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COUNCIL REGULATION (EC) No 1567/97

of 1 August 1997

imposing a definitive anti-dumping duty on imports of leather handbags originating in the People's Republic of China and terminating the proceeding concerning imports of plastic and textile handbags originating in the People's Republic of China

(OJ L 208, 2.8.1997, p. 31)

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imposing a definitive anti-dumping duty on imports of leather handbags originating in the People's Republic of China and terminating the proceeding concerning imports of plastic and textile handbags originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Articles 9 (2), 9 (4) and 10 (2) thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) By Regulation (EC) No 209/97 [2] the Commission imposed a provisional anti-dumping duty on imports into the Community of handbags originating in the People's Republic of China and falling within CN codes 4202 21 00 (leather), 4202 22 10 (plastic) and 4202 22 90 (textiles).

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the imposition of the provisional anti-dumping duty, the interested parties who so requested were granted an opportunity to be heard by the Commission. A number of these parties also made written submissions making their views on the findings known.

(3) The Commission's services investigated further aspects of the Community interest and sought and verified all information deemed necessary for the definitive findings. Because of the large number of parties which made themselves known well after the expiry of the deadline and the arguments raised by interested parties at a very advanced stage of the investigation and immediately after the imposition of provisional measures, the Commission exceptionally agreed to include these parties in the investigation regarding Community interest.

(4) Upon request, parties were informed in writing of the essential facts and considerations on the basis of which it was intended to recommend both the imposition of definitive duties and the definitive collection of the amounts secured by way of provisional duty with respect to leather handbags, and further to terminate the proceeding with respect to plastic and textile handbags.

(5) The oral and written comments presented by the parties were considered, and, where appropriate, the Commission's findings were modified to take account of them.

C. SUPPORT FOR THE COMPLAINT

(6) Some interested parties have claimed that the complaint did not receive support from a major proportion of total Community production because there was no evidence that individual producers accounting for a major proportion gave such support. They

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 33, 4. 2. 1997, p. 11.

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also pointed out that the opposition of several National Federations affects the representativeness of the complainant.

(7) After examination prior to the initiation of the proceeding, it was determined that the National Federations of Belgium, France, Greece, Italy, Portugal, Spain and the United Kingdom supported the complaint. The production of their associated members accounts for a major proportion (around 70 %) of total Community production under the terms of Article 5 (4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the basic regulation').

(8) The support of the members of the National Federations (i.e. the individual companies) was obtained by the European Committee of National Federations of the Leather, Travel Goods and Allied Industries (CEDIM) through the abovementioned National Federations, which have the legal capacity to represent their members.

(9) No opposition was registered prior to initiation of the investigation as three other National Federation members of CEDIM (Austria, Germany and the Netherlands) agreed within CEDIM not to oppose the complaint. Finally no company or National Federation from the remaining five other Member States (Denmark, Finland, Ireland, Luxembourg and Sweden) expressed opposition to the complaint.

(10) Subsequent to the initiation of the proceeding, the British Federation decided to withdraw its support. The Austrian, German and Dutch Federations, which initially abstained, also decided to oppose the proceeding. This change in position cannot throw into question retrospectively the validity of the initiation of the proceeding. Given the low production in these countries (less than 7 % of total Community production) such opposition does not call into question the fact that the complainant continues to represent a major proportion of total Community production.

(11) Finally, almost all companies which expressed opposition to the proceeding are importers and retailers of handbags, which are not producing the product concerned. Their opposition is therefore irrelevant for evaluating the representativeness of the complaint.

(12) It can therefore be concluded that, prior to the initiation of the proceeding, the Commission sought and obtained, from the complainant, evidence that it fulfilled the requirement of Article 5 (4) of the basic regulation with regard to representativeness and that the required degree of support was maintained throughout the proceeding.

D. **INVESTIGATION**

(13) Some interested parties have claimed that the sample of Community producers as described in recital 5 of Commission Regulation (EC) No 209/97 is neither representative nor statistically valid because the sampled companies were selected from a separate list of companies submitted by the respective National Federations and not from the membership lists used to assess the representativeness of the complaint. These parties claim that the National Federations were thus allowed to pre-select only Community producers who supported the complaint, those whose financial indicators facilitated findings of injury or those willing to cooperate.

(14) The sample of Community producers was based on detailed information previously not available to the National Federations with that degree of detail or for the period in question. Therefore, it is considered that a valid sample of Community producers could not have been selected on the basis of the list of members submitted by the National Federations as the basis for the complaint.

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(15) The argument that the National Federations could have pre-selected those Community producers whose indicators facilitated findings of injury is also incorrect. Indeed, it should be recalled that general data concerning production, sales, consumption and employment have been assessed at total Community industry level where no pre-selection is possible. As far as data concerning the sampled Community producers are concerned, this information is of such a detailed and confidential nature that it is not normally submitted to the National Federations and therefore leaves no scope for any pre-selection by any National Federations. Thus, this argument should also be rejected.

(16) Some parties have also argued that the non-disclosure of the identity of the sampled Community producers has resulted in a denial of their right of defence.

(17) The threat of commercial retaliation is considered to be a serious commercial pressure justifying the non-disclosure of the identity of the Community producers. Moreover, it is not considered that the lack of knowledge of the identity of the sample Community producers hampers the rights of defence of interested parties who have access to the non-confidential versions of the responses to the questionnaires submitted by other interested parties during the proceeding.

(18) One interested party has claimed that the sample of unrelated importers is distorted by the fact that only large unrelated importers have been sampled. Because of their bargaining power these importers tend to import at lower prices, which has resulted in a distortion in the dumping margins found.

(19) This claim is unfounded; unrelated importers were sampled according to their volume of imports and employment, to reflect large, medium and small importers.

The names of the sampled unrelated importers in France in recital 10 of Regulation (EC) No 209/97 should be amended as follows: 'Dané & Galiay (Paris)' should read 'Pollyconcept SA'. This does not affect the validity of the findings of the Commission, since the data of the latter has been used consistently.

(20) Subsequent to the imposition of the provisional anti-dumping measures, a producer/exporter (Gebr. Picard International Ltd) was sent, on its request, an exporter's questionnaire and it submitted a complete reply. This producer/exporter had not been investigated prior to Regulation (EC) No 209/97 as it had initially focused on its role as an importer, and not as a related exporter, although it had as such manifested itself within the time-limits established in paragraph 7 of the Notice of Initiation.

(21) A large number of producers/exporters manifested themselves and offered to cooperate immediately before or following the publication of Regulation (EC) No 209/97, i.e. well beyond the time-limit established in paragraph 7 of the Notice of Initiation. Accordingly, these companies have not been considered to be interested parties in the proceeding and their requests for individual treatment have been dismissed as being inadmissible on these grounds.

E. **PRODUCT UNDER CONSIDERATION — LIKE PRODUCT**

1. **Product under consideration**

(22) For the purpose of the preliminary findings, the Commission considered leather, plastic and textile handbags to be one product, given the fact that they were considered to possess the same characteristics and be intended for the same use.

(23) After the imposition of provisional measures, several interested parties claimed that a distinction should be made between leather handbags on the one hand and synthetic handbags (plastic/textile) on the other.

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Some parties have also claimed that a distinction should further be made between leather handbags, patch leather handbags and polyurethane (PU) coated split leather handbags in view of the alleged differences in style, quality, finish, use, price and consumer perception.

(24) It should be recalled that it is the standard practice of the Commission, as confirmed by the European Court of Justice, that the product under consideration be defined according to its basic physical characteristics, use, interchangeability and consumer perception.

(25) In this respect, the investigation has shown that the different types of raw materials used in the manufacture of leather and synthetic handbags confer on the product distinctly different physical characteristics.

While their general use is the same, it has now been found that the consumer has a clearly different perception of leather handbags and synthetic handbags respectively, consumer choice being governed mainly by the type of external raw material of the handbag.

(26) The investigation has also shown that in the handbag market stable consumer preferences exist. Therefore, the interchangeability of the two types of handbags is almost non-existent, except to a very limited extent in the sector of leather-look plastic handbags. This has allowed a notable price differential between leather handbags and synthetic handbags, resulting in two different market segments, separated by clear dividing lines between which it is not considered that interchangeability can take place to a significant degree.

(27) Therefore, and in accordance with the well-established practice of the institutions concerning the product definition, leather and synthetic handbags are to be considered different products.

2. **Like product**

(28) Several parties have argued that the leather handbags manufactured in the Community and those imported from the People's Republic of China are not like products in the sense of Article 1 (4) of the basic regulation due to the differences in quality, design and use. It has also been argued that the differences in quality between the imported handbags and those manufactured in the Community are such that both products are not in competition.

(29) The investigation has further shown that, within each of the two products under consideration (leather handbags/synthetic handbags), imported handbags cover the full range of types, from higher to lower quality, and as such are in direct competition with the entire range of the Community production. These findings are supported by the information supplied on this issue by several cooperating importing-Community producers on this issue showing that the handbags manufactured in the Community and those imported from the People's Republic of China do not have quality differences, both items belong to the same collections and are sold to the same customers. Therefore, across the range there are no quality differences for comparable models.

(30) Concerning differences in design, it cannot be concluded that these would be such as to constitute a different like product. In this respect, some importers have even acknowledged that they design their handbags in the Community, following the fashion of the season, as is the case with Community manufacturers.

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F. DUMPING

1. Normal value

(31) As to the selection of the analogue country, one importer alleged that neither Regulation (EC) No 209/97 nor the disclosure documents sufficiently explained why India or Taiwan were not selected as analogue countries. The Council considers however that recitals 24 to 26 of Regulation (EC) No 209/97 are sufficiently precise on this point.

(32) Several interested parties have requested that the names of the two cooperating Indonesian companies be disclosed alleging that this would be necessary to exercise their rights of defence effectively. The Council, however, does not consider it possible to disclose the names of these companies, as the cooperation of these companies could only be secured provided a strict guarantee of confidential treatment of the identity of the companies were given by the Commission. In addition, supplying the actual names of the companies involved would not add to the rights of defence of these interested parties. In this regard, the essential economic facts characterizing the situation of these two exporters have been set out in recitals 28 and 29 of Regulation (EC) No 209/97.

(33) In view of the fact that leather handbags and synthetic handbags have been considered to be different products, separate normal values were constructed for leather and synthetic handbags, in accordance with Article 2 (7) of the basic regulation, on the basis of the cost of production for these two products of the two cooperating Indonesian producers, to which a reasonable amount for profit and selling, general and administrative costs ('SGA') was added. The findings in the fourth indent of recital 28 of Regulation (EC) No 209/97 on the representativeness of the two Indonesian producers are confirmed in respect of both like products.

(34) It has been alleged that the cost of production of the cooperating Indonesian producers should be adjusted to take into account the fact the Chinese exporters predominantly import raw materials under inward processing relief procedures. In this respect it should be noted that the raw materials for both like products used by the cooperating Indonesian producers were found to be of non-Indonesian origin and imported into Indonesia free of customs duties under a procedure of inward processing relief. It follows that the procurement patterns in Indonesia and in China are the same and that therefore no adjustment is warranted in this respect.

(35) It was submitted by one exporter that the percentage of SGA used by the Commission was not representative of the SGA incurred by the Chinese exporters. Accordingly, the SGA has been reviewed on the basis of the actual SGA incurred by the Indonesian exporters of handbags at the level of trade comparable to that of sales made by the Chinese exporters.

2. Export price

(36) In view of the low level of cooperation of Chinese exporters (including exports of Gebr. Picard International Ltd.) in this proceeding, which amounts to only 1,58 % of all exports from the People's Republic of China, the export prices of the cooperating exporters could not be considered representative of the prices charged by exporters which did not cooperate.

(37) For the purpose of the definitive findings, export prices of the cooperating companies Shilton and Lee & Man in respect of the two like products were established using the same method as for the provisional findings. With regard to these companies, the findings set out in recitals 33 and 34 of Regulation (EC) No 209/97 are confirmed.

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(38) The third cooperating exporter (Gebr. Picard International Ltd), not granted individual treatment by Regulation (EC) No 209/97, was found to make all of its exports to the Community via a related company established in the Community; thus its export prices were constructed on the basis of Article 2 (9) of the basic regulation by deducting, from the prices charged by the related importer to its first independent customers, its SGA and a profit margin based on the average profit of unrelated importers.

(39) Export prices of the non-cooperating Chinese exporters were established as explained under recital 32 of Regulation (EC) No 209/97. This methodology is herewith confirmed.

3. **Comparison**

(40) The weighted average normal value fob Indonesia for each of the leather and synthetic handbags was compared with the weighted average export price fob China with respect to each of the two like products concerned. For the purpose of ensuring a fair comparison between normal value and the export price, due allowance in the form of adjustments was made in accordance with Article 2 (10) of the basic regulation, where claims were made and satisfactory evidence was supplied demonstrating that such differences affected price comparability.

(41) It was argued by one exporter that the comparison of normal value and export price should be made in respect of every single handbag model or catalogue number (commonly referred to as 'style number') rather than on the basis of averages of each like product. The Council considers, however, that as a practical matter a comparison at this level is not possible in view of the extreme variety of model numbers, each having different physical characteristics and combinations of features and accessories. In addition, no objective criteria were found to exist for distinguishing particular categories or models within the respective like product; for similar reasons, it was not possible for the Commission to compare normal value and export price on the basis of categories regrouping model or catalogue numbers. It follows that the only reasonable method for the Commission was to compare normal value and export price in respect of averages for each of the two products concerned (i.e. separately for leather handbags and synthetic handbags).

4. **Dumping margins**

(42) As indicated above, three cooperating producers/exporters — all privately-owned companies based in Hong Kong with handbag factories in China — presented admissible requests for individual treatment i.e. the establishment of separate export prices and thus of individual dumping and injury margins.

(43) The findings set out in recitals 37 to 40 of Regulation (EC) No 209/97, with regard to the two companies having been provisionally granted individual treatment, are confirmed.

(44) In addition, the claim for individual treatment of a third exporter/producer (Gebr. Picard International Ltd) was investigated. It was found that its factual situation was very similar to that of the two companies having been provisionally granted individual treatment and described in recitals 38 and 39 of Regulation (EC) No 209/97.

(45) The Council considers that the three cooperating companies claiming individual treatment enjoyed a degree of genuine independence from the public Chinese authorities comparable to that which would prevail in a market economy country, and thus that the risk of channelling exports through these sources with individual anti-dumping duty rates would seem to be very limited. Accordingly, separate export prices and individual dumping and injury margins have been established for the three exporters concerned, as an exception to the principle of calculating country-wide dumping margins in respect of non-market

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economy countries (Article 9 (5) of the basic regulation). It should be pointed out that individual treatment is granted only in respect of the like product which was actually produced and exported to the Community by the exporter concerned during the investigation period, i.e. leather handbags in respect of Shilton and Gebr. Picard International Ltd. and synthetic handbags in respect of Lee & Man.

(46) The dumping margins established for the companies granted individual treatment have been established as follows:

— Shilton, in respect of leather handbags: nil,

— Gebr. Picard International Ltd, in respect of leather handbags: 7,7 %,

— Lee & Man, in respect of synthetic handbags: 64,7 %.

(47) The weighted average dumping margin for the exporters not granted individual treatment has been established at:

— 83,5 % in respect of leather handbags, and

— 151 % in respect of synthetic handbags

of the cif export price Community frontier duty unpaid.

G. **LEATHER HANDBAGS**

A. INJURY

1. **Consumption in the Community market**

(48) Between 1992 and the investigation period, the consumption of leather handbags in the Community increased from around 51 million units to 52,3 million units, i.e. an increase of approximately 2,5 %.

2. **Volume and market share of imports**

(49) Between 1992 and the investigation period, imports of leather handbags originating in the People's Republic of China increased from 8,2 million units to 10,4 million units, i.e. by 27 %. When measured in value, the increase amounts to 15 %, from ECU 43,6 million in 1992 to ECU 50 million in the investigation period.

(50) The share of the Community market taken up by imports of leather handbags originating in the People's Republic of China increased from 16 % in 1992 to 20 % in the investigation period.

3. **Prices of dumped imports and undercutting**

(51) As mentioned in the provisional regulation, due to the non-cooperation by the Chinese exporters, official statistical data have been used for the analysis of the price evolution of imported leather handbags. Thus, the average cif import price of leather handbags has decreased by 9 %, from ECU 5,29 per unit in 1992 to ECU 4,79 per unit in the investigation period.

(52) The calculation of the price undercutting has followed the methodology used in Regulation (EC) No 209/97, that is, the cif imports prices of the sampled unrelated importers, adjusted to customer deliver level, were compared to the selling prices in the Community of those Community producers whose production comprised the most basic types sold, at the same level of trade.

(53) When expressed as a percentage of the Community producers' selling prices, the comparison with import prices of unrelated importers, as recalculated following substantiated arguments submitted by interested parties after the imposition of provisional measures, show an undercutting for leather handbags amounting to 31,4 %.

4. **Situation of the Community industry**

(a) *Production*

(54) Production of leather handbags by the Community industry increased from an estimated 26,5 million units in 1992 to 30,3 million units in the investigation period. When measured in

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value, production increased from an estimated ECU 905 million in 1992 to ECU 1 100 million in the investigation period, i.e. by 21 %.

(b) *Sales volume*

(55) A decline in sales volume in the Community of output manufactured by the Community industry between 1992 and the investigation period has been established. Indeed, sales decreased from around 21 million units in 1992 to 20 million units in the investigation period, i.e. a decrease of around 5 %. When measured in value, sales decreased by around 8 %, from around ECU 600 million in 1992 to ECU 550 million in the investigation period.

(c) *Market share*

(56) The share of the Community market occupied by the Community industry when measured in units decreased from around 41 % in 1992 to around 39 % during the investigation period.

(d) *Profitability and employment*

(57) Following Article 3 (8) of the basic regulation, profitability and employment of Community producers has been calculated for the narrowest group of products for which information has been provided by the sampled Community producers, that is, handbags made of both leather and synthetics.

The revised weighted average profitability concerning sales in the Community shows a decline from 5,9 % in 1992 to 1,3 % during the investigation period.

On all sales, the Community industry achieved an overall profit of around 5 %.

(58) Employment figures in the handbag sector as extrapolated from the information received by Community producers in the Community interest analysis show that employment declined from about 18 600 people in 1992 to 14 000 people in the investigation period, a drop of 25 %.

5. **Conclusion on injury**

(59) The economic indicators of the Community industry examined in conjunction with the conclusions drawn in respect of the volume of imports and their prices show that the Community producers' situation has deteriorated between 1992 and the investigation period in respect of leather handbags. As has been demonstrated, the Community industry as a whole suffered declining sales volume, loss of market share, declining employment and declining profitability in the Community market.

(60) As far as production is concerned, further reference is made to the fact that exports of the Community producers increased significantly.

(61) It is therefore the view of the Council that the situation of the Community industry is clearly precarious and the trend points to a further deterioration.

B. CAUSATION

1. **Effects on the dumped imports**

(62) The penetration of the Community market by imports of leather handbags from the People's Republic of China at dumped prices which significantly undercut the prices of Community producers coincided with a loss of market share and a deterioration of the financial situation of the Community industry. Given the increasing volume of low priced, dumped handbags, it became apparent during the investigation that many Community producers were unable to compete against the dumped imports.

(63) Moreover, due to the fact that competition takes place across the range and to the fact that the distribution system is shared by products both manufactured in the Community and imported

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from the People's Republic of China, the high price differential in the form of undercutting is a direct cause of the precarious situation of the Community industry.

(64) Accordingly, it is considered that dumped imports from the People's Republic of China increased at a significant rate and are likely to enter at prices which will prevent price increases.

2. **Effects of other factors**

(65) Care was taken to ensure that any impact on the Community industry caused by other factors was not attributed to the imports concerned.

(66) In this respect, particular reference was made by certain interested parties to imports into the Community of handbags originating in India.

Available Eurostat data shows that the volume of imports of leather handbags from India has remained stable between 1992 and the investigation period at around 5 million units. As regards the prices of these imports, these have increased from around ECU 8 in 1992 to around ECU 9,2 in the investigation period, an increase of 15 %, well above the prices of Chinese handbags. The share of volume of the Community market occupied by imports of handbags from India has decreased by 4 % from 1992 to the investigation period.

(67) As to imports of leather handbags from Hong Kong, when measured in units, these have increased from around 400 000 units in 1992 to around 750 000 units in the investigation period. With respect to total imports of handbags into the Community, Hong Kong increased its share of the volume of Community handbag imports from 1,9 % in 1992 to 3,3 % in the investigation period. However, the share of the Community market occupied by imports of handbags originating in Hong Kong has remained at relatively low levels, increasing from 0,6 % in 1992 to 1,4 % in volume in the investigation period.

(68) As to imports from other third countries, their share of total imports has decreased from 32 % in 1992 to 30 % in the investigation period. The share of the Community market occupied by these imports has decreased from 12 % of volume in 1992 to 11 % in the investigation period.

It should be noted that the Community market share of imports from all third countries, excluding the People's Republic of China, has remained stable from 1992 to the investigation period, at 23 %, when measured in units.

3. **Conclusion on causation**

(69) Although certain other factors may have contributed to the precarious situation of the Community industry, taken in isolation, the high volumes of dumped imports from the People's Republic of China are threatening to cause material injury to the Community industry. This conclusion is based on the various elements set out above and in particular the level of price undercutting, the market share gained by imports of handbags from this country, at the expense of the Community industry, and the deterioration of the profitability of the Community producers.

C. COMMUNITY INTEREST

1. **General considerations**

(70) It should be recalled from recitals 76 et seq. of Regulation (EC) No 209/97 that an appreciation of the various interests, including the interests of the Community industry, importers, distributors and retailers was made, and that the Commission provisionally concluded that there were no compelling reasons not to take action against the imports in question. Furthermore, the Commission undertook to conduct an examination of certain issues

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concerning Community interest which had not been sufficiently substantiated when the provisional determination took place.

2. **Impact on the Community industry**

(a) *Current situation of the industry*

(71) The information received from the 50 Community producers responding to the questionnaire on Community interest addressed to interested parties and representing around 20 % of total handbag Community production shows that a major proportion of the production in the Community is of leather handbags. In terms of value, 93 % of the total Community production is of leather handbags.

(72) Substantial creative value is added to the product in the Community in the form of design, innovation and quality. Community producers have a special know-how in working the leather, which is the result of a long tradition in this sector in the Community.

(73) The share of the Community leather handbag market held by the Community industry was 39 % in the investigation period, a sign of its economic importance.

(74) The viability of the Community industry is also evident from its performance on the export markets, significant and increasing due to the locomotive effect of the brand names promoting handbags 'made in Europe'. Exports of leather handbags by the Community industry have increased from around 6 million units in 1992 to around 10 million units in the investigation period.

(b) *Effects of the imposition/non-imposition of measures*

(75) In the absence of anti-dumping measures, there is no element that indicates that the negative situation of the Community industry would not continue, to the detriment of an industry that is inherently both viable and competetive.

(76) The situation of importing producers in the Community has been examined and it is concluded that the majority of the companies investigated by the Commission manufacture leather handbags in the Community and import synthetic handbags from the People's Republic of China. In those cases where such importing producers imported leather handbags, such imports are, in general, ancillary.

3. **Impact on importers-traders**

(77) Further investigation has shown that the full amount of the provisional anti-dumping duty (39,2 %) is being shared, generally in an equal proportion, by the different steps in the distribution chain: in particular the importer, the retailer and, finally, the consumer. This seems to be possible due to the average mark up of importers and retailers respectively of around 70 % on cif including a profit of 14 % on turnover.

(78) The impact of any definitive measures on importers and traders has to be seen in the light of the findings of the product concerned. Indeed, a reduction in the scope of application of the measures to leather handbags only (see recitals 118 et seq.) will minimize the impact of measures on these interested parties.

(79) Some importers have claimed that they had to cease their activity or are experiencing financial difficulties. Since importers are generally purchasing in US dollars, they are currently suffering from the strength of the US dollar against European currencies. It is concluded, therefore, that the weak financial situation of certain importers/traders is also attributable to currency fluctuations.

(80) As to the argument that the imposition of anti-dumping duties will not have the effect of increasing sales of the Community producers but would make importers purchase from other third countries, it should be mentioned that it is not the purpose of any

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anti-dumping measure to limit imports from third countries at non-dumped prices. Moreover, the investigation has confirmed that it is not likely that a major proportion of importers will source leather handbags from other third countries, due to the skilled labour and know-how necessary to manufacture leather handbags currently available in the People's Republic of China.

(81) Given the above, measures on imports of leather handbags are not likely to endanger the business performance of the distribution chain.

4. **Impact on consumers**

(82) As has been mentioned above, the full amount of the duty is currently being shared by the different steps in the distribution chain. Therefore, the effect of the duty on the consumer in the form of a price increase is not likely to exceed 9 %.

(83) Furthermore, leather handbags being a fashion product not purchased on regular basis, a moderate increase in the prices for the consumer should be seen in the light of the lack of a clear perception of the appropriate price for a handbag for a consumer, which is not likely to affect demand substantially in the long term.

(84) In view of this, it is not expected that definitive measures on imports of leather handbags will have a significant impact on the consumer.

5. **Conclusion on Community interest**

(85) In the light of the above, it is considered that the conclusions drawn by the Commission in Regulation (EC) No 209/97 concerning Community interest should be confirmed with respect to leather handbags. There are no compelling reasons which would lead to the conclusion that adopting definitive measures would not be in the interest of the Community.

H. **SYNTHETIC HANDBAGS**

A. INJURY

1. **Consumption in the Community market**

(86) Between 1992 and the investigation period, the consumption of synthetic handbags in the Community increased from 73 million units to 96 million units, i.e. an increase of approximately 31 %.

2. **Volume and market share of imports**

(87) Between 1992 and the investigation period, imports of synthetic handbags originating in the People's Republic of China increased from 53 million units to 78 million units, i.e. by 47 %. When measured in value, the increase amounts to 31 %, from ECU 152 million in 1992 to ECU 199 million in the investigation period.

(88) The share of the Community market taken by imports of handbags originating in the People's Republic of China increased from 73 % in 1992 to 81 % in the investigation period.

3. **Prices of dumped imports and undercutting**

(89) The average cif import price of synthetic handbags as reported by Eurostat has decreased by 10 %, from ECU 2,8 per unit in 1992 to ECU 2,5 per unit in the investigation period.

(90) The undercutting margin amounts to 27,8 % for synthetic handbags.

4. **Situation of the Community industry**

(a) *Production*

(91) The estimated production of synthetic handbags by the Community industry has remained stable at around 14 million units between 1992 and the investigation period.

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(b) *Sales volume*

(92) A decline in sales volume in the Community of handbags manufactured by the Community industry of around 70 % between 1992 and the investigation period has been established. Indeed, sales decreased from around 6 million units in 1992 to around 2 million units in the investigation period.

(c) *Market share*

(93) The share of the Community market occupied by the Community industry when measured in units decreased from around 9 % in 1992 to around 3 % during the investigation period.

(d) *Profitability and employment*

(94) The overall profitability of Community producers declined progressively from 5,9 % in 1992 to 1,3 % during the investigation period.

(95) Employment figures in the handbag sector declined from about 18 600 people in 1992 to 14 000 people in the investigation period, a drop of 25 %.

5. **Conclusion on injury**

(96) It is considered that the Community industry of synthetic handbags suffered material injury within the meaning of Article 3 of the basic regulation.

(97) This stems from the deterioration of the economic factors of the Community industry during the period 1992 to the investigation period, namely declining sales volume, loss of market share, declining employment and declining profitability, as seen in the light of the increase in the volume of imports of synthetic handbags from the People's Republic of China and its prices.

B. CAUSATION

1. **Effects of the dumped imports**

(98) Given the above findings, it is considered that the imports of synthetic handbags from the People's Republic of China had, taken in isolation, a material impact on the situation of the Community industry.

(99) Indeed, given that synthetic handbags manufactured in the Community and those imported from the People's Republic of China compete across the range, where the distribution system is common to both products, the undercutting found indicates that, taken in isolation, imports of synthetic handbags from the People's Republic of China caused material injury to the Community industry.

2. **Effects of other factors: imports from third countries**

(100) The Commission has examined the impact on the Community industry of factors other than imports of synthetic handbags from the People's Republic of China, namely, imports from other third countries.

(101) Concerning India, available Eurostat data shows that even if the volume of imports from India has increased from 1,6 million units in 1992 to 3,4 million units in the investigation period, their share of total imports of synthetic handbags into the Community has increased only from 2,6 % in 1992 to 3,6 % in the investigation period. The share of the Community synthetic handbag market occupied by these imports has remained at a low level, being 3,5 % in the investigation period.

(102) Imports of synthetic handbags from Hong Kong, when measured in units, have increased from 1,5 million units in 1992 to 6,5 million units in the investigation period. However, their share of the Community synthetic handbag market has remained at a

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relatively low level, increasing from 2 % in 1992 to 7 % in the investigation period.

(103) As to imports from other third countries, their share of the total import of synthetic handbags into the Community has decreased from 11 % in 1992 to 5,5 % in the investigation period. The share of the Community synthetic handbags market occupied by these imports has decreased from 9,7 % in 1992 to 5 % in the investigation period.

3. **Conclusion on causation**

(104) The above analysis shows that, even if certain other factors might have contributed to the injury suffered by the Community industry, it is considered that, taken in isolation, the high volume of synthetic handbags imported from the People's Republic of China at dumped prices have caused material injury to the Community industry.

C. COMMUNITY INTEREST

1. **Community industry**

(105) The indicators of the Community synthetic handbag industry show that it is not likely that the Community industry would benefit from any anti-dumping measure imposed. The imposition of measures would not have the effect of increasing the sales of the Community synthetic handbags manufacturers, given that it is likely that synthetic handbags will be sourced from other third countries in the medium term. Indeed, it has been ascertained that the production process in the synthetic sector is of such a nature that it can be transferred to another third country within a relatively short period of time. In this respect, evidence has been provided by some interested parties showing that this has already taken place in some instances. There are, therefore, strong reasons to expect that most of the volume and price benefits which anti-dumping measures may have will not go to the Community industry but to imports from other third countries.

(106) In addition, the consequences of the non-imposition of measures on the employment levels of the Community synthetic handbag producers is relatively limited, given the low sales volume in the Community of Community produced synthetic handbags and the estimated employment figures for synthetic handbags of around 500 employees. While these jobs may be exposed to competition from dumped imports of handbags from the People's Republic of China, this figure has to be compared to a total employment figure for the entire Community handbags sector of around 14 000 employees. In this respect, it is expected that an increase in the sales volume of the Community manufacturers of leather handbags may have the effect of offsetting this negative impact, if any.

2. **Impact on importers/traders**

(107) In view of the high share of the Community synthetic handbag market held by imports from the People's Republic of China, if definitive anti-dumping measures of the provisional amount were to be imposed, a substantial impact on Community importers and traders would be expected.

(108) Indeed, a comparison of the market shares held respectively by the Community industry (around 2 % in the investigation period) and the imports from the People's Republic of China (around 80 % in the investigation period) indicate that the resulting negative impact on importers and traders of the product would be clearly disproportionate to any possible benefit in the short term to the Community industry which would be gained through the imposition of anti-dumping measures.

(109) The estimated employment for the distribution chain of synthetic handbags has been estimated at around 4 100 employees. It is considered that the imposition of anti-dumping measures on imports of synthetic handbags will have, at least in the medium

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term, a negative impact on this employment. Indeed, since the expected switch in the source of supply to other third countries will take place in the medium term, it is expected that in the meantime a certain number of jobs in the distribution sector will be at risk. On the other hand, the employment levels of the Community synthetic handbags manufacturers are not expected to decrease to a significant extent, in view of the fact that the Community industry is concentrating on the export markets.

3. **Impact on consumers**

(110) In this respect, it has to be recalled that, should a definitive duty be imposed, a shortage in supply will occur, at least in the short term, thus restricting consumer choice.

The effect on the consumer in the form of a certain price increase should also be seen in the light of the likely absence of any benefit for the Community producer and the negative impact on the distribution chain.

4. **Conclusion on Community interest**

(111) In view of the abovementioned facts and trends which differ significantly from those established in respect of leather handbags, it is considered that there are compelling reasons why the imposition of definitive measures on imports of synthetic handbags is not in the interest of the Community. The negative impact of definitive anti-dumping measures on imports of synthetic handbags from the People's Republic of China would be disproportionate to any actual benefit to the Community industry.

I. **DUTY**

1. **Leather handbags**

(112) Some interested parties have argued that the duty should take the form of a variable duty. However, given the wide variety of leather handbags and the fact that it is considered that competition is taking place across the whole range of leather handbags and not among those in the lower price range, it is considered that measures should take the form of an *ad valorem* duty.

The provisional conclusions with respect to the type of duty to be applied are therefore confirmed.

(113) As for the calculation of the injury threshold, i.e. price underselling, the Council confirms the methodology followed by Regulation (EC) No 209/97 (recitals 103 to 105). Thus, the weighted average profit shortfall of the sampled Community producers during the investigation period was added to the percentage of the undercutting found. On this basis, the weighted average injury margin for leather handbags, expressed as a percentage of the free-at-Community-frontier price, amounts to 38 %.

(114) For the companies which requested and were granted individual treatment, their injury margin, when expressed as a percentage of the free-at-Community-frontier price amounts to the following:

— for Shilton, given that the dumping margin found is nil, in accordance with Article 7 (2) of the basic regulation, it was not considered necessary to calculate an individual injury margin,

— for Picard, the injury margin amounts to 32,7 %.

(115) In accordance with Article 7 (2) of the basic regulation, as the injury elimination level is below the dumping margin found, the anti-dumping duty calculated on the basis of the free-at-frontier price should amount to 38 %.

(116) For the companies which requested and were granted individual treatment, the anti-dumping duty should amount to the following:

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— for Shilton: nil,

— for Picard: 7,7 %, which is the dumping margin established for this company.

2. **Synthetic handbags**

(117) In view of the fact that it is considered that there are compelling reasons not to adopt anti-dumping measures concerning synthetic handbags, the proceeding with respect to imports of plastic handbags (CN code 4202 22 10) and textile handbags (CN code 4202 22 90) should be terminated.

J. **COLLECTION OF PROVISIONAL DUTIES**

(118) Concerning leather handbags, since the Community industry is suffering a threat of material injury, the Council considers it appropriate to decide that, pursuant to Article 10 (2) of the basic regulation, the amounts secured by way of provisional anti-dumping duty under Regulation (EC) No 209/97 for leather handbags be released.

(119) The provisional duties secured with respect to plastic and textile handbags should also be released,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of handbags with outer surface of leather, of composition leather or patent leather falling within CN code 4202 21 00 originating in the People's Republic of China.

2. For the purpose of this Regulation, leather handbags shall be understood to mean bags, whether or not with shoulder strap, including those without handle, with outer surface of leather, of composition leather or patent leather, designed primarily to contain small objects for personal use, such as keys, purses, make-up and cigarettes, regardless of their size and form.

3. The rate of the duty shall be 38 % of the net, free-at-frontier price, before duty (Taric 8900), with the exception of imports of leather handbags which are manufactured by the following companies, which shall be subject to the following rates of the duty:

— ►M1 Zengcheng Jane Shilton Leather Goods Company Ltd ◄: 0,0 % (Taric additional code 8961),

— Gebr. Picard International Ltd: 7,7 % (Taric additional code 8087),

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— C-Duck Leather Goods Company Ltd: 0,0 % (Taric additional code: 8961),

— Wideland Trading Company: 0,0 % (Taric additional code: 8961),

— Lucci Creation Ltd: 0,0 % (Taric additional code: 8961),

— Kunshan C & S Leather Products Co. Ltd: 0,0 % (Taric additional code: 8961),

— Yamani Continental Inc.: 0,0 % (Taric additional code: 8961),

— IP Handbag Industrial Ltd: 0,0 % (Taric additional code: 8961),

— W. K. Maxy Industries Ltd and W. K. Maxy Leather Goods Industries Zhongshan Co. Ltd: 0,0 % (Taric additional code: 8961),

— Lai Wah Industries Ltd: 3,1 % (Taric additional code: 8310),

— Shenzhen Colleen Handbag Co. Ltd: 4,2 % (Taric additional code: 8311),

— The Well Leatherware Manufactory Ltd: 6,5 % (Taric additional code: 8451),

— Shenzhen Crownwick Leatherwares Co. Ltd: 12,4 % (Taric additional code: 8452),

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— Shundi South Sea Leather Handbag Factory Ltd and Nam Chow Leather Products Co. Ltd: 39,0 % (Taric additional code: 8453),

— Ever Trust Leather Products Shenzhen Co. Ltd: 45,2 % (Taric additional code: 8454),

— Dongguan Sitoy Leather Products Factory Ltd: 58,3 % (Taric additional code: 8455).

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Article 2

1. The anti-dumping proceeding concerning imports of handbags with outer surface of plastic sheeting or with outer surface of textile materials falling within CN codes 4202 22 10 and 4202 22 90 is hereby terminated.

2. The amounts secured by way of provisional anti-dumping duties under Commission Regulation (EC) No 209/97 shall be released.

Article 3

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

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