COMMISSION REGULATION (EC) No 209/97

of 3 February 1997

imposing a provisional anti-dumping duty on imports of certain handbags originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as amended by Regulation (EC) No 2331/96 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 4 May 1996, the Commission announced, by a notice published in the *Official Journal of the European Communities* [3], the intiation of an anti-dumping proceeding with regard to imports into the Community of certain handbags originating in the People's Republic of China and commenced an investigation.

(2) The proceeding was initiated as a result of a complaint lodged in March 1996 by the European Committee for Leather Goods Industries — Comité Européen des Industries de la Maroquinerie (Cedim), whose collective output was alleged to represent a major proportion of Community production of handbags. The complaint contained sufficient evidence of dumping by the imports concerned and of material injury resulting therefrom to justify the initiation of an anti-dumping proceeding.

2. Investigation

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

(4) A number of producers in the country concerned as well as of Community importers and producers made their views known in writing. All parties who so requested within the above time limit were granted a hearing.

(5) In view of the large number of Community producers manufacturing the product concerned in the Community and supporting the complaint, and in conformity with Article 17 (1) of Council Regulation (EC) No 384/96 (hereinafter referred to as 'the basic Regulation'), it was considered appropriate to limit the investigation to a sample of producers which could reasonably be investigated within the time available. Four Member States — France, Italy, Spain and Portugal — whose production represented a large majority of Community production of handbags were selected. In each of these Member States three producers were selected according to their size, constituting a representative spread of production and employment. The sampled companies were selected from a list of manufacturers of the product concerned, whose turnover was considered representative for that country, submitted by the respective National Associations. The Community producers thus sampled were sent questionnaires.

(6) Parties concerned who, following the notice of initiation, had expressed their wish to be consulted by the Commission on the final selection of the sample, were thus given disclosure of the sampled companies and of the methodology used for their selection.

(7) After this disclosure, the Commission received notice of actual threats of commercial retaliation against some of the sampled Community producers by some of their customers, who are also importers and major retailers in the Community. Certain sampled Community producers were subjected to severe commercial pressure at an advanced stage of the investigation in an effort to persuade them to withdraw their support for the complaint. It was therefore considered appropriate not to make any further disclosure of the names of these companies.

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No C 132, 4. 5. 1996, p. 4.

(8) The large number of unrelated importers that made themselves known could not reasonably be investigated within the time available. Therefore, the Commission decided to restort to a sample of unrelated importers. Interested unrelated importers were invited to provide import figures by category of product, for 1995, on the basis of which the Commission sampled 18 unrelated imports located in the following four Member States, deemed most representative in terms of volume of imports: Germany, the United Kingdom, the Netherlands and France. Questionnaires were sent to these sampled unrelated importers.

(9) Interested parties were invited to comment on the sampling and the companies selected were disclosed to these parties. No substantive comments were received from interested parties on this approach.

(10) The following unrelated importers were selected for the sample:

Germany:

Picard (Obertshausen)

Karstadt (Essen)

Kaufhof Holding (Cologne)

Fabra (Merxheim)

Sieber (Bad Reichenhall)

Schneider (Wedel)

United Kingdom:

Littlestone & Goodwin (Desborough)

British Shoe (Leicester)

Peter Black Footwear (West Yorkshire)

The Tula Group (London)

Jane Shilton (London)

Mister Minit (Sheffield)

France:

Gravilux (Paris)

Dané & Galiay (Paris)

Magnesium (Asnière)

The Netherlands:

Arwa (Hilversum)

Parsons (Rotterdam)

The Bagsac Company (Amsterdam).

(11) The Commission also sent questionnaires to the exporters listed in the complaint. Questionnaires were also sent to the national authorities of the People's Republic of China (with a view to allowing any other producer/exporter in that country to co-operate) and to those exporters who, while not listed in the complaint, made themselves known and requested a questionnaire within the time limit set in the notice of initiation.

(12) The Commission received detailed replies from 11 of the sampled Community producers, from two producers and one trader in the People's Republic of China, from two Hong Kong exporters as well as from importers in the Community related to the producers in the exporting country concerned and from 15 unrelated importers in the Community. The reply from one producer in the People's Republic of China was, after several extensions had been granted, finally rejected as it was largely deficient. One exporter withdrew its co-operation and another exporter ceased co-operation after noting that it did not export the product concerned to the Community.

(13) The Commission sought and verified all the information it considered necessary for a preliminary determination of dumping and injury and carried out verification vistis at the premises of the following companies:

(a) *Community producers*

Eleven Community producers in four Member States (France, Italy, Spain and Portugal) were visited and their information was verified.

(b) *Exporters/producers*

— Jane Shilton (Pacific) Ltd

— Lee & Man Handbags Manufacturing Ltd

(c) *Importers related to producers/exporters*

— Shilton PLC (UK)

(d) *Unrelated importers*

— Fabra

— Picard

— Peter Black

— Jane Shilton (for imports of handbags from unrelated suppliers)

— The Tula Group

(14) The period of investigation for the determination of dumping was 1 April 1995 to 31 March 1996 (hereinafter referred to as 'the investigation period'). The examination of injury covers the period 1992 to the end of the investigation period.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

(15) The product concerned by this proceeding is handbags, whether or not with a shoulder strap, including those without a handle, with outer surface of leather, of composition leather or patent leather or with outer surface of plastic sheeting or with an outer surface of textile material, falling within CN Codes 4202 21 00 (leather), 4202 22 10 (plastic) and 4202 22 90 (textile).

(16) Although the handbags falling within any of the above CN codes can cover a wide range of styles, types and raw materials used, the essential characteristics and uses of the above mentioned three categories remain basically the same.

(17) The product in question can be divided into three categories:

— handbags made of leather, composition leather and/or patent leather,

— handbags made of plastic,

— handbags made of textile.

As handbags within the three categories possess the same characteristics and are intended for the same use, they are regarded as being like products.

2. Like product

(18) The Commission found that the types of imported handbags sold by the cooperating producers in the People's Republic of China were similar or comparable as far as overall quality, finish and characteristics were concerned.

(19) Some interested parties have claimed that handbags manufactured in the Community are not comparable to imported handbags from the People's Republic of China. In particular, it has been alleged that there are differences in quality, design and finish.

(20) It should be recalled that it is the standard practice of the Commission that quality differences between the product manufactured in the Community and that manufactured in the third country under investigation does not prevent the imported product from being considered a like product to the extent that the basic physical characteristics and the intended use of the product are not affected by these differences. Nevertheless, quality differences — when substantiated — may qualify for an adjustment in price comparison. The Commission initially proposed in the questionnaires a possible segmentation of the handbag market on the basis of different sizes within the three basic categories (leather, plastic and textile). The Commission found however in the course of the investigation that this proposal was impractical, as companies did not keep management or accounting records based on sizes of handbags, and also established that no consistent relationship existed between sizes and prices of handbags. In this respect, it should be noted that none of the interested parties advanced objective criteria generally accepted in the industry by which handbags within the three categories mentioned could be grouped in distinct subcategories or segments. Consequently, all handbags were considered as forming one like product. The Commission based its conclusions concerning the possible segmentation of the handbag market, as far as handbags imported from the People's Republic of China were concerned, on the product information submitted by the co-operating exporters although the latter only accounted for a very small part of overall exports from the People's Republic of China.

(21) Furthermore, three sampled Community producers presented substantiated evidence of handbags manufactured in the People's Republic of China being exact copies of models manufactured by these Community producers and they demonstrated that there were no substantial differences in quality.

(22) Accordingly, the Commission concluded that handbags exported from the People's Republic of China are like products to the handbags produced in the Community by Community manufacturers, within the meaning of Article 1 (4) of the basic regulation. The findings made by the Commission in this respect also apply to handbags investigated in Indonesia for the purpose of establishing normal value (see recitals (23) to (28)), which are therefore like products to the handbags being exported from the People's Republic of China and to the handbags manufactured by the Community producers.

C. DUMPING

1. Normal value

(23) Since the People's Republic of China is considered to be a non-market economy country, the Commission determined the normal value on the basis of data obtained from producers in a market economy third country (the 'analogue country'), in accordance with Article 2 (7) of the basic regulation.

(24) As was stated in the notice of initiation, Taiwan or India was initially envisaged as an appropriate market economy third country for the purpose of establishing normal value in this proceeding. The complainant suggested the selection of Taiwan as analogue country.

(25) All interested parties were given the opportunity to comment on the choice envisaged. After receipt of comments and of more general information, the Commission considered the choice of Taiwan not to be appropriate on several grounds, *inter alia* because it was found that numerous interrelationships exist between exporters/producers in the People's Republic of China and producers in Taiwan. The Commission also noted that Taiwan was objected to by several interested parties for a variety of reasons. The Commission could in any event not obtain sufficient co-operation from companies either in Taiwan or in India and, therefore, it had to consider the selection of another analogue country.

(26) The Commission expended considerable efforts in contacting individual companies and industry federations in several — *prima facie* suitable — market economy third countries, in order to secure co-operation from producers in such countries.

(27) Eventually, two large handbag producers in Indonesia were willing to cooperate. These companies produced handbags exclusively for export (to the Community as well as to other major export markets). The Commission also sought to obtain co-operation from Indonesian producers selling products on the domestic market but such producers proved not prepared to co-operate.

(28) The choice of Indonesia as an analogue country was considered appropriate in view of the following factors:

— the existence in Indonesia of production of handbags made of leather, plastic and textile materials with similar characteristics to those produced in the People's Republic of China by exporters/producers having co-operated in the proceeding,

— the similarity of the production processes in Indonesia and in the People's Republic of China, assessed on the basis of facts established with respect to exporters/producers which co-operated in the proceeding. The production processes in both countries appear to be equally labour-intensive with limited automation,

— both the co-operating Chinese producers and the Indonesian producers examined for purposes of establishing normal value procured the majority of their raw materials on the international market under inward processing arrangements, so that no significant differences existed as regards access to raw materials,

— production volumes of the two Indonesian producers concerned were considered sufficiently significant to calculate a reasonable cost of production, whereas their production volumes are comparable to those of the co-operating Chinese exporters/producers.

(29) The choice of Indonesia was communicated to the interested parties. Several parties, including importers, expressed their explicit agreement with the selection of Indonesia as analogue country. One exporter objected to the choice of Indonesia as analogue country because of the alleged existence of a customs duty ranging between 30 % and 40 % levied in Indonesia on imported raw materials used for the production of handbags and because the export volume of handbags from Indonesia to the Community would be allegedly too small in comparison with the export volume from the People's Republic of China to the Community. Both arguments were rejected because, as mentioned above, no differences were found to exist between producers in Indonesia and the People's Republic of China in terms of access to raw materials under inward processing arrangements and because the volumes of handbags produced by the two co-operating Indonesian producers was clearly sufficiently significant to permit the cost of production to be calculated (see recital (28)).

(30) The People's Republic of China being considered a non-market economy country and Indonesia having been selected as an appropriate market economy third country, normal value for the Chinese exports had to be established in accordance with Article 2 (7) of the Basic Regulation. As the co-operating Indonesian producers were exclusively export-oriented and as prices for handbags on export markets could be affected by low-priced Chinese products, it was not considered appropriate to base normal value on prices on the domestic market of Indonesia or on Indonesian export prices to other countries. The Commission thus considered that the most reasonable basis for normal value would be the cost of production of the Indonesian producers to which a reasonable amount was added for selling, general and administrative costs and for profits. Separate normal values were consequently calculated for the three categories of handbags.

2. Export price

(31) In view of the low level of co-operation of Chinese exporters in this proceeding (1,28 % of all exports from the People's Republic of China), the export prices of the co-operating exporters could not be considered representative of the prices charged by exporters which did not co-operate.

(32) Export prices of the non-co-operating Chinese expoters had therefore to be established on the basis of the facts available in accordance with Article 18 of the Basic Regulation. In this respect, it was considered appropriate to resort to the cif import prices of the unrelated importers sampled for purposes of injury determination. This seemed appropriate since the importers selected were considered to be representative of all exports from the People's Republic of China and these prices were, at least in part, verified by the Commission. These cif prices were converted into fob Chinese prices based on average intermediary cost figures reported by the co-operating exporters and importers.

(33) One of the co-operating companies made all its exports directly to independent customers in the Community. Consequently, export prices in respect of this company were based on the reported and verified selling prices of those exports to the EC, according to Article 2 (8) of the Basic Regulation.

(34) The other co-operating exporter made its exports to the EC via two separate channels: sales to one Member State were made via a related company, while sales to the remainder of the EC market were made directly to independent customers. With respect to the former, 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 that company's selling, general and administrative costs and a profit margin based on the average profit of unrelated importers. With respect to the latter channel, export prices were based on actual sales prices of these exports. The export prices of both channels were then aggregated as a weighted average price.

3. Comparison

(35) The weighted average normal value fob Indonesia was compared with the weighted average export price fob China with respect to the three categories of handbags concerned.

4. Dumping margins

(36) Two co-operating producers/exporters — both privately owned companies based in Hong Kong — requested individual treatment: i.e. the establishment of separate export prices and thus of individual dumping margins.

(37) The Commission verified whether these two companies enjoyed a degree of legal and factual independence from the influence of the State, comparable to that which would prevail in a market economy country, to which end it addressed detailed questions to these companies regarding their ownership, management, control and determination of commercial and business policies.

(38) It was found that the situation with respect to the factories of the two exporters concerned was very similar. No legal entity existed in the People's Republic of China and the capital goods physically present there were included as assets in the accounts of the Hong Kong companies. The factory building was leased from the local authorities and the factory workers were employed and paid by the Hong Kong companies.

(39) The Commission carried out on-the-spot verifications at the premises of both companies in Hong Kong in order to examine the circumstances under which each company operated and its relations with the Chinese state. The companies concerned were able to show, to the satisfaction of the Commission, that the management and control of the factories, both in terms of production and marketing, was clearly in their hands and that their operations were sufficiently independent from the Chinese Authorities. It appeared, in particular, that the export prices to the Community and the marketing policies were determined by the Hong Kong companies without any interference from the Chinese state.

(40) In view of the above, it is considered possible to grant individual treatment to both exporters and, consequently, to calculate a separate dumping margin with respect to each of these companies, as an exception to the principle of calculating country-wide dumping margins in respect of non-market economy countries (Article 9 (5) of the Basic Regulation).

(41) The provisional dumping margins established for the companies granted individual treatment are as follows:

— Shilton: nil

— Lee & Man: 68,1 %.

(42) The weighted average dumping margin for the exporters not granted individual treatment has been provisionally established at 129,1 % of the cif export price Community frontier duty unpaid.

D. COMMUNITY INDUSTRY

(43) Subsequent to the initiation of the proceeding, the British Association (BLLA) decided to withdraw its support for the complaint. The Austrian, German and Dutch Associations, which intially remained neutral, also decided to oppose the complaint after the initiation of the proceeding. Finally, a limited number of Community producers also individually expressed their opposition to the opening of the proceeding.

(44) The Commission noted this opposition but established that it did not affect the representative character of the complainant, as determined prior to the initiation of the proceeding, nor of the sample.

(45) It is worth noting that a number of Community manufacturers of the product concerned, whose association does not support the complaint, have individually expressed their support for the complaint.

(46) During the course of the investigation carried out with respect to the sampled Community producers, it became apparent that two of these producers were also importing the dumped product from the country concerned. In these circumstances the Commission examined whether in the light of Article 4 (1) (a) of the basic regulation, these companies should be excluded from the 'Community industry'.

For this purpose it appeared appropriate to determine whether those companies were primarily producers 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 production in the Community.

In this respect, the investigation showed that the imports of these dumped products accounted for less than 10 % of the turnover of the companies in question. It is therefore the opinion of the Commission that the core of the business for these companies was production of handbags in the Community, that they were not shielded from the effects of dumped imports and that therefore, for the purposes of Articles 4 and 5 of the Basic Regulation, these companies may be considered along with the other co-operating producers, as forming the 'Community industry'.

E. INJURY

1. Collection of injury data: methodology and sources

(47) The injury suffered by the Community industry has been assessed both at the level of the total Community as well as at the level of the sampled companies, as follows:

— at Community level, from data such as production, consumption in the Community, sales volume and employment,

— by the questionnaire responses submitted by the sampled Community producers for trends concerning prices and cost related data, including profitability.

Verification of the Community-wide data (consumption, production, sales volume and employment in the Community) has been carried out by reference to information submitted by the statistical offices of the Member States, research studies of the sector available for several countries as well as different submissions presented by interested parties, some of which were verified during on-the-spot visits.

2. Consumption in the Community market

(48) Between 1992 and the investigation period, the consumption of handbags in the European Community increased from 121 million units to around 148 million units, i.e. an increase of approximately 22,5 %.

3. Volume and market share of imports

(49) Between 1992 and the investigation period, imports of handbags originating in the People's Republic of China increased from 62 million units to 89 million units, i.e. by 43 %. When measured in value, the increase amounts to 25 %, i.e. from ECU 199 million in 1992 to ECU 249 million in the investigation period.

(50) The share of the Community market taken by imports of handbags originating in the People's Republic of China increased from 51 % in 1992 to 60 % in the investigation period, i.e. by 17 %.

4. Prices of dumped imports and undercutting

(51) Prices of imported handbags have been examined separately per category of product. Due to the non-co-operation of Chinese exporters, official statistical data has been used for the analysis of the price evolution. Thus, the average cif import prices of handbags have evolved as follows: the price for leather handbags has decreased from ECU 5,29 per unit in 1992 to ECU 4,81 per unit in the investigation period, i.e. by 9 %; the price of plastic handbags has decreased from ECU 3,1 per unit in 1992 to ECU 2,7 per unit in the investigation period, i.e. by 14,1 %; concerning textile handbags, the price thereof has decreased from ECU 2,5 per unit in 1992 to ECU 2,3 per unit in the investigation period, i.e. a decrease of 7 %.

(52) For the examination of price undercutting, comparisons were first made on a category by category basis between the cif import price, adjusted to duty paid, customer delivered level, and the selling prices in the Community of the Community producers at the same level of trade. Import prices used correspond to those supplied by the sampled unrelated importers. These prices were duly adjusted to customer delivered level, in order to ensure a comparison at the same level of trade, applying a mark up derived from verified evidence submitted by co-operating importers. In adjusting import prices to duty paid, account was taken of the normal duty rate or the duty rate applicable under the GSP (as appropriate).

(53) The resulting adjusted import prices were compared to the prices of those Community producers whose production comprised the most basic types sold within each category, considered comparable to the imports from the People's Republic of China, on a category per category and sales channel basis. This approach was taken despite the lack of co-operation from Chinese exporters.

(54) On a category by category basis, when expressed as a percentage of the Community producers' selling prices, this comparison shows undercutting amounting to 30 %, for handbags with an outer surface of leather, 26 % for handbags with an outer surface of plastic and 35 % for handbags with an outer surface of textile. The average undercutting margin is 28 %.

5. Situation of the Community industry

(a) *Production*

(55) Production of handbags by the Community industry increased from 33,5 million units in 1992 to 40 million units in the investigation period. When measured in value, production increased from ECU 973 million in 1992 to ECU 1 243 million in the investigation period.

(b) *Sales volume*

(56) A decline in sales volume in the Community of output manufactured by the Community industry of 12 % between 1992 and the investigation period has been ascertained. Indeed, sales decreased from 25 million units in 1992 to 22 million units in the investigation period.

(c) *Market share*

(57) The share of the Community market occupied by the Community industry when measured in units decreased from 21 % in 1992 to 15,3 % during the investigation period.

(d) *Profitability*

(58) The overall profitability of Community producers declined progressively from 4,7 % in 1992 to 1,3 % during the investigation period.

(59) In this respect, one should keep in mind the very specific nature of the handbag industry, which includes a large number of SME's, whose main characteristic is the manufacture of handbags made almost exclusively to order, after a direct-costing analysis, showing an expected profit for each model. In view thereof, no such company can incur losses for more than a few months without being forced to close down due to lack of cash flow. In this respect it should be mentioned that a large number of closures have occurred during the period covered.

(e) *Employment and company closures*

(60) Employment in the sector declined from about 76 000 people in 1992 to 57 000 people in the investigation period, a drop of 24 %.

(61) Figures on employment and company closures refer to the leather goods sector globally (including manufacturers of all types of bags and small leather goods of all materials — leather, plastic and textile). No specific figures per product concerned are available. Neither would these be meaningful on a product specific basis, given that companies in the sector often manufacture several products using the same employees and equipment. Although these figures refer to the leather goods manufacturing sector globally, they are a reflection of the situation of the sector. Indeed, due to the interchangeability of resources for the manufacture of the different products, the losses of employment in one product could have been compensated by increases in another, and so overall employment figures would have remained stable. However, as established above, this is not the case here.

(62) Company closures in the sector have amounted to around 400 during the investigation period. The figures refer to the sector globally also.

(f) *Conclusion on injury*

(63) An examination of the economic indicators mentioned above, 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 the product concerned. As has been demonstrated, the Community industry as a whole suffered declining sales volume, loss of market share, declining employment and declining profitability.

(64) It is therefore the view of the Commission that the Community industry has suffered injury which can be considered as material within the meaning of Article 3 of the basic regulation.

F. CAUSATION

1. Effects of the dumped imports

(65) The characteristics of the handbag industry, essentially operating on orders as mentioned above, explain the extreme vulnerability of this industry, which has no means, over an extended period of time, to resist sustained pressure from injuriously-priced dumped imports.

(66) Indeed, penetration of the Community market by imports 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, concentrated in particular on the textile and plastic categories, it became apparent during the investigation that many Community producers were unable to compete against the dumped imports. This flow of dumped imports has recently been redirected towards leather handbags, a category where Community producers had concentrated their activity in order to maximise profits.

(67) Accordingly, dumped imports from the People's Republic of China had a negative impact on the situation of the Community industry to a degree which enables it to be classified as material.

2. Effects of other factors

(a) *Imports from other third countries*

(68) As to the question of whether factors other than the dumped imports from the People's Republic of China might have led to the precarious situation of the Community industry, particular reference was made by certain interested parties to imports into the Community of handbags originating in India.

(69) In this respect, available Eurostat data shows that the volume of imports of handbags from India increased by from 7 million units in 1992 to 8,6 million units in the investigation period, i.e. an increase of 23 %. As concerns the prices of these imports, these have remained stable at ECU 6 per unit, well above the prices of Chinese handbags. The share of volume of the Community market occupied by imports of handbags from India has also remained stable at 5,8 % from 1992 to the investigation period.

(70) As to imports of handbags from Hong-Kong, when measured in units, these have increased from 1,8 million units in 1992 to 7,5 million 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 2,2 % in 1992 to 6,5 % 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 1,5 % in 1992 to 5,1 % in volume in the investigation period.

(71) As to imports from other third countries, their share of total imports has decreased from 15,3 % in 1992 to 9,5 % in the investigation period. The share of the Community market occupied by these imports has decreased from 10,6 % of volume in 1992 to 7,5 % in the investigation period, i.e., by 29 %.

(72) It should be noted that the Community market share of all third countries, excluding the People's Republic of China, has remained stable from 1992 to the investigation period, at 18 % when measured in units.

(b) *Internal competition*

(73) It has been argued by several interested parties that there is significant internal competition in the Community among producers in Spain, Portugal, France and Italy and it is for this reason that certain companies may find themselves in an adverse economic situation.

(74) In this respect, it should be noted that it was the Community producers of handbags in those Member States which were specifically investigated and therefore any well-being on the part of some producers at the expense of others would have been reflected in the global figures established for the complainant EC industry. Any impact of the alleged internal competition has thus been fully taken into account and it is concluded that the material injury established above cannot be attributed to any internal competition. In this respect it should also be noted that the share of the Community market of other manufacturers of handbags in the Community not supporting the complaint has also decreased from 8,4 % in 1992 to 5,5 % in the investigation period, when measured in units.

3. Conclusion on causation

(75) Although certain factors may have contributed to the injury suffered by the Community industry, it is the conclusion of the Commission that, taken in isolation, the high volumes of dumped imports from the People's Republic of China have caused 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.

G. COMMUNITY INTEREST

1. General considerations

(76) Pursuant to Article 21 of the basic regulation, the Commission has examined, on the basis of all evidence submitted:

— first, the likely positive and negative effects of taking and of not taking measures, and

— second, whether it can clearly be concluded that it is not in the Community interest to apply measures in this particular case.

For this purpose, the Commission has considered the impact of possible provisional measures for all parties involved in the proceeding and also the consequences of not taking provisional measures.

(77) As regards the information-gathering process, the Commission encouraged all interested parties that made themselves known within the required deadline to submit substantiated information on issues relating to Community Interest. Well after the expiry of the deadline for submitting comments, numerous parties made themselves known, expressed their view on the proceeding and requested to be heard. Given the importance of the issue, in this case, and the need to obtain as much reliable data as possible on which the Commission could base its conclusions, the Commission made every effort to grant a hearing to all interested parties, wherever possible. More than 30 hearings were organised at which the views of more than 300 companies were presented (mostly unrelated importers, traders and department stores from all over the Community). Interested parties were therefore given every opportunity to expound and substantiate their views.

Whilst the validity of some arguments could not be easily ascertained due to their late submission, the Commission has nevertheless reached provisional determinations on the basis of the arguments presented by the interested parties, some of which will be investigated further.

2. **Impact on the Community industry**

(a) *Nature of the industry*

(78) The Community handbag industry is a fashion industry manufacturing products to which significant value is added in the Community in the form of creative value, innovation and intellectual property. The industry is a significant contributor to employment in the EC, and is one in which important economies of scale are obtained when manufacturing and selling greater volumes. Reference is made to the production and employment figures as quoted above.

The companies operating in it are generally characterised by being both SME's and located in areas of the Community, such as Portugal, Spain, Italy, France and Greece, which are eligible for the highest level of support from the Community structural funds.

(79) As already established in point E above, the injury suffered by the Community industry has been manifested by a decrease in sales in the Community of 12 %. A 29 % decrease in market share between 1992 and the investigation period has also been established. The profitability of the Community industry has deteriorated from 4,7 % to 1,3 %.

The Community industry has been endangered by the fact that it has been prevented from selling sufficient volumes to allow it to earn the necessary means to remain in the business. Large volumes from the People's Republic of China, imported at low prices, have eroded the market share of Community producers.

(80) Under the present circumstances and in order to provide a means for the Community industry to recover from the injury that it is suffering, it is considered that the Community industry would require an increase in the volume of handbags produced and sold on the Community market, thus enabling it to benefit from economies of scale and to improve its financial results.

(b) *Viability and competitiveness*

(81) Concerning the viability and the competitiveness of the Community industry, manufacturers appear to be highly innovative and careful attention is paid to the design of the product concerned. The viability of the Community industry is also evident having regard to the strong performance of the Community industry in export markets.

(82) Exports have increased from 8,5 million units in 1992 to 18,9 million units in the investigation period. The increase of sales on the export markets (mostly to the USA, Japan and Hong-Kong) appears to comprise mainly high quality, high priced handbags: exports of leather handbags represent 80 % of total exports, 70 % of which are exported at prices which are at least 35 % higher than those sold in the EC by Community manufacturers. This performance would also point towards a retreat by Community producers to third country exports due to the price pressure exerted on the Community market by dumped imports of handbags from the People's Republic of China.

(83) Some parties have argued that there is not enough capacity in the Community to manufacture sufficient handbags to meet demand in the Community. It should be mentioned that, since the manufacture of handbags shares equipment and labour with other related products in the leather goods sector (all kinds of bags and small leather goods), it is difficult to quantify exactly the available capacity with respect to handbags specifically. However, the Community industry has available to it a skilled labour force with the necessary know-how to meet a much greater share of demand, provided it can do so at prices which allow it to generate sufficient financial returns, which may be achieved by shielding the Community industry from unfair competition in the form of dumped prices.

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

(84) Concerning the consequences for the Community industry of the absence of anti-dumping measures, it can be assumed that this would result in the continuation of the downward trend concerning profitability and further worsening of the Community industry's financial situation. It is expected that further factory closures would occur and more jobs would be lost in this labour-intensive industry with already declining employment. Given the high market share built up by imports from the People's Republic of China and the stable market share held by imports from other third countries, a reduction in the number of Community producers would be most likely to result in a reduction in competition in the Community market.

(85) Some parties have claimed that Community industry should concentrate on the manufacture of high-quality handbags, aimed at the high-end segment of the market, in which it has an advantage over the imported goods. It is considered, however, that this niche market strategy, limited with respect to the quantities sold, cannot be the basis for a whole industry, but allows only certain Community handbags manufacturers — especially those with a brand name or a tradition in the market — to continue in the market. However, for Community manufacturers of non-branded handbags, unless they can manufacture and sell higher volumes, the Commission considers that they will not be able to survive under such a strategy.

(86) It has been argued that the imposition of anti-dumping duties would not have the effect of increasing the sales of Community manufacturers, but would cause importers to purchase from other third countries. In view of the costs involved in switching their sources of supply and the high mark-up realised by these importers it is questionable whether this argument is valid. Indeed, it is considered more likely that the Community industry will make special efforts to obtain these traders as clients thus increasing its sales volumes. The issue will however be further investigated.

(87) Indeed, it is likely that if the purchase price differential between imported handbags and those manufactured in the Community were thereby reduced, importers and traders would find it more attractive to purchase from Community sources. Long delivery periods and the need to import in large volumes in order to minimise unit transport cost constitute factors that would be weighted against a closer and more secure source of supply such as handbags manufactured in the Community.

(88) A number of non-co-operating Community manufacturers, having partially moved their production to the People's Republic of China, have argued that the imposition of anti-dumping measures would result in a further reduction of employment in their manufacturing facilities in the Community due to the impossibility to cross-subsidise the manufacture of low volume handbags in the Community with high volume, low priced imports of handbags from the People's Republic of China. Indeed, a number of non-co-operating Community producers (mainly located in Germany and in the United Kingdom) appear to maintain a small production in the Community by achieving higher margins for handbags imported from the People's Republic of China.

(89) In this respect, it is expected that any benefit in the form of increased sales achieved by the Community industry as a consequence of the imposition of measures, will also accrue to these importing Community producers, who would therefore also benefit from the anti-dumping measures. In any event, these parties still have the possibility of sourcing the product concerned from the People's Republic from China. In addition, they will still benefit from low import prices even after the imposition of measures, since these should in no case be higher than the Indonesian costs (including profit) as used for the calculation of normal value. This issue will, nevertheless, be further investigated after the imposition of provisional duties.

3. **Impact on upstream industries**

(90) The possible diminution or disappearance of the Community manufacturers of handbags, in the absence of measures, will have a direct and immediate effect on Community manufacturers of the raw materials and accessories. To this end only information on the effects that the imports of finished textile and plastic handbags have had on manufacturers of the raw material in the Community has been provided. The increase in imports of finished textile and plastic handbags originating in the People's Republic of China, using materials sourced in the People's Republic of China and other neighbouring countries, has caused numerous manufacturers of these raw materials in the Community to close their facilities.

(91) It has been argued that if measures were to be imposed, they would damage other sectors of the economy such as Community exports to the People's Republic of China of raw material and accessories used in the manufacture of handbags.

However, evidence has been submitted which appears to show that the majority of manufacturers in the People's Republic of China source the accessories in the Far East, mostly in China itself, while the raw materials are being sourced in neighbouring countries such as Taiwan and the Republic of Korea. Moreover, it should be pointed out that no evidence that exports from the Community of raw materials would be seriously affected by the imposition of anti-dumping duties on handbags has been provided to the Commission.

(92) It follows, in view of the above, that if the Community handbag industry is able to maintain or regain its market share as a consequence of measures this would also be to the benefit of the Community manufacturers of raw materials and accessories in the sector. In this respect it should be noted that it was found that all the sampled Community producers visited by the Commission proved to purchase raw materials and accessories from Community suppliers.

4. Impact on importers-traders

(93) Several importers, traders and their representative associations have claimed that the imposition of anti-dumping measures on imports of handbags would detrimentally affect them; numerous importers would go bankrupt and job losses would occur in the sector.

(94) The impact of anti-dumping measures on importers/traders should be assessed differently according to whether they also import other products, or only import the product concerned and whether they trade solely in imported handbags or in those manufactured in the Community or in third countries. In the first cases, the impact of any anti-dumping measure would be likely to be diluted by the income achieved on other products or in handbags manufactured in the Community or in third countries. In the second case, however, the impact of any anti-dumping measures could be greater. Nevertheless, this impact should be seen in the perspective of evidence submitted by the sampled unrelated importers showing a high gross mark up between the cif import price and to the retailer of often over 70 to 80 %. This gross mark up was moreover found to yield a significant net profit margin for some importers. However, this aspect will be investigated further.

(95) Some importers have argued that the impositon of anti-dumping measures would render it impossible to source from the People's Republic of China, thus seriously disrupting the trade pattern, in the sense that these importers would now be obliged to source from other third countries. The likehood of this occurring has been considered at recital (86) above. In this respect it should also be recalled that anti-dumping measures are not intended to prevent imports from the exporting country concerned at fair prices, nor are they aimed at stopping traders from importing from other sources of supply in alternative third countries. Anti-dumping measures are not intended either to shield the Community industry from imports from third countries at competitive prices. Anti-dumping measures are intended to eliminate unfair competition.

5. Impact on consumers

(96) It has been argued that if anti-dumping measures were to be imposed in this particular case, these would have the effect of unduly taxing the consumer or restricting his choice. It has also been argued that any measures would adversely affect those people with limited income who are obliged to buy handbags at the lower end of the scale.

(97) However, in this particular case it seems unlikely that the anti-dumping measures in the form of duties will be fully passsed on to the end-consumer in the form of a significant increase in prices, this conclusion being reached taking into account the high existing mark up of traders of handbags (see recital (94)). Whilst anti-dumping duties would have to be borne somewhere between the importer and the consumer, given the relatively high mark up between the cif import price and the price to a retailer of often over 70-80 %, it seems quite unlikely that it would necessarily be the consumer who bears the full amount of the duty.

(98) It is not considered likely, either, that the prices charged by Community producers in the Community would increase. The Community industry strategy is aimed at a reduction of costs through increased sales volume, price tending to remain relatively stable and marking them more attractive to distributors instead of imported products. In such a situation, the impact on the price payable by the consumer would therefore be considerably mitigated or even non-existent. This is an issue that is being further investigated. Furthermore, the product investigated is a fashion product where moderate price changes would not be likely to play a predominant role in consumers' choice.

(99) Therefore, and given the amount of the undercutting and the margins observed at importers level, it is foreseeable that the duties would not have a

significant bearing at the level of the retail price of the product. On the other hand, the duty is likely to benefit Community industry by redressing its competitive position in selling to traders.

6. Trade distorting effects

(100) Some parties have argued that the imposition of anti-dumping measures would have as a counter effect the closure of the Chinese market for exports of handbags from the Community. In this respect it has been ascertained that Community exports of handbags to the People's Republic of China amounted to a mere 8 000 units in the investigation period, compared to total exports of 25 million units in the same period. The issue of access to the Chinese market for handbags manufactured in the Community is rendered almost meaningless due to the existence of customs duties on imports of handbags into the People's Republic of China amounting to around 45 %.

7. Conclusion on Community interest

(101) Having examined the various interests involved, the Commission considers that whilst a number of reason exist for taking measures, there would seem to be no compelling reasons which weigh in favour of not taking action against the imports in question.

Indeed, leaving the Community industry subject to injurious dumping would, as established, add to the difficulties of this industry and could even lead to its disappearance or relocation outside the Community.

It should be recalled that the majority of the companies operating in the sector are SME's, mostly located in areas eligible for Community intervention under the structural funds, which constitutes a supplementary element in favour of provisional measures.

H. PROVISIONAL DUTY

(102) Given the wide variety of handbags, measures should take the form of an ad valorem duty. For the purpose of establishing the level of this duty, the Commission took account of the dumping margin established and of the amount of the duty necessary to eliminate the injury sustained by the Community industry.

(103) In assessing the injury elimination level, the Commission took account of the fact that dumped imports from the People's Republic of China have significantly undercut Community producer's prices, eroding profitability and causing a gradual reduction in employement as well as a number of company closures. Consequently, the removal of injury would require that export prices of handbags originating in the People's Republic of China be increased to a sufficient degree to allow the Community industry to cover its costs and achieve a reasonable profit.

(104) The investigation has established that a profit margin of 5 % should be regarded as representing an appropriate minimum, taking into account the need for long-term investment, and the amount which the Community industry could reasonably be expected to make in the absence of injurious dumping.

(105) As for the calculation of the injury threshold, i.e. price underselling, to the percentage of the undercutting found, the weighted average profit shortfall of the sample Community producers during the investigation period was added, on a category by category basis. Following the above, thus, the profit shortfall was 3,7 %. The weighted average injury margin amounts, therefore, to 32 %. Expressed as a percentage of the free-at-the-Community-frontier price the injury margin amounts to 39,2 %.

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

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

— For Lee & Man, the injury margin amounts to 30,7 %.

(107) 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 39,2 %.

For the companies which were granted individual treatment, the anti-dumping duty should amount to the following:

— Jane Shilton: nil

— Lee & Man: 30,7 %.

I. FINAL PROVISION

(108) In the interest of a sound administration, a period should be fixed, within which interested parties known to be concerned may make their views known 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 Community may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of handbags falling within CN codes 4202 22 10, 4202 22 90 and 4202 21 00, originating in the People's Republic of China.

2. The rate of the provisional anti-dumping duty on the basis of the net, free-at-Community-frontier price, before duty, shall be as follows:

Country	Products manufactured by	Rate of duty (%)	Taric additional code
People's Republic of China	All companies with the exception of:	39,2	8900
	— Lee & Man Handbags Manufacturing Ltd	30,7	8960
	— Jane Shilton (Pacific) Ltd	0,0	8961

3. Unless otherwise specified, the provisions in force concerning duties and other customs practices shall apply.

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

Article 2

Pursuant to Articles 20 and 21 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 one month of the entry into force of this Regulation.

Article 3

Subject to Articles 7, 9, 10 and 14 of Regulation (EC) No 384/96, Article 1 of this Regulation shall apply for a period of 6 months unless the Council adopts definitive measures before the expiry of that period.

Article 4

This Regulation shall enter into force on the day 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.

Done at Brussels, 3 February 1997.

For the Commission

Leon BRITTAN

Vice-President