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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1728/1999

of 29 July 1999

imposing a definitive anti-dumping duty on imports of synthetic fibres of polyesters originating in Taiwan and terminating the proceeding in respect of imports of synthetic fibres of polyesters originating in the Republic of Korea

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 Article 9 and Article 11 thereof,

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

Whereas:

A. PROCEDURE

1. Previous investigations

(a) *Taiwan*

(1) In December 1988 the Council, by Regulation (EEC) No 3946/88 ([2]); imposed definitive anti-dumping duties on imports of synthetic fibres of polyester (hereinafter referred to as 'PSF') originating, *inter alia,* in Taiwan.

Subsequently in September 1990, following a request lodged by the 'Association of Importers of Synthetic Polyester Fibres' as well as a request from exporters in some of the countries concerned, the Commission initiated a review of Regulation (EEC) No 3946/88, in accordance with Article 14 of Regulation (EEC) No 2423/88 ([3]). As a result of this review, in October 1992 the Council, by Regulation (EEC) No 3017/92 ([4]) modified the anti-dumping duties in force with respect, *inter alia,* to Taiwan.

(b) *Republic of Korea*

(2) In January 1993 the Council, by Regulation (EEC) No 54/93 ([5]) imposed definitive anti-dumping duties on imports of PSF originating, *inter alia,* in the Republic of Korea (hereinafter referred to as 'Korea').

(c) *Measures in for against other countries*

(3) The Council, by Regulation (EEC) No 3017/92, modified the anti-dumping measures against, *inter alia,* Romania, Turkey, the Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia and repealed the measures on imports from Mexico and the United States of America. The anti-dumping measures for the remaining abovementioned countries lapsed on 23 October 1997. Finally, the Council, by Regulation (EC) No 1490/96 ([6]), imposed definitive anti-dumping measures on imports of PSF originating in Belarus. In conclusion, the anti-dumping measures presently in force concern imports originating in Taiwan, Korea and Belarus.

2. Request for review

(4) Following the publication of two notices of impending expiry of the anti-dumping measures in force on imports of PSF originating, *inter alia,* in Taiwan ([7]) and, *inter alia,* in Korea ([8]), the Commission received, in July and August 1997 respectively, requests to review the measures concerning these two countries pursuant to Article 11(2) of Council Regulation (EC) No 384/96 (hereinafter referred to as the 'Basic Regulation') in respect of the two abovementioned countries.

The requests were lodged by the 'International Rayon and Synthetic Fibres Committee' (IRSFC) acting on behalf of Community producers whose collective output constitutes a major proportion of the total Community production of the product concerned.

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/1998 (OJ L 128, 30.4.1998, p. 18).
([2]) OJ L 348, 17.12.1988, p. 49.
([3]) OJ L 209, 2.8.1988, p. 1.
([4]) OJ L 306, 22.10.1992, p. 1.
([5]) OJ L 9, 15.1.1993, p. 2.
([6]) OJ L 189, 30.7.1996, p. 13.
([7]) OJ C 125, 22.4.1997, p. 4.
([8]) OJ C 213, 15.7.1997, p. 4.

(5) The requests were based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry. Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation [1] pursuant to Article 11(2) of the Basic Regulation. Although the requests for expiry reviews were lodged in the framework of two distinct proceedings they concern imports of the same product. Therefore both reviews have been joined for reasons of good administration into one investigation.

3. **Investigation**

(6) The Commission officially advised the Community producers supporting the review request, the exporting producers, importers and users known to be concerned as well as the representatives of the exporting countries, and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(7) The Commission sent questionnaires to the parties known to be concerned and received replies from eight Community producers, from four Taiwanese and five Korean exporting producers. The Commission also sent questionnaires to a large number of economic operators understood to be or to represent purchasers, users and importers of PSF in the Community. Only two user associations replied.

(8) The Commission sought and verified all information it deemed necessary for the purposes of a determination of dumping, injury and Community interest. Verifications were carried out at the premises of the following companies:

(a) *Exporting producers:*

— TAIWAN

— Nan Ya Plastics Corporation, Taipei,

— Shingkong Synthetic Fibres Corporation, Taipei,

— Tuntex Distinct Corporation, Taipei,

— Far Eastern Textile Corporation, Taipei;

— KOREA

— Saehan Industries Inc. (formerly Cheil Synthetics Textiles Inc.), Seoul,

— Daehan Synthetic Fiber Corporation, Ltd, Seoul,

— Kohap Ltd, Seoul,

— Samyang Corporation, Seoul,

— Sunkyong Industries Ltd, Seoul;

(b) *Community producers:*

— Hoechst AG, Frankfurt/Main, Germany,

— Tergal, Gauchy, France,

— Montefibre Spa, Milano, Italy,

— Catalana de Polimers, Barcelona, Spain.

(9) The investigation of dumping covered the period from 1 October 1996 to 30 September 1997 (hereinafter referred to as the 'investigation period' or 'IP'). The examination of the situation of the Community industry covered the period from 1994 up to the end of the investigation period.

(10) The present review exceeded the period of one year within which it should normally have been concluded pursuant to Article 11(5) of the Basic Regulation, due to the complexity of the investigation, and in particular due to the difficulties in obtaining and assessing data concerning the currency devaluation in the Far East and its impact on the likelihood of continuation or recurrence of injurious dumping.

(11) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the maintenance of the existing measures in respect of imports originating in Taiwan and to terminate the proceeding in respect of imports originating in Korea. They were also granted a period within which to make representations subsequent to these disclosures. The comments of the parties were considered and, where appropriate, the findings have been modified accordingly.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Description of the product concerned**

(12) The product concerned by this investigation is the same as in the previous investigations, namely synthetic staple fibres of polyester, not carded, combed or otherwise processed for spinning; it is commonly referred to as polyester synthetic fibres (PSF) and currently classifiable within CN code 5503 20 00.

This product is a basic material used at various stages of the manufacturing process of textile goods, depending on the nature of textiles concerned. Around 60 % of the Community consumption of PSF is used for spinning, that is to say manufacturing filaments for the production of textiles, after mixing or not with other fibres such as cotton or wool. Approximately 25 % is used for filling, that is to say the stuffing or padding of certain textile goods (for example cushions, car seats, jackets) while the remaining 15 % is used as such for other non-woven applications, in particular the production of carpets. The product in question is sold with different quality specifications: the A-grade corresponds to the regular quality, while the substandard grades are denominated as B and C-grades. The investigation showed that only the A-grade quality was exported to the Community. The PSF producers classify the product in different types according to their own criteria, which are mainly based on its application, thickness and length of the fibre.

[1] OJ C 321, 22.10.1997, p. 12.

(13) Taiwanese exporting producers requested that non-woven and special fibres, i.e. PSF having special features, such as conjugate hollow fibres, low-melt fibres and black fibres should be considered as a product different from the above defined product and excluded from the scope of the present investigation.

However, the investigation showed that, although there are several types of PSF having various features in order to meet specific needs, they have the same basic physical characteristics. In addition, the market of this product is in fact formed by overlapping series of PSF types with no clearly defined boundaries between them.

Accordingly, it was found that any one specific feature did not render the allegedly special PSF different and that, therefore, they all should be covered by the scope of the present proceeding.

All types of PSF were therefore considered as one single product for the purpose of this investigation.

2. **Like product**

(14) The investigation showed that the various types of PSF manufactured and sold on the Taiwanese and Korean market, despite minor differences in length, thickness or quality, were alike to the PSF types exported from these countries to the Community, in the meaning of Article 1(4) of the Basic Regulation.

(15) Taiwanese exporting producers alleged that their exports consisted mainly of non-woven or specialty fiber which are not widely produced by the Community industry and clearly differ in all aspects from the PSF produced by the Community industry, which allegedly consists mostly of regular spinning and hollow fibres. The investigation has shown that specialty fibres represent only a minor part of Taiwanese exports to the Community, while the vast majority of these exports consist of spinning and hollow fiber. Moreover, there is also significant Community production of specialty and non-woven fibres. In any event, as stated in recital 13 it has been established in this investigation that non-woven and specialty fibres form a single product together with the rest of the PSF types.

Consequently, the PSF types exported from Taiwan and Korea to the Community were alike to the PSF types produced by the Community producers and sold within the Community market in the meaning of Article 1(4) of the Basic Regulation.

C. **DUMPING AND LIKELIHOOD OF RECURRENCE OF DUMPING**

1. **Preliminary remarks**

(16) In accordance with Article 11(2) of the Basic Regulation, the purpose of the present review was to determine whether or not the expiry of the measures would lead to a continuation or recurrence of dumping, in particular by examining whether dumping continued to take place after the adoption of anti-dumping measures.

(a) *Taiwan*

(17) Out of the five Taiwanese exporting producers who replied to the questionnaire, one declared no exports to the Community for the investigation period and stated its availability to cooperate in the investigation. Moreover two exporting producers, Tuntex Distinct Corporation and Shingkong Synthetic Fibres Corporation, had exports to the Community for less than 100 tonnes each during the investigation period. Given the low volume of the exports made by these two Taiwanese companies and hence the lack of representativeness of their corresponding export prices, it has not been considered appropriate to calculate, on this basis, the dumping margin for these two companies.

(b) *Korea*

(18) All five Korean exporting producers who replied to the questionnaire had made significant exports of PSF to the Community in the investigation period.

2. **Normal value**

(a) *Taiwan*

(19) For the reasons given in recital 17, normal values have been established only for two Taiwanese exporting producers, which accounted for virtually the totality of the Taiwanese exports of PSF to the Community during the investigation period. In both cases, normal value has been determined for each type of PSF produced by the companies in question and exported to the Community.

In the case of one exporting producer normal value per product type was entirely based on the prices paid in the ordinary course of trade by independent customers in the domestic market with regard to sales made in representative quantities, in accordance with Article 2(1) and 2(2) of the Basic Regulation.

For the other exporting producer it was found that there were no or insufficient domestic sales of the like product in respect of some types of PSF exported to the Community. In these cases, and since prices of the other cooperating exporting producer could not be used, normal value was constructed on the basis of the costs of manufacturing of these types of PSF plus a reasonable

amount for selling, general and administrative cost and for profit, in accordance to Article 2(3) of the Basic Regulation. In order to determine the reasonable amount for selling, general and administrative cost and for profit the actual data pertaining to production and sales, in the ordinary course of trade, of the like product by this exporting producer have been used, in accordance with Article 2(6) of the Basic Regulation. Normal value for the remaining exported product types was based on the prices paid in the ordinary course of trade by independent customers in the domestic market, in accordance with Article 2(1) and 2(2) of the Basic Regulation, since domestic sales both overall and for the types in question were made in representative quantities.

(b) *Korea*

(20) Normal value was based on the prices paid in the ordinary course of trade by independent customers in the domestic market with regard to sales made in representative quantities, in accordance with Article 2(1)) and 2(2) of the Basic Regulation. For product types which were not sold in representative quantities or not in fine ordinary course of trade on the domestic market, the normal value has been constructed in accordance with Article 2(3) of the Basic Regulation since prices of other cooperating exporting producer could not be used. In this respect, selling, general and administrative costs and profits have been established in accordance to Article 2(6) of the Basic Regulation in the same way as for Taiwan.

3. **Export price**

(21) For exporting producers from both countries export prices were established on the basis of the prices actually paid by independent buyers in the Community in accordance with Article 2(8) of the Basic Regulation.

4. **Comparison**

(22) For the purpose of ensuring a fair comparison between normal value and export price, account was taken of differences in factors which were claimed and demonstrated to affect comparability in accordance with Article 2(10) of the Basic Regulation. In this respect, adjustments were made for inland and ocean freight, insurance, handling, loading and ancillary costs, credit costs, commissions and import charges.

Two Taiwanese exporting producers submitted and demonstrated that a quantity discount was granted to the domestic customers buying more than a certain volume of PSF per year. These exporting producers alleged that all Community customers benefited from the same discount, though not indicated in the invoice, by reason of their purchase quantities in excess to the quantity above which a discount was granted. Therefore, to ensure a fair comparison, an adjustment corresponding to the discount granted to the large domestic customers has been claimed for the small domestic customers.

In this respect, it is noted that an adjustment for quantities pursuant to Article 2(10)(c) of the Basic Regulation can only be granted in respect of any price reductions actually given for the purchase of different quantities. Moreover, it was found that not all Community customers purchased a quantity of the product in question in excess to that which would have entitled to the quantity discount during the investigation period. On the contrary, the share of export sales to small customers in the Community was very close to that of domestic sales to small customers, which indicates that both the domestic and the export market, have a similar pattern in terms of customers. Consequently, only the allowance for the quantity discount which was actually granted by the exporting producers to their large domestic customers is justified in view of a fair comparison.

5. **Dumping margin**

(23) The weighted average normal value per type of PSF was compared to the weighted average export price of the corresponding type, in accordance with Article 2(11) of-the Basic Regulation, on an ex-work basis and at the same level of trade.

The comparison showed the existence of dumping for the two Taiwanese and for four of the Korean exporting producers investigated, the dumping margin being equal to the amount by which normal value, so established, exceeded the price for export to the Community.

(24) The weighted average dumping margin, as a percentage of the CIF Community-frontier import price, is significant for the two Taiwanese exporting producers, Far Eastern Textile Corporation and Nan Ya Plastics Corporation, covering virtually the total of the Taiwanese exports to the Community. Given the pricing policy followed by the two exporting producers in question it can be concluded that dumping would continue or even increase if the measures would be removed. No dumping margin has been calculated for the other three co-operating Taiwanese exporting producers for the reasons given in recital 17. However, the Commission examined the likelihood of dumping to recur in case the measures were removed. On the basis of the information received from two of the Taiwanese companies representing the great majority of the total sales volume, it has been found that their exports to countries other than the Community are made at dumped prices. As these exports represent the major part of these companies' sales, it can be concluded that given their pricing policy for exports, dumped exports to the Community market are likely to resume should the measures lapse.

(25) Taiwanese exporting producers submitted that any margin of dumping is offset by the devaluation of the Taiwanese currency (NT$) against the USD which occured after the investigation period. It was further alleged that the level of the NT$ against the USD in the

first quarter 1998 is expected to remain stable for the coming years and that the decrease of the price in USD of PTA, the main raw material for the production of PSF which the companies concerned buy in USD, has more than compensated for the depreciation of the Taiwanese currency against the USD.

The issue was examined. Indeed the depreciation of the NT$ against the USD, i.e. the currency in which the export prices to the Community are generally denominated, amounted to almost 17 % during the first quarter of 1998 in respect of the average found during the investigation period. However, a recovery of the NT$ was observed in the rest of 1998 so that the depreciation recorded at the beginning of 1999 was limited to 14 %. Moreover, in the year 2000 a further reduction of the depreciation to less than 10 % (as compared to the level prevailing in the investigation period) is expected according to financial forecasts submitted by the exporting producers. According to the same forecasts this recovery trend of the NT$ is poised to continue in the following years. Hence, given the fluctuating nature of the depreciation of the NT$, the argument put forward by the Taiwanese exporting producers cannot be accepted. In any event, it has to be noted that by the very nature of exchange rate changes these can not be foreseen with any reliability and changes that have occurred in the past are not necessarily a guide to the future.

(26) With regard to Korea, the following should be noted: the measures under review are based on dumping margins determined in the previous investigation and these margins, with the exception of the residual dumping margin, would be considered as *de minimis* under the current Basic Regulation. The level of the original margins was low and that situation has not changed. Indeed, in this investigation, the weighted average dumping margin established, expressed as a percentage of the cif Community frontier import price, was 1,8 %. Finally, no indication was found-that the removal of the existing measures would lead to a change of this situation in the foreseeable future. It was therefore concluded that there was no likelihood of recurrence of dumping.

D. **COMMUNITY INDUSTRY**

(27) Two of the nine Community producers supporting the review request did not cooperate during the the investigation. The investigation showed that the share of the total Community production held by the seven co-operating Community producers supporting the review request, during the investigation period amounted to more than 65 % of total Community production of the product concerned. Therefore, these producers constitute the Community industry within the meaning of Article 4(1) of the Basic Regulation. Hereinafter, these co-operating Community producers are referred to as the 'Community industry'.

E. **ANALYSIS OF THE SITUATION IN THE COMMUNITY MARKET**

1. **Consumption in the Community**

(28) Community consumption was based on the combined volume of sales into the Community market of the Community industry, sales of the remaining non-cooperating Community producers and Eurostat information on volume of total imports. The volume of sales of the Community producers not co-operating in the proceeding was determined, on the basis of available information, at around 30 % of the total sales of all Community producers.

On the above basis, Community consumption of PSF followed overall a slight decreasing tendency over the period considered: it went from 540 000 tonnes in 1994 to 490 000 tonnes in 1995 and, after a temporary fall back to 460 000tonnes in 1996, to 520 000 tonnes during the investigation period, which represents an overall decrease of 3 % over the period considered.

2. **Imports in the Community from Taiwan and Korea**

(a) *Imports from Korea*

(29) It was concluded that the situation on the Community PSF market with respect to imports originating in Korea-should not be analysed, due to the conclusion reached on dumping and likelihood of recurrence of dumping with regard to these imports.

(b) *Volume, value and market share of imports from Taiwan*

(30) The volume of imports from Taiwan increased from around 8 000 tonnes in 1994 to around 27 000 tonnes during the investigation period, representing an increase of around 240 %. The value of imports from Taiwan increased from ECU 9,9 million in 1994 to ECU 29,3 million during the investigation period, representing an increase of 196 %.

In terms of market share, based on total Community consumption, the market penetration of the dumped imports from Taiwan rose from 1,5 % to 5,3 during the investigation period in volume terms — an increase of 253 %.

(c) *Prices of imports from Taiwan*

(31) Prices of the imports from Taiwan decreased from 1994 to the investigation period by 14 %. It should be noted that these prices were found to be lower than those of the Community industry over the whole period considered.

(d) *Price undercutting of imports from Taiwan*

(32) For the determination of price undercutting, data referring to the investigation period were analysed. Price undercutting was established on the basis of a comparison of the export price with prices charged by the Community industry at the same level of trade. The sales prices of the Community industry considered were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding transport costs. Adjustments were made to the exporting producers' selling prices (cif Community frontier) to take account of customs and anti-dumping duty paid: All prices were compared after excluding discounts and rebates.

(33) The results of the comparison (on a weighted-average to weighted-average basis) showed for imports from Taiwan a weighted average price undercutting margin, expressed as a percentage of the Community industry's average selling prices, of 167 %.

This is to be compared with the undercutting found in the previous investigation which ranged from 22 % to 30 % for Taiwan.

The exporting producers' undercutting level, on an average basis, remained important, despite a certain upward effect on import prices of the antidumping measures in force.

3. **Economic situation of the Community industry**

(a) *Preliminary remarks*

(34) The examination of the situation of the Community industry covers the period from 1994 to the end of the investigation period. It should be noted that during this period anti-dumping measures as mentioned in recital 1 and following were in force with a resulting effect on the Community industry.

(b) *Production, capacity and capacity utilisation*

(35) Production of the Community industry decreased during the period considered, going from around 374 000 tonnes in 1994 to around 343 000 tonnes in the investigation period. This decrease reflected the closure of production facilities of a number of companies of the Community industry. This represents an overall decrease of 8 %. Production levels decreased at a higher rate than Community consumption; which decreased by 3 % during the period considered.

(36) As regards capacity, it should be noted that the production facilities for PSF are also used in the production of other products not concerned by the present proceedings, e.g. tow and tops. As a consequence, the capacity normally attributed to the production of the product concerned by the Community industry was estimated. It was found that capacity decreased from 432 300 tonnes in 1994 to 401 500 tonnes during the investigation period, which represents a decrease of 7 %. This is broadly in line with the reduction of production as outlined in the preceding recital. The rate of capacity utilisation decreased slightly during the period considered going from 86,6 % in 1994 to 85,7 % in the investigation period.

(c) *Sales volume of the Community industry*

(37) The volume of sales of the Community industry on the Community market decreased during the period considered, with the sales levels at 330 000 tonnes in 1994 and 295 000 tonnes in the investigation period. This represents an overall decrease of 11 %. This trend shows that the sales of the Community industry did not follow the trend in consumption, which decreased by 3 during the period considered.

(d) *Market share*

(38) The development of sales volume compared to that of Communit consumption shows that the market share held by the Community industry decreased during the period considered. The market share of the Communit industry decreased from 61 % in 1994 to 60 % in 1995, 59 % in 1996 and 56 % in the investigation period. The overall loss of market share was five percentage points between 1994 and the investigation period.

(e) *Stocks*

(39) Stocks significantly increased by 33 % between 1994 and the investigation period.

(f) *Average sales price and price evolution*

(40) The weighted average prices of the product concerned sold by the Community industry on the Community market fluctuated over the period considered, and overall they increased by 3 %.

It should be noted that prices of PSF have been influenced for all operators on the market by the evolution of prices of the basic raw materials like pure terephthalic acid (PTA), dimethylterephthalate (DMT) and glycol, representing about 60 to 70 % of the cost of production of the finished product. Indeed, essentially, due to a worldwide shortage of these raw materials, starting at the end of 1993 and continuing into 1994 and 1995 prices increased, reflected in a corresponding increase in the cost of production. Nevertheless, the trend experienced for the prices of these raw materials reversed from 1995 onwards.

(g) *Profitability*

(41) In 1994, the Community industry incurred a weighted average loss of 3,5 %, expressed as a percentage of net sales. Subsequently, the financial situation improved, especially during 1995 (profit of 7,5 %). This resulted partially from the fact that all operators on the Community market were able to raise their prices after an increase in the raw material costs (see recital 40), and the Community industry could improve its financial situation due to a reduction in overhead costs. It should be noted however, that the Community industry showed a downward trend of its financial results, from 1995 onwards, going from a profit of 7,5 % to a profit of 5,6 % in the investigation period.

(h) *Investment*

(42) Yearly investments made by the Community industry were important during the period under investigation, going from ECU 58 million in 1994, to ECU 44 million in 1995, with a peak in 1996 of ECU 81 million. During the investigation period investment amounted to ECU 14 million. It should be noted that this significant effort represents, for the most part, investments in replacement machinery as part of an overall-restructuring pogram.

(i) *Employment*

(43) Due to a certain degree of reduction in production capacity and restructuring, employment went down from around 2 300 in 1994 to around 2 000 during the investigation period, i.e. by 9,2 %.

4. **Conclusion on the situation of the Community industry**

(44) The above analysis has revealed that the economic indicators such as production, capacity utilisation, sales and stocks continued to show negative trends. Although this has to be seen in the context of slightly contracting consumption, it has to be borne in mind that the Community industry lost market share during this period. Furthermore, the investigation has shown that the Community industry has suffered significant price pressure and substantial price undercutting has been established for imports originating in Taiwan.

(45) As far as the financial situation of the Community industry is concerned, it should be noted that profits were made in 1995 after the increase of the prices of the raw material and the initiation of an anti-dumping investigation against imports from Belarus. Nevertheless, the Community industry showed a downward trend of its financial results from 1995 onwards, coinciding with the increased presence of imports from Taiwan filling the vacuum left by imports from Belarus.

(46) In the light of the foregoing analysis, it was concluded that the Community industry has continued to be in a weak economic situation.

F. **LIKELIHOOD OF RECURRENCE OF INJURY**

(47) Further to the analysis of the existence of dumping as well as the likelihood of recurrence of dumping with respect to imports originating in Taiwan and the analysis of the situation of the Community industry, it was examined whether there was a likelihood of recurrence of injury, should the measures applicable to the imports from Taiwan be removed.

1. **Analysis of the situation of the exporting country producers concerned**

(48) It has been found that from 1995 to the investigation period total production capacity in Taiwan has increased by 21,3 % i.e. 135 000 tonnes. Taiwanese exporting producers foresee to further increase their production capacity and capacity utilization to a level above 90 % in 1998, leading to a further increase of production of 30 000 tonnes.

(49) It was also found that the volume of imports originating in Taiwan increased substantially between 1994 and the investigation period (+242 %), despite the anti-dumping measures in force. It should be noted that, between 1995 and 1996, the volume of these imports into the Community almost doubled and between 1994 and the investigation period more than tripled. The corresponding market share increased significantly between 1994 and the investigation period from 1,5 % to 5,3 %. Furthermore, it has been established that during the investigation period these imports were made at prices significantly undercutting (167 %) those of the Community industry.

2. **Impact of imports from Taiwan in the absence of anti-dumping measures**

(50) Concerning the recurrence of injurious dumping, it was considered that the prices obtained in the absence of anti-dumping measures would lead to a price undercutting of 24,5 %. The methodology used in order to calculate this figure was the same as that described in recital 32 except that no anti-dumping duty was added to the import price.

(51) In the light of the above it is expected that imports from- Taiwan into the Community will further increase and their prices fall should the anti-dumping measures in force be removed. It was established that even with measures in force the volume of Taiwanese imports increased. Furthermore, it cannot be excluded that, in the absence of measures, the relatively higher price in the Community market would constitute an incentive to redirect exports from Taiwan which at present are shipped to other third countries, into the Community market.

(52) As far as the profitability level of the Community industry is concerned, two basic hypotheses can be foreseen in the event that anti-dumping measures lapse against imports originating in Taiwan. First, the Community industry would continue to sell at the same prices, resulting in a decrease of its market share with direct consequences, in the long run, on its profitability. Second, the Community industry will drop its prices for some of its sales, where the competition of Taiwan will be most intense, resulting in a decrease of its profitability. It has been estimated that in the first scenario the Community industry would further lose 2,5 % market share, accompanied by a drop in profitability of 9,5 % in the short term. If the Community industry followed the downward trend on prices, profitability would drop from 5,6 % to 2,7 %. Consequently, in each scenario the profitability of the Community industry would suffer from dumped imports originating in Taiwan causing injury.

3. **Conclusion on recurrence of injurious dumping**

(53) During the period under investigation prices of dumped imports from Taiwan decreased by 14 %, in a period of time when Community's industry prices increased by 3 %. This had the effect that the market share of imports from Taiwan increased from 1,5 % in 1994 to 5,3 % in the investigation period, i.e. by 253 %. Furthermore, when imports from Taiwan started to fill the vacuum left by Belarus, the financial situation of the Community industry took a downward turn.

(54) The significant production capacities, some of them only recently installed, in Taiwan, the attractiveness of the prices prevailing on the Community market and the consequent risk of an export drive clearly suggest that the existing antidumping measures in respect of Taiwan should be maintained to avoid a recurrence of injurious dumping.

G. **COMMUNITY INTEREST**

1. **Introduction**

(55) It should be recalled that in the previous investigations, the adoption of measures was considered not to be against the interest of the Community. Furthermore, it should be noted that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place. Consequently, the timing and nature of the present investigation allows an assessment of any negative undue impact on the parties concerned by the anti-dumping measures imposed.

On this basis it was examined, whether, despite the conclusions on a likelihood of a continuation and recurrence of injurious dumping, it could be clearly be concluded that it is not in the Community interest to maintain measures in this particular case. For this purpose, and pursuant to Article 21(1) of the Basic Regulation, the impact of measures for all parties involved in the proceeding and also the consequences of not maintaining measures against Taiwan was considered.

2. **Interest of the Community industry**

(56) The Community industry has for almost a decade been suffering from low priced/dumped imports of PSF. The objective of the anti-dumping measures under review, to re-establish fair competition in the Community market between the Community producers and their exporting counterparts in third countries, has not been fully met as it has been shown above.

The Community industry has been making considerable efforts to improve its productivity in recent years, in an attempt to lower its cost of production and to enhance its competitiveness in this price sensitive market. The Community industry deployed particular efforts of rationalisation during the investigated period. One Community producer shut down two production facilities in an effort to reduce costs and to improve its productivity.

In view of the situation of the Community industry, in particular the fact that it was prevented from fully recovering from the economic difficulties resulting from dumped imports, it is considered that, in the absence of measures, the further deterioration of the situation of the Community industry is quite probable. This could entail a severe reduction in employment and may ultimately lead to a reduction of the number of producers in the Community.

Furthermore, the ongoing restructuring efforts made by the Community industry show that it is not ready to abandon this segment of production. The maintaining of anti-dumping measures would therefore be in the interest of the Community industry.

3. **Impact on users**

(57) No Community user answered to the questionnaire sent by the Commission during the current investigation. No evidence was provided on the incidence of the measures in force, in their cost of production. Consequently, no analysis could be carried out concerning the impact of the measures in force on the cost of production of users.

(58) Two Community user associations submitted information and requested the termination of the measures. In this submissions it was argued that the Community industry was not able to meet the demand. Moreover, certain users of one type of PSF, i.e. fiberfill, informed the Commission that the major Community producer of this type was not in a position to meet their needs. Nevertheless, it seems that no particular shortage occurred on the Community market during the period examined. The aim of anti-dumping measures is not to foreclose the Community market from imports, but rather to level the unfair trade practices and to prevent the distorting effects of dumped and injurious i/nports. In this specific case, it seems that the measures did not prevent imports to enter the Community market. As it was already mentioned imports from Taiwan increased significantly during the period under investigation.

Furthermore, it was found that, in view of the fact that the Community industry has a significant production capacity, and given the presence of other suppliers located outside of the Community, the risk of a general supply shortage is very low, if not non-existant.

(59) Furthermore, some interested parties argued that the international competitive position of products incorporating PSF, produced in the Community, is jeopardised by the continuation or re-imposition of the anti-dumping measures. This argument cannot be accepted because PSF used for the production in the Community of products for export can enter the Community without any duty under the inward processing arrangements. Moreover, these interested parties had the opportunity, due to the fact that the anti-dumping measures under review are in force for at least five years, to submit evidence about the incidence of the measures on their cost of production and their international competitiveness, but no information in this respect was received.

On the basis of the above, and since the measures have been in place for a certain period, and would be maintained at the same level, it can be concluded that this would not imply a deterioration, if at all, of the situation of the users.

4. **Consequence for competition in the Community market**

(60) It has been claimed that the level of competition on the Community PSF market would be affected by the continuation of the anti-dumping duty since it would create a stronger position for the Community industry.

As far as the competitive environment in the Community market is concerned, the measures in force are not such as to foreclose the Community market to the exporting producers under review. Therefore, they will allow the continued presence of these exporting producers in the market. It should be recalled that the user industries and other economic operators have always enjoyed the presence of a wide range of competitors in the market.

Thus, the benefit of a market driven by a number of suppliers would still be available for users of the product concerned.

5. **Conclusion**

(61) On the basis of the above facts and considerations in particular, and having examined the arguments submitted by the Community industry and users associations of the product concerned, it was concluded, that there were no compelling reasons not to maintain the measures in force concerning imports from Taiwan.

H. **TERMINATION OF THE PROCEEDING IN RESPECT OF KOREA**

(62) In view of the findings set out above in recital 26, the anti-dumping measures currently in force against Korea are no longer warranted. In accordance with Article 11 in conjunction with Article 9 of the Basic Regulation, where, after consultation, protective measures are unnecessary and there is no objection raised within the Advisory Committee, the investigation or proceeding shall be terminated.

(63) In the light of the above, the Commission has concluded that the continuation of protective measures currently in force against Korea is unnecessary and that the proceeding should be terminated

I. **ANTI-DUMPING MEASURES**

(64) It follows from the above that, as provided for by Article 11 (2) of the Basic Regulation, the anti-dumping duties on imports of PSF originating in Taiwan imposed by Regulations (EEC) No 3017/92 should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of synthetic fibres of polyesters, not carded, combed or otherwise processed for spinning, currently classifiable within CN code 5503 20 00 and originating in Taiwan.

2. The duty, calculated on the basis of the net free-at-Community-frontier price of the product; before duty, shall be 13 % for synthetic fibres of polyesters originating in Taiwan (additional taric code 8195), except for synthetic fibres of polyesters produced by the companies listed below, to which the following rates shall apply:

— Far Eastern Textile Ltd, Taipei (additional taric code 8192)	6,8 %
— Nan Ya Plastics Corporation, Taipei (additional taric code 8193)	5,9 %
— Shingkong Synthetic Fibres Co., Taipei (additional taric code 8194)	13,0 %

Article 2

The anti-dumping proceeding concerning imports of synthetic fibres of polyesters originating in the Republic of Korea is hereby terminated.

Article 3

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

Article 4

This Regulation shall enter into force on the day following is 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, 29 July 1999.

For the Council

The President

S. HASSI