 and were imported at prices significantly above those of the countries concerned by this investigation. Countries with prices comparable to those of the countries concerned by this investigation include Romania, Slovakia and Estonia. However, their combined market share of 2,8 % in 1995 is just over 10 % of the combined share of the countries concerned by this investigation.

(101) It follows from the foregoing that imports from countries not concerned which undercut the Community industry's prices could also have contributed to the injury suffered by the Community industry. However, the Commission considered that the link between the dumped imports and the injury to the Community industry was sufficiently clear and direct as to consider that injury from these other sources, which had only a small market share, had not been wrongly attributed in the analysis. In this respect, there was shown to be a reasonable coincidence in timing between, on the one hand, the degree of the effects of low prices and rising volumes of the dumped imports and, on the other, the material injury attributed to the dumped imports.

(b) *Increase in raw cotton prices*

(102) The world raw cotton price, as measured by the Cotton Outlook A index (converted from US$ into ECUs) rose by 48 % between 1992 and the investigation period. Over the same period prices on the Community market of the product concerned by this proceeding were experiencing strong downward pressure because of price undercutting by the dumped imports. In this period the sampled producers were not able to achieve a satisfactory price development. As noted in recital (86) above, prices of the reference products fell on average in real terms.

(103) The Commission concluded that increases in raw material prices had caused injury. However, the extent of such injury depends on the ability of the producers to pass on some or all of the increased cost. In this case, it was reasonable to assess that the dumped imports were the main reason why such pass-through did not occur.

(c) *Developments in Community consumption and demand*

(104) Certain exporters suggested that any injury being suffered by the Community industry could be ascribed to the steady decrease in total consumption of the product concerned, by 7 % between 1992 and the investigation period.

(105) It is clear that the decline in consumption between 1992 and the investigation period has contributed to the situation of the Community industry. However, the fall did not affect all operators equally. During this period the total volume of sales by Community producers fell by an amount 50 % higher than the total fall in consumption. While sales by the Community industry have remained relatively stable, benefiting from the

disappearance of other Community producers, the dumped imports from the countries concerned increased by 48 %. Imports from other third countries decreased by 14 %. Because total sales by Community producers fell by 50 % more than the total fall in consumption and sales by other imports declined, it can be concluded that increased dumped imports through severe price undercutting gained at least one third of the sales volumes lost by Community producers. This clearly constitutes a cause of material injury not attributable to the decline in consumption.

(106) In addition, even if the decline in consumption contributed to some extent to the situation of the Community industry, in particular because it strengthened the position of large purchasers in price negotiations with Community producers, this strengthened position depended critically on the availability to these purchasers of the dumped imports undercutting the Community industry's prices.

(d) *Competition from non-complainant producers in the Community*

(107) The Community industry represents only a part of total Community production. It should therefore be examined whether competition from other producers within the Community affects the situation of the Community industry. Other producers of bed linen are known to include, in particular, a large number of 'converters', i.e. producers who make bed linen from grey cloth woven elsewhere, whereas the Community industry consists largely of integrated producers who weave most or all of their own grey cloth. As has been found, on a provisional basis, in the separate proceeding concerning imports of grey cloth from India, Pakistan, Egypt, China, Indonesia and Turkey, important sources of supply of this product were imported into the Community at dumped prices which would have provided these producers with an unfair advantage over the Community industry in the present proceeding. It cannot therefore be ruled out that distorted competition from this source contributed to the situation of the Community industry.

(108) Nevertheless it should be noted that the production and market share of the non-complainant producers have fallen between 1992 and the investigation period. Indeed the fall in production across the Community has been due to reduction by the non-complainants rather than by complainants. Since the imports concerned have increased over this timescale, the Commission decided that competition by non-complainants did not invalidate the conclusion that the imports concerned caused the injury observed.

4. Conclusion on causation

(109) As has been shown above, there is a direct causal link between the increased volume and the price effect of the dumped imports and the material injury suffered by the Community industry. The direct link in this case is demonstrated by the existence of heavy undercutting which can reasonably explain the significant increase in market share of the dumped imports from 16,9 % in 1992 to 25,1 % in the investigation period and the corresponding negative consequences on volumes and prices of sales of Community producers. In terms of volumes, Community producers' market share decreased from 62,2 % in 1992 to 55,6 % in the investigation period. This fall was not reflected at the level of individual producers of the Community industry because they obtained sufficient benefit from the demise of other Community producers to keep their sales volume relatively stable. However, as far as the prices of the dumped imports are concerned, they have had an evident impact on the sampled producers, may of them being SMEs, whose profitability has fallen from 3,6 % to 1,6 %. In this respect, the Commission noted that such a situation can cause particular difficulty for SMEs given their lack of resources and the reluctance of banks to finance any losses.

(110) The consequent impact of the low-priced dumped imports has to be considered at two levels. Firstly, they have resulted in the exit of a significant number of firms with a considerable number of jobs lost. This is an on-going process which is likely to continue if dumping persists. Secondly, as to the surviving producers, they face continuing injury on two fronts. For low-value products the injury is very heavy since they are gradually pushed out of the corresponding market segment. For higher-value products, these producers have done considerably better but dumped imports are now progressively targeting this segment with the result that profitability is also falling in this respect.

In connection with this it should be noted that the larger Community industry producers, however, have a production capacity which cannot be utilized at a reasonable rate on the basis of high value items only. This capacity utilization can only be maintained through production of mass-market lower value items the market for which is now highly penetrated by imported goods.

(111) The analysis of the effects of other factors than the dumped imports on the state of the Community industry has in fact confirmed the above direct causal link. Imports from some countries not concerned, increases in raw material prices, contraction in demand and competition from non-complainant bed linen producers had or may have negatively affected the Community industry. However, even the combined effect of these other factors could not break the direct causal link established since it can reasonably be concluded that the Community industry could, in the absence of the dumped imports, have adapted to these other factors without being materially injured. The dumped imports themselves were therefore determined to have caused material injury within the terms of Article 3 (6) of the basic Regulation.

H. COMMUNITY INTEREST

1. Preliminary remarks

(112) The Commission examined, on the basis of all evidence submitted, whether, despite the conclusion on dumping and injury, compelling reasons existed which would lead to the conclusion that it was not in the Community interest to impose measures in this particular case. For this purpose, and pursuant to Article 21 (1) of the basic Regulation, the Commission considered the impact of possible measures for all parties involved in the proceeding and also the consequences of not taking provisional measures. In this examination, special attention was paid to the need to remove the trade-distorting effects of injurious dumping in order to restore effective competition on the Community market.

(113) In order to inform this appreciation, and to add to the information received in the course of their enquiries from Community producers and exporters, the Commission contacted organizations representing importers and consumers and sent out questionnaires to 28 large purchasers of bed linen including wholesalers, retailers and mail order companies, in order to take account of their economic interests. The Commission also responded to other organisations which came forward and invited them to make submissions.

2. Interests of the Community industry

(a) *Nature and viability of the Community industry*

(114) The 35 companies of the Community industry are of a wide variety of sizes. The range of production is from five tonnes of bed linen per year to over 6 000. For some bed linen is a minor or incidental activity; for others, it represents all or almost all their output. Many of the companies are family businesses and some date from the beginning of the century or before. Others have shareholding links between them. It was observed that many of the sampled Community industry companies have invested in modern machinery, have consolidated through mergers and alliances or have otherwise restructured in order to maintain their viability. Further evidence of the viability of Community producers is given by the total Community producers' export performance of the product concerned, which as noted in recital (81) above increased by 50 % in the period studied.

(b) *Likely effects of measures*

(115) The basic quotas at Community level to which imports of the product concerned from India and Pakistan are subject have risen consistently throughout the period investigated. In addition, the working levels, i.e. the basic quota levels corrected for swaps from other categories and/or years as foreseen by bilateral agreements, have nonetheless always been at least 98 % utilized. These working levels have consistently been above the basic quota levels, indicating that the exporters have transferred quota allocation to the product concerned from other quota categories and/or years. This indicates that exports from these countries have been lower than they would be in the absence of quota controls. The exporters are therefore constrained as to quantity. In these circumstances duties of the magnitude proposed can be expected to have only a limited effect on the quantities exported. Since quota working levels are already up to 15 % above the basic quota levels, there would appear to be little risk that the proposed measures would drive exports below the latter.

(116) Imports from Egypt are not subject to any formal restraints, so the arguments above do not apply. However, in the absence of such constraints imports have increased dramatically, rising by nearly 300 % between 1992 and the investigation period. Although it is unlikely that in the absence of measures such growth rates could be maintained for long, particularly given declining Community consumption, the annual rate of growth in the investigation period was still over 25 %. In these circumstances, although measures could reduce or even eliminate the growth of exports, duties of the magnitude proposed may well not reduce quantities exported by Egypt below current levels.

(117) Some exporters and importers from the countries concerned have claimed that taking measures in this proceeding will not increase quantities purchased from Community producers. The above analysis supports the view that increases in sales quantities cannot be expected to be significant. It should however be noted that the injury suffered by the Community industry consists less in the quantity of its sales than in the depression of its prices and consequent profitability. In this respect, the measures proposed are, by virtue of Article 7 (2) of the basic Regulation, less than the full amount required to restore prices of the imports concerned to a level which would be non-injurious for the Community industry (see recital (130)). Nevertheless it can be expected that the measures will raise the prices of the imported goods to the initial purchaser and thereby contribute to the restoration of fair competition on the Community market, to the recovery of profitability to the Community industry and to the reversal in the decline of market share of Community producers.

(c) *Likely effects of the absence of measures*

(118) In the absence of measures it can be expected that the current difficulties of the Community industry will worsen, particularly as further rises of quotas are envisaged in relation to India and Pakistan and in the light of the continuing decline in consumption. It could be expected that the consistent decline in total production of the product concerned in the Community would continue and that production would increasingly be located outside the Community, with consequent losses of employment.

(119) It should be noted that the around 6 700 people directly employed on bed linen by the companies of the Community industry understates the true importance of the industry for employment in the Community. At a conservative estimate a further 1 500 people depend on the Community industry via subcontracting in the finishing and making-up sectors. It should also be noted that the Community industry represents only a part of total Community production. In view of the continuing decline in bed linen production in the Community it can be supposed that employment by the non-complainant producers would also be at risk in the absence of measures against the dumped imports.

3. Interests of suppliers to the production of bed linen

(120) A number of Community manufacturers of textile machinery and one association of such manufacturers wrote to the Commission indicating their concern that measures would reduce their ability to sell their products in the exporting countries concerned. The Commission examined this argument carefully but concluded that at the provisional stage such arguments should not be taken into account, since there was no direct economic link between these machinery manufacturers and the product concerned: the manufacturers merely provided machinery for certain parts of the manufacturing process.

(121) The Commission also considered the effects on spinners and suppliers of cotton yarn within the Community. During the course of the investigation it became clear that the Community industry purchased a large proportion of its supplies of cotton yarn from Community spinners. These sales would be put at risk by further gains of market share by the imported bed linen products.

4. Interests of importers, retailers and other large purchasers of bed linen

(a) *Procedure*

(122) 14 importers came forward to request questionnaires. All were sent questionnaires, but only three completed and returned them. Some further importers and a number of associations representing importers made submissions to the Commission. In addition, and following the investigations of Community producers which had indicated important purchasers of bed linen which had not come forward at the outset of the investigation, the Commission sent out questionnaires to 28 large purchasers of bed linen including wholesalers, retailers and mail order companies, in order to take account of their economic interests and to understand the likely effects on them and on their purchasing decisions of measures. However, only four returned the questionnaire.

Certain sectors such as hotels, hospitals and the linen hire trade are also large purchasers and users of bed linen. One organization representing these sectors came forward after the deadline for submissions. Nevertheless the Commission indicated that it would consider submissions made. No substantiated information was received from this organization, however, which would allow the Commission to assess the effect on these sectors of an anti-dumping duty.

(b) *Arguments*

(123) The importers made two main points concerning the likely effect on their business of measures. The first was that they would not be able to replace the products they imported, which were at the cheaper end of the range, with goods produced in the

Community and that they would look for other third country sources. The second was that the increased costs associated with any duties would threaten the viability and employment of them and of other businesses in the supply chain.

On the first of these points, the Commission found that products at the cheaper end of the range were in fact produced in the Community, although in decreasing quantities because of competition from the dumped imports. There was no technical reason why those products could not be sourced in the Community. Even if the goods were purchased from other third countries, the Commission considered the injury suffered by the Community industry consisted less in the quantity of its sales than in the depression of its prices and consequent profitability.

On the second point, the allegations made were not substantiated by analysis or by facts which would allow the Commission to assess the arguments raised. However, few of the jobs alleged to be at risk were in the actual processing of imports and most were in the retail supply chain which is common to both Community-produced and imported goods.

5. Interests of consumers

(124) A submission was received from BEUC *(Bureau Europeen des Unions de Consommateurs)* on behalf of the interests of consumers. This expressed concern that the consumers' interest should be taken into account, in particular the concern that any duties would be passed on to the ultimate consumer. However, in the case where the duty were fully passed through the supply chain to the ultimate consumer, an anti-dumping duty of 10 % would represent a price increase of less than 3 %. In order to appreciate such maximum impact, it has to be borne in mind that the trade has to cope with fluctuations such as erratic currency changes or raw material price changes. In this respect, the impact of the proposed measures has to be considered as minor. Therefore, it can be reasonably expected that the trade can cope with them without sensible repercussion on the consumers. In addition, the large number of suppliers in the bed linen market and the resulting competition will ensure that the pressure on consumer prices will remain substantial.

6. Maintenance of effective competition on the Community market

(125) One further claim by exporters was that there was a risk of the complainant industry forming a cartel and that measures would therefore reduce effective competition. No indication whatsoever of any infringement of national or Community competition rules has been given. This argument can therefore be discounted.

7. Conclusion on Community interest

(126) The Commission weighed up all the factors outlined above and considered that there were no compelling reasons not to impose measures in order to correct the distortive effect of injurious dumping, to restore a competitive regime of fair pricing practices and prevent further injury to the Community industry.

I. PROVISIONAL DUTY

(127) In order to prevent further injury being caused by the dumped imports concerned before the end of the investigation, provisional anti-dumping measures should be adopted. These measures should take the form of provisional anti-dumping duties. Given the wide variety of products exported by the countries concerned, the Commission is of the opinion that an *ad valorem* duty is the most appropriate form of measure.

(128) For the purpose of establishing the level of the provisional duty, account has been taken both of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

(129) As already established the injury to the Community industry consists principally of price suppression and declining and inadequate profitability or losses. Therefore, the removal of injury requires that the industry should be put in the position where prices can be increased to profitable levels without reductions of sales volume. In order to achieve this, the prices of the imports concerned originating in the countries currently under investigation should be increased accordingly.

(130) In all but one case, the undercutting margins calculated as a percentage of free-at-the-Community-frontier price were higher than the respective dumping margins established for exports in the sample and there was therefore, in accordance with the lesser duty rule as set out in Article 7 (2) of the basic Regulation, no need to establish injury elimination levels based on the difference between the export price and the cost of production of the Community producers plus a minimum amount of profit required to ensure the viability of the Community industry.

However, in the case of one exporter the undercutting margin was slightly lower than the respective dumping margin and therefore, in order to calculate the amount of duty, an injury elimination level was established by comparing the export prices to the result of adding to the Community cost of production a very conservative profit margin of 5 % on turnover. The injury elimination level thus established was higher than the dumping margin. Therefore, in all cases, the provisional duties, for exporters in the sample, should be limited to the dumping margins.

(131) The provisional anti-dumping duty for companies which cooperated but were not included in the sample equals the average dumping margin for the sample, weighted on the basis of export turnover to the Community. This was lower than the amount of duty necessary to eliminate the injury in all cases. The provisional anti-dumping duty for non cooperating companies is based on the dumping margin calculated for those companies as explained in recital (51) because the amount of duty necessary to eliminate the injury exceeded in all cases the dumping margin established.

(132) In view of the deadlines applicable to this proceeding, the provisional anti-dumping duties are to be imposed for a period not exceeding six months.

J. FINAL PROVISIONS

(133) In the interest of sound administration, a period should be fixed in which the parties concerned should make known their views in writing and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of cotton-type bed linen, falling within CN codes 6302 21 00, 6302 22 90, 6302 31 10, 6302 31 90 and 6302 32 90, originating in Egypt, India and Pakistan.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall, subject to paragraphs 3 and 4, be as follows for products originating in:

Country	Rate of duty	Taric additional code
Egypt	13,5 %	8900
India	27,3 %	8900
Pakistan	8,2 %	8900

3. Products manufactured and sold for export by the producers/exporters listed in the Annex shall be subject to the following anti-dumping duty rates:

Country	Rate of duty	Taric additional code
Egypt	13,0 %	8041
India	13,6 %	8042
Pakistan	6,5 %	8043

4. Products manufactured and sold for export by the companies listed below shall be subject to the following anti-dumping duty rates:

Country	Manufacturer	Rate of duty	Taric additional code
India	Anglo French Textiles	27,3 %	8044
	The Bombay Dyeing & Manufacturing Co. Ltd	9,4 %	8045
	Nowrosjee Wadia & Sons Ltd	9,4 %	8045
	Madhu Industries Ltd	19,5 %	8046
	Madhu International	19,5 %	8046
	Omkar Exports	16,5 %	8047
	Prakash Cotton Mills Ltd	3,9 %	8048

Country	Manufacturer	Rate of duty	Taric additional code
Egypt	Stephanie Textile	9,1 %	8049

Country	Manufacturer	Rate of duty	Taric additional code
Pakistan	Al-Abid Silk Mills Ltd	8,2 %	8050
	Al-Abid Export (Pvt) Ltd	8,2 %	8050
	Al-Karam Textile Mills (Pvt) Ltd	2,6 %	8051
	Fateh Textile Mills Ltd	7,9 %	8052
	Mohammad Farooq Textile Mills Ltd	6,6 %	8053
	Gul Ahmed Textile Mills Ltd	0,0 %	8054
	Excel Textile Mills Ltd	0,0 %	8054

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

6. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Pursuant to Article 20 (1) of Regulation (EC) No 384/96, the parties concerned may make their views known in writing and apply to be heard orally by the Commission within 15 days of the date of entry into force of this Regulation.

Pursuant to Article 21 (4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Subject to Articles 7, 9, 10 and 14 of Regulation (EC) No 384/96, this Regulation shall apply for a period of six months unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 12 June 1997.

For the Commission

Leon BRITTAN

Vice-President

ANNEX

EGYPT

AMC Arab Metals Co., Cairo
Dantex Ltd, Cairo
Egyptex, Cairo
El Naggar Egyptian Co. For Furniture Elmahalla
Nile Tex, Alexandria
Wintex-Wahab International Textiles Ltd, Cairo
Zahret El Mehalla for Weaving, Mehalla El Kubra — El-Seka El-Wosta

INDIA

A. Shashikant & Co., Mumbai (Bombay)
Ajit Impex, Mumbai (Bombay)
Akai Impex Ltd, Mumbai (Bombay)
Alps Industries Ltd, Ghaziabad
Amitara Fabrics Pvt. Ltd, Mumbai (Bombay)
B.X. International, Mumbai (Bombay)
Badridass Gauridatt Pvt. Ltd, Mumbai (Bombay)
Brijmohan Purusottamdas, Mumbai (Bombay)
Bünts Exports Pvt. Ltd, Mumbai (Bombay)
Chhaganlal Kasturchand & Co., Ltd, Mumbai (Bombay)
Classic Connections, Mumbai (Bombay)
Concepts International India Pvt. Ltd, Gurgaon
Cotfab Exports, Mumbai (Bombay)
Country House, New Delhi
Deepak Traders, Mumbai (Bombay)
Dhanalakshmi Weaving Works, Cannanore
Divya Textiles, Mumbai (Bombay)
Dyna-Impex Pvt. Ltd, Mumbai (Bombay)
Elite Exports, Mumbai (Bombay)
Emperor Trading Company, Tirupur
Encore Themes, New Delhi
Govindji Trikamdas & Co., Mumbai (Bombay)
Hindustan Textiles, Cannanore
Ibats, New Delhi
Incotex, Mumbai (Bombay)
Indo Euro Textiles Pvt. Ltd, New Delhi
Indo Export Corporation, New Delhi
International Services, Chennai (Madras)
Intex Exports, Mumbai (Bombay)
Invitation Apparels Pvt. Ltd, Mumbai (Bombay)
Jindal India, Mumbai (Bombay)
Jindal Worldwide Ltd, Ahmedabad
K. Overseas, New Delhi
Kanodia Fabrics (International), Mumbai (Bombay)
Kaushalya Export, Ahmedabad
Kitu Bhandari Pvt. Ltd, New Delhi
Kothari Industrial Corporation Ltd, Chennai (Madras)
Lakshmi Apparels and Wovens Limited, Coimbatore
Mahalaxmi Exports, Ahmedabad
Maritex Exports, Mumbai (Bombay)
Marwaha Exports, New Delhi
Minar Exports, Mumbai (Bombay)
Mridul Enterprises, New Delhi
Niaz International, Farrukhabad
P.J. Exports, Mumbai (Bombay)
Patodia Syntex Ltd, Mumbai (Bombay)
Pattex Exports, Mumbai (Bombay)
Prem Textiles, Indore
Punch Exporters, Mumbai (Bombay)
Raghuvir Exim Ltd, Ahmedabad
Rajka Designs Pvt. Ltd, Ahmedabad
Sanna Inttex, Mumbai (Bombay)
Santex Exports, Mumbai (Bombay)
Shetty Garments Pvt. Ltd, Mumbai (Bombay)
Shivani Exports, Mumbai (Bombay)
Shorewala Exim Int'l, New Delhi
Shrijee Enterprises, Mumbai (Bombay)
Shruti Designs Pvt. Ltd, Mumbai (Bombay)
Sohanlal Balkrishna Export, Mumbai (Bombay)
Southern Sales & Services, Bangalore
Standard Industries Ltd, Mumbai (Bombay)
Starline Exports, Mumbai (Bombay)
Sumangalam Exports Pvt. Ltd, Mumbai (Bombay)
Sunil Impex, Mumbai (Bombay)
Sunil Silk Mills, Mumbai (Bombay)
Sunny Made Ups, Mumbai (Bombay)
Suresh & Co., Mumbai (Bombay)
Surya International, Panipat
Syndicate Impex, Ahmedabad
Syntex Corporation Ltd, Mumbai (Bombay)
Tata Exports Limited, Mumbai (Bombay)
Texcellence Overseas, Mumbai (Bombay)
The Hindoostan Spg. & Wvg. Mills Ltd, Mumbai (Bombay)
The Ruby Mills Limited, Mumbai (Bombay)
Trend Setters, Mumbai (Bombay)
Trend Setters K.F.T.Z., Mumbai (Bombay)
Vepar Private Limited, Ahmedabad
Vigneshwara Exports Pvt. Ltd, Mumbai (Bombay)
Wooltop Weaves, Chennai (Madras)

PAKISTAN

Adamjees Impex International, Karachi
Afroze Textile Industries (Private) Ltd, Karachi
Amer Fabrics Limited, Lahore
Anjum Textile Mills (Private) Ltd, Faisalabad
Arzoo International (Pvt.) Ltd, Faisalabad
Arzoo Textile Mills Ltd, Faisalabad
Asco International (Pvt.) Ltd, Karachi
Aziz Sons, Karachi
B.I.L. Exporters, Karachi
Be Be Jan Pakistan (Pvt.) Ltd, Faisalabad
Bela Textiles Limited, Karachi
Dyer Textile & Printing Mills (Pvt.) Ltd, Karachi
Eksons Sales Organisation, Karachi
Elahi Enterprises Ltd, Lahore
Elasta Amtex Industries (Pvt.) Ltd, Karachi
Fairdeal Textiles (Pvt.) Ltd, Karachi

Faisal Industries, Karachi
Fashion Knit Industries, Karachi
Gohar Enterprises, Faisalabad
Gohar International (Pvt.) Ltd, Faisalabad
H.A. Industries (Private) Ltd, Faisalabad
Home Furnishings Ltd, Karachi
Kam International, Karachi
Kausar Textile Industries (Pty) Ltd, Faisalabad
Kohinoor Textile Mills Ltd, Rawalpindi
Latif Int'l (Pvt.) Ltd, Faisalabad
Liberty Mills Limited, Karachi
Linex International (Pvt.) Ltd, Karachi
Lotus Textile Industries Limited, Karachi
Lucky Impex, Karachi
Lucky Tex, Karachi
Lucky Textile Mills, Karachi
M.F.M.Y. Industries Ltd, Karachi
M.R. Export (Private) Ltd, Lahore
Mukaty Corporation, Karachi
Nadia Textile International (Pvt.) Ltd, Lahore
Nakshbandi Industries Limited, Karachi
Nash Textiles, Karachi
Nina Industries Ltd, Karachi
Nishat Mills Limited, Karachi
Nishitex Enterprises, Karachi
Nu-tex (Pvt.) Ltd, Karachi
Parsons Industries (Pvt.) Ltd, Karachi
S.P.R.L. Rehman Brothers, Lahore
Sas Texexport (Pvt.) Ltd, Karachi
Shabbir Associates, Karachi
Sharif Textile Industries (Pvt.) Ltd, Faisalabad
Sitara Textile Industries (Pvt.) Ltd, Faisalabad
Syncotex Sa Agencies, Karachi
The Crescent Textile Mills Limited, Faisalabad
Today's Sportswear Inc., Karachi
Towellers Limited, Karachi
Unibro Industries Limited, Karachi
Union Exports (Pvt.) Ltd, Karachi
ZN Textiles (Pvt.) Ltd, Faisalabad