COMMISSION REGULATION (EC) No 1742/2000

of 4 August 2000

imposing a provisional anti-dumping duty on imports of certain polyethylene terephthalate (PET) originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 905/98 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 6 November 1999, the Commission announced by a notice ('Notice of Initiation') published in the Official Journal of the European Communities [3] the initiation of an anti-dumping proceeding with regard to imports into the Community of certain polyethylene terephthalate originating in India, Indonesia, Malaysia, the Republic of Korea ('Korea'), Taiwan and Thailand.

(2) The proceeding was initiated as a result of a complaint lodged in September 1999 by the Association of Plastic Manufacturers in Europe (A.P.M.E.) ('complainant') on behalf of producers representing 85 % of the Community production of polyethylene terephthalate. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) In November 1999 the Commission initiated an anti-subsidy investigation concerning imports of the same product originating in India, Indonesia, Korea, Malaysia, Taiwan and Thailand [4].

(4) The Commission officially advised the exporting producers and importers/traders known to be concerned as well as their associations, the representatives of the exporting countries concerned, users, suppliers 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 in the Notice of Initiation.

(5) A number of exporting producers in the countries concerned, as well as Community producers, Community users and importers/traders made their views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard were granted the opportunity to be heard.

(6) The Commission sent questionnaires to parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the Notice of Initiation. Replies were received from nine Community producers, 17 exporting producers in the countries concerned, as well as from three importers in the Community related to exporting producers. The Commission also received replies from three unrelated importers/traders in the Community as well as from nine users, five suppliers and five professional associations. The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, injury and Community interest. Verification visits were carried out at the premises of the following companies:

1. *Community producers*
   - — Du Pont Polyesters Ltd (UK)
   - — Eastman Chemicals BV (The Netherlands)
   - — INCA International SpA (Italy)
   - — Italpet Preforme SpA (Italy)
   - — KOSA GmbH (Germany)
   - — Shell Chemicals Ltd (UK)
   - — Wellman PET Resins Europe (The Netherlands)
   - — Aussapol SpA (Italy)
   - — CEP-Tergal Fibre (France)
2. *Unrelated Importers in the Community*
   - — Polytrade GmbH (Germany)
   - — Global Services International (Italy)
3. *Users*
   - — Crown Cork and Seals - European division (France)
   - — Guala Closures, Polybox Group (Italy)
   - — Evian - Volvic, Danone Group (France)
   - — Perrier Vittel M.T, Nestlé Group (France)
   - — Cott Beverages Ltd. (UK)

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 128, 30.4.1998, p. 18.
[3] OJ C 319, 6.11.1999, p. 4.
[4] OJ C 319, 6.11.1999, p. 2.

4. *Suppliers*

— BP Amoco Chemicals Ltd (UK)

5. *Exporting producers*

India

— Reliance Industries Ltd - Mumbai

— Pearl Engineering Polymers Limited - New Delhi

Indonesia

— P.T. Bakrie Kasei Corporation — Jakarta

— P.T. Indorama Synthetics Tbk — Jakarta

— P.T. Polypet Karyapersada — Jakarta

Malaysia

— Hualon Corporation - Kuala Lumpur

— MPI Polyester Industries - Shah Alam

Korea

— Honam Petrochemical Corporation — Seoul

— Tongkook Corporation — Seoul

— Daehan Synthetic Fiber Corporation — Seoul

— SK Chemicals Corporation — Seoul

Taiwan

— Tuntex Distinct Corporation — Taipei

— Shinkong Synthetic Fibers Corporation — Taipei

— Far Eastern Textile Ltd. — Taipei

— Nan Ya Plastics Corporation — Taipei

Thailand

— Thai Shingkong Industry Corporation Limited — Bangkok

(7) The investigation of dumping and injury covered the period from 1 October 1998 to 30 September 1999 ('investigation period' or 'IP'). The examination of trends in the context of the injury analysis covered the period from 1 January 1996 up to the end of the investigation period ('analysis period').

2. **Product concerned and like product**

Product concerned

(8) The product concerned is polyethylene terephthalate normally used in the plastic industry, for the production of bottles and sheet. There is also another kind of polyethylene terephthalate for use in polyester fibre production. The production process of the two kinds of polyethylene terephthalate is identical up to a certain stage since they are both produced by the polycondensation of purified terephtalic acid (PTA) or dimethyl terephthalate with mono ethylene glycol (MEG). Polyethylene terephthalate for use in the plastics industry is polymerised in a similar way to that for polyester fibre production, in some cases in common facilities. The difference between the two kinds of polyethylene terephthalate is primarily determined by the fact that the product concerned undergoes a further process called 'solid state processing' which increases its 'intrinsic viscosity' value (IV value or ItV value). It is thus the level of IV that differentiates the product concerned from the polyethylene terephthalate used in the polyester fibre industry. Polyethylene terephthalate with an IV value below 0,7 is used for the production of polyester fibre and is thus not concerned by this anti-dumping investigation.

(9) The viscosity of polyethylene terephthalate may also be expressed in a different form, namely in terms of the 'coefficient of viscosity' or 'viscosity number'. During the investigation it was found that the equivalent of an IV value of 0,7 is a coefficient of viscosity of 78 ml/g as measured by tests performed according to DIN 53728 and not, as indicated by the complainant, a coefficient of 173. This value resulted from the incorrect use of the test standard DIN 53728 in a report issued by Hoechst in 1991. Consequently the Commission has decided to use the corresponding value of 78 ml/g or higher that, according to the correctly applied DIN 53728 test, is the coefficient of viscosity for the type of polyethylene terephthalate used in the production of plastic bottles and sheets.

(10) In view of the above, the product concerned is polyethylene terephthalate with a coefficient of viscosity of 78 ml/g or higher, corresponding to an intrinsic viscosity value of 0,7 or higher ('PET' or 'polyethylene terephthalate') imported under CN code 3907 60 20 and CN code ex 3907 60 80.

(11) The investigation has shown that there are a number of different types of PET, which were defined by a variety of factors such as viscosity, additives, melting behaviour, etc, although they all share the same basic characteristics and uses.

Like product

(12) The Commission found that PET produced by the Community producers and sold on the Community market is a like product to PET produced in the countries concerned and exported to the Community, since there are no differences in the basic characteristics and uses. The same is true with regard to PET sold on the domestic market of the exporting countries and PET exported to the Community. Therefore, these products are alike within the meaning of Article 1(4) of the Regulation (EC) No 384/96 ('Basic Regulation').

B. **DUMPING**

1. **General methodology**

(13) The general methodology set out hereinafter has been applied for all exporting countries concerned. The presentation of the findings on dumping for each of the six countries concerned therefore only describes what is specific for each exporting country.

Normal value

(14) As far as the determination of normal value is concerned, the Commission first established, for each exporting producer, whether its total domestic sales of PET were representative in comparison with its total export sales of the product concerned to the Community. In accordance with Article 2(2) of the Basic Regulation, domestic sales of an exporting producer were considered representative when the total domestic sales volume was at least 5 % of its total export sales volume to the Community.

(15) The Commission subsequently identified those types of PET sold domestically by the companies having overall representative domestic sales that were identical or directly comparable to the types sold for export to the Community.

(16) For each of these types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the Basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of PET of that type during the IP represented 5 % or more of the total sales volume of PET of the comparable type exported to the Community.

(17) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where the sales volume sold at a net sales price equal to or above the calculated cost of production (also referred to as 'profitable sales') represented 80 % or more of the total sales volume and where the weighted average price of that type was equal to or above cost of production, normal value was based on the weighted average of the prices of all domestic sales made during the IP, irrespective of whether all these sales were profitable or not. In cases where the volume of profitable sales represented less than 80 % but 10 % or more of the total sales volume, normal value was based on the weighted average price of profitable sales only.

(18) In cases where the volume of profitable sales of any type of PET represented less than 10 % of the total sales volume, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value.

(19) Wherever domestic prices of a particular type sold by an exporting producer could not be used, constructed normal value had to be used in preference to domestic prices of other exporting producers. Due to the number of different types and the variety of factors (such as viscosity, additives, melting behaviour, etc) affecting them, using domestic prices of other exporting producers would have meant in this case making numerous adjustments, most of which would have had to be based on estimates. It was therefore considered that constructed value of each exporting producer formed a more appropriate basis to establish normal value.

(20) Consequently, in accordance with Article 2(3) of the Basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types, adjusted where necessary, a reasonable percentage for selling, general and administrative expenses ('SG&A') and a reasonable margin of profit. To this end, the Commission examined whether the SG&A incurred and the profit realised by each of the exporting producers concerned on the domestic market constituted reliable data.

(21) Actual domestic SG&A expenses were considered reliable when the total domestic sales volume of the company concerned could be regarded as representative when compared to the volume of export sales to the Community. The domestic profit margin was determined on the basis of domestic sales of those types which were sold in the ordinary course of trade. For this purpose, the methodology set out in recital (17) was applied. Where these criteria were not met, a weighted average SG&A expenses and/or profit margin of the other companies with sufficient sales in the ordinary course of trade in the country concerned was used.

Export price

(22) In all cases where PET was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the Basic Regulation, namely on the basis of export prices actually paid or payable.

(23) Where the export sale was made to a related importer, the export price was constructed pursuant to Article 2(9) of the Basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer. In such cases, adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price. This profit was set at 5 %. This was considered to be reasonable for the function performed by the parties concerned.

Comparison

(24) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation.

Dumping margin for the companies investigated

(25) According to Article 2(11) of the Basic Regulation, for each exporting producer the weighted average normal value by type was compared with the weighted average export price by type. However, whenever it was established that there was a pattern of export prices which differed significantly among different purchasers, regions or time periods and that the above-mentioned method did not reflect the full degree of dumping, the weighted average normal value was compared with the export prices of all individual transactions to the Community.

Residual dumping margin

(26) For non-co-operating companies, a 'residual' dumping margin was determined in accordance with Article 18 of the Basic Regulation, on the basis of the facts available.

(27) Taking into account the high level of co-operation of all countries, it was decided to set the residual dumping margin at the level of the co-operating company with the highest dumping margin in order to ensure the effectiveness of any measures.

2. **India**

(28) Two companies replied to the questionnaire for exporting producers.

Normal value

(29) One Indian company in its questionnaire reply deducted from the domestic selling prices, as set out in the invoices, an amount for sales taxes arguing it had been indirectly paid in advance. The investigation revealed that the company had in fact been exempted from sales taxes during the IP. The domestic sales listing was consequently corrected.

(30) For all types of PET exported by the Indian exporting producers except one, the Commission could establish normal value on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation.

(31) For the remaining type of PET the Commission constructed normal value in accordance with Article 2(3) of the Basic Regulation. Given that the company had sufficient domestic sales of other types of PET, the SG&A expenses and profit margin realised on these sales was used to construct the normal value.

Export price

(32) All sales for export were to independent importers in the Community. Consequently, the export price was established according to Article 2(8) of the Basic Regulation by reference to the prices actually paid or payable.

Comparison

(33) Allowances for differences in transport, insurance, handling, loading and ancillary costs, credit, commissions and duty drawback have been granted where applicable and justified.

(34) One Indian company's claim for an adjustment for duty drawback was found to be unjustified. It was established that any benefit from the duty benefit scheme would affect equally both domestic and export costs and prices. Thus, the claim could not be accepted.

(35) The same company claimed an adjustment to normal value for a so-called 'loyalty discount'. The investigation revealed that this was in fact a sales promotion expense payable to sales agents after the IP and which was conditional upon achieving specific sales targets. Moreover, this claim was related to hypothetical performances and it was not shown that the discount scheme was consistently or historically utilised. Therefore, the claimed adjustment was rejected.

(36) An allowance for salesmen's salaries on both domestic and export markets was also claimed by this company. However, it was unable to provide the requisite evidence to support this request or to show that it affected price comparability. The claim was consequently rejected on both the domestic and export side.

Dumping margin

(37) As provided by Article 2(11) of the Basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(38) The comparison showed the existence of dumping in respect of the co-operating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are

Reliance Industries Ltd.	52,6 %
Pearl Engineering Polymers Limited	30,0 %
Residual dumping margin	52,6 %

3. **Indonesia**

(39) Three companies replied to the questionnaire for exporting producers. One company in the Community related to an exporting producer and a company located outside the Community related to the same exporting producer also sent a reply.

Normal value

(40) One Indonesian company submitted misleading information within the meaning of Article 18(1) of the Basic Regulation concerning its organisation and its SG&A expenses incurred for the production and sales of the product concerned. Moreover, as the company only reported a portion of the SG&A expenses it had incurred for the production and sales of PET, it was decided, in conformity with Article 18(1) of the Basic Regulation, to disregard the expenses reported and to make use of facts available, by using the average domestic SG&A expenses established for the other two co-operating Indonesian exporting producers.

(41) Another exporting producer did not report all SG&A expenses incurred for the production and sales of the product concerned. However, given the fact that the party had acted to the best of its ability, and that the information submitted was verifiable, the Commission was able to correct the figures reported in the questionnaire on the basis of the information obtained and verified on spot.

(42) For one Indonesian exporting producer the Commission could establish for a number of product types the normal value on the basis of the domestic sales prices of comparable types in accordance with Article 2(2) of the Basic Regulation.

(43) In all other cases the Commission constructed normal value in accordance with Article 2(3) of the Basic Regulation. For one exporting producer with representative domestic sales (see recital (21)), this was done by adding to the manufacturing cost of the exported types the company's own SG&A expenses and the company's own profit. For another exporting producer, its own SG&A expenses and the profit margin of the company with sufficient sales in the ordinary course of trade on the domestic market were used. For the company for which Article 18(1) was applied, the company's own cost of manufacturing of the exported types, the average SG&A expenses of the other co-operating exporting producers, and the profit margin of the company with sufficient sales in the ordinary course of trade in Indonesia were used.

Export price

(44) All sales for export to the Community of the product concerned made by two Indonesian exporting producers were to independent customers in the Community. Consequently, the export price was established according to Article 2(8) of the Basic Regulation by reference to the prices actually paid or payable.

(45) One Indonesian exporting producer made all exports sales to independent customers in the Community via two related trading companies, of which one was located in the Community. The Commission had thus to construct the export price according to Article 2(9) of the Basic Regulation.

Comparison

(46) Allowances for differences in transport, insurance, handling, loading and ancillary costs, packing, credit and commissions have been granted where applicable and justified.

Dumping margin

(47) As provided by Article 2(11) of the Basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(48) The comparison showed the existence of dumping in respect of the co-operating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

P.T. Bakrie Kasei Corporation	63,5 %
P.T. Indorama Synthetics Tbk	15,2 %
P.T. Polypet Karyapersada	73,7 %
Residual dumping margin	73,7 %

4. **The Republic of Korea**

(49) Five companies replied to the questionnaire for exporting producers. One of these exporting producers finally decided not to co-operate because it did not allow the Commission to conduct the verification visit at its premises. Two companies related to one of the co-operating exporting producers, one in Korea and one in the Community, replied to the questionnaire intended for related companies.

Normal value

(50) For two Korean exporting producers, some reported cost items had to be corrected pursuant to Article 2(5) of the Basic Regulation.

(51) For all Korean exporting producers except one, the Commission could establish normal value on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation.

(52) For one company the Commission constructed normal value in accordance with Article 2(3) of the Basic Regulation. For that exporting producer, having representative domestic sales, albeit not in the ordinary course of trade, the Commission used its own SG&A expenses and the weighted average profit margin of the other Korean companies with sufficient sales in the ordinary course of trade.

Export price

(53) All sales of the product concerned made by three Korean exporting producers were made directly to independent customers to the Community, therefore the export price was established according to Article 2(8) of the Basic Regulation.

(54) One Korean exporting producer made export sales to the Community both directly to independent customers and via a related importer in the Community. Consequently, for the latter a constructed export price has been established pursuant to Article 2(9) of the Basic Regulation while the export price for the remaining sales was determined pursuant to Article 2(8) of the Basic Regulation.

(55) One Korean company claimed that export prices of sample sales should not be used in order to determine the export price. However, the verification has shown that the quantities of some of these so-called samples were higher than those of normal commercial transactions and that such sales were part of a marketing strategy in order to gain market share. It was therefore considered justified to include the export sample sales, with the exception of those which were clearly not made in normal commercial quantities.

Comparison

(56) Allowances for differences in transport, insurance, handling, loading and ancillary costs, credit, packing, commissions and import charges and indirect taxes (duty drawback) were granted where applicable and justified.

(57) Three Korean exporting producers claimed an adjustment to the normal value for credit costs. However, the companies sold the product concerned to their domestic customers under the so-called 'open account' system used on the Korean domestic market. Payment terms were not agreed at the time of sale or when previously agreed, they were actually ignored. Therefore, no adjustment could be granted in accordance with Article 2(10) of the Basic Regulation.

(58) Three exporting producers claimed an adjustment to the normal value for duty drawback. The verification revealed that the first company also benefited from duty drawback for part of its domestic sales. In the absence of a factor affecting the price comparability, these domestic sales were found to be not eligible for an allowance. The Commission reduced the allowance accordingly. The second company did not provide any evidence concerning the link between the amount of duty drawback claimed and the raw materials physically incorporated in the product during the IP. Consequently, the amount of duty drawback has been recalculated to reflect the amount of duty paid for raw materials imported during the IP. The third company provided misleading information concerning the method of calculation for their claim and an accurate quantification of the adjustment requested for duty drawback could not be established. Consequently, the allowance for duty drawback could not be granted.

(59) One company claimed an allowance for level of trade differences between domestic and export sales. The alleged different levels were not present at the domestic market. Since the company did not demonstrate consistent and distinct differences in functions relating to the different levels of trade as required by Article 2(10)(d)(ii) of the Basic Regulation, the claim had therefore to be rejected.

Dumping margin

(60) As provided by Article 2(11) of the Basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(61) For one Korean exporting producer, this method would not have reflected the full degree of dumping being practised. As moreover there was a pattern of export prices which differed significantly among different purchasers and regions, the normal value established on a weighted average basis has been compared to the prices of all individual export transactions to the Community.

(62) The comparison showed the existence of dumping in respect of the co-operating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Honam Petrochemical Corporation	19,8 %
Tongkook Corporation	55,8 %
Daehan Synthetic Fiber Corporation	5,1 %
SK Chemicals Corporation	3,2 %
Residual dumping margin	55,8 %

5. **Malaysia**

(63) Two companies replied to the questionnaire for exporting producers.

Normal value

(64) For one of the types of PET sold by one of the Malaysian exporting producers, the Commission could establish normal value on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation.

(65) For the only other type of PET sold by the above company, as well as for all types sold by the remaining company, the Commission constructed normal value in accordance with Article 2(3) of the Basic Regulation. The companies' own SG&A and profit margin were used, in accordance with Article 2(6) of the Basic Regulation.

(66) One Malaysian company incorrectly allocated certain SG&A expenses, notably finance expenses. The Commission consequently corrected the reported SG&A by reallocating the relevant expenses based on the facts determined during the verification visit.

Export price

(67) All sales of the product concerned made by the two co-operating Malaysian exporting producers on the Community market were to independent customers in the Community. Consequently, the export price was established according to Article 2(8) of the Basic Regulation by reference to the prices actually paid or payable.

Comparison

(68) Allowances for differences in transport, insurance, handling charges, commissions, credit and other factors have been granted where applicable and justified.

(69) One company claimed an adjustment to normal value for an alleged difference in the level of trade. However, the company was unable to show that the alleged difference in the level of trade affected price comparability or to provide the requisite supporting evidence to substantiate its claim. Furthermore, the claim was based on only four transactions to so-called distributors whose functions were not shown to be consistently and appropriately different from those of other purchasers. The claim was consequently rejected.

Dumping margin

(70) As provided by Article 2(11) of the Basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(71) The comparison showed the existence of dumping in respect of the co-operating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Hualon Corporation	8,3 %
MPI Polyester Industries	34,2 %
Residual dumping margin	34,2 %

6. **Taiwan**

(72) Four companies replied to the questionnaire for exporting producers.

(73) One Taiwanese company did not export the product concerned during the IP to the Community. However, the company claimed that in order to determine which sales fell within the IP the date of contract and not the invoice date should be used as the date of sale. It is the Commission's long-standing practice to use the date of invoice as the date of sale since the material terms of the sale are normally irrevocable fixed on the invoice issued to a customer. Exceptions can be made to this rule, e.g. in cases where the date of contract, purchase order or order confirmation may be more appropriate to establish the material terms of the sale as referred to in Article 2(10)(j) of the Basic Regulation. However, none of these exceptions applied to this company. Consequently, the claim has to be rejected. In view of the absence of any relevant export sales to the Community during the IP, no individual dumping margin was established for the company in question.

Normal value

(74) For all except one of the three remaining Taiwanese exporting producers, the Commission could establish normal value on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation.

(75) For the remaining company, the Commission constructed normal value in accordance with Article 2(3) of the Basic Regulation. The company's own SG&A and profit margin were used, in accordance with Article 2(6) of the Basic Regulation.

Export price

(76) All sales for export to the Community of the product concerned made by the Taiwanese exporting producers were to independent customers in the Community. Consequently, the export price was established according to Article 2(8) of the Basic Regulation by reference to the prices actually paid or payable.

Comparison

(77) Allowances for differences in transport, freight, insurance, charges, packing, credit and commissions have been granted where applicable and justified.

Dumping margin

(78) As provided by Article 2(11) of the Basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(79) The comparison showed the existence of dumping in respect of the co-operating exporting producers. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are:

Shingkong Synthetic Fibers Corporation	8,1 %
Far Eastern Textile Ltd	8,1 %
Tuntex Distinct Corporation	12,4 %
Residual dumping margin	12,4 %

7. **Thailand**

(80) One company replied to the questionnaire for exporting producers. One company in the Community related to the exporting producer and a company located outside the Community related to the same exporting producer also sent a reply.

Normal value

(81) For the Thai exporting producer, the Commission could establish normal value on the basis of the domestic sales price in accordance with Article 2(1) of the Basic Regulation.

Export price

(82) The Thai exporting producer made export sales to the Community both directly to independent customers and via a related importer in the Community. Consequently, for the latter a constructed export price has been established pursuant to Article 2(9) of the Basic Regulation.

Comparison

(83) Allowances for differences in import charges, transport, handling, packing, credit and commissions have been granted where applicable and justified.

Dumping margin

(84) As provided by Article 2(11) of the Basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(85) The comparison shows the existence of dumping in respect of the exporting producer. The provisional dumping margins expressed as a percentage of the cif import price at the Community border are the following:

Thai Shingkong Industry Corporation	32,5 %
Residual dumping margin	32,5 %

8. **Conclusion**

(86) The Commission established substantial dumping margins for all co-operating companies and for all the countries concerned by the proceeding. In the case of six of these companies in four different countries (India, Indonesia, Malaysia and Korea) the export prices were so low that they did not cover the companies' full cost of production for the product. For some of the companies the losses made on sales to the Community were considerable and exceeded in one case 50 % on turnover. This behaviour is indicative of an extremely aggressive pricing policy regarding exports to the Community.

C. **COMMUNITY INDUSTRY**

(87) The following 9 Community producers co-operated in the investigation, i.e. replied to the Commission's questionnaires, allowed on-spot verifications and provided the Commission with additional information when requested:

— Du Pont Polyesters Ltd (UK);
— Eastman Chemicals BV (NL);
— INCA International SpA (I);
— Italpet Preforme SpA (I);
— KOSA GmbH (D);
— Shell Chemicals Ltd (UK);
— Wellman PET Resins Europe (NL);
— Aussapol SpA (I);
— CEP-Tergal Fibre (F).

(88) It should be noted that, although Aussapol SpA and CEP - Tergal fibres were not among the companies on whose behalf the complaint was lodged, these companies supported the complaint and co-operated in the investigation.

(89) It should also be noted that, although it operates a plant in Malaysia, Eastman has been considered part of the Community industry because its affiliated company has exported only insignificant quantities of PET to Eastman itself. No other co-operating companies did import PET from the countries concerned during the IP.

(90) None of the three other European producers replied to the Commission's questionnaires or expressed opposition to the proceeding.

(91) The cumulated production of the nine co-operating producers during the investigation period was 1 042 350 tonnes out of an estimated total Community production of 1 220 000 tonnes, i.e. 85 % of the Community production.

(92) The Commission, therefore, considers that the nine co-operating producers constitute the 'Community industry' within the meaning of Article 4(1) and Article 5(4) of the Basic Regulation.

D. **INJURY**

1. **Preliminary remarks**

Information used

(a) Import data

(93) Eurostat information, together with data submitted by exporting producers, was used as the source of the import data. The CN heading used, CN 3907 60 00, includes polyethylene terephthalate under primary forms, i.e. not only the product concerned but also polyethylene terephthalate chips used to produce polyester fibres. As the Community production of the polyester fibres in which they are used was stable between 1996 and the beginning of the IP [1], the Commission estimated that imports of PET chips used for the production of polyester fibres remained stable too.

(94) According to the complaint, the product concerned represented, in terms of quantity, 90 % of all imports in 1998, the remaining 10 % (approximately 47 000 tonnes) being used to produce polyester fibres. This information was confirmed during the investigation on the basis of estimates established by various Community producers and market research publications. For all the years under review, the same estimated amount of imports of PET chips used for the production of polyester fibres (47 000 tonnes) was deducted from imports shown in Eurostat to establish the total quantities imported into the Community of the product concerned.

(95) On a country basis, imported quantities were established by the same methodology but also taking into account data submitted by co-operating exporting producers.

(b) Community industry data

(96) Community industry data were obtained from the verified questionnaire responses of the nine co-operating Community producers. Data were requested for the period 1995 to the IP; however, during this period, the Community industry was considerably restructured with several mergers and demergers. As a consequence, it was not possible for all the companies to provide data as far back as requested. As a result, 1996 is the earliest year for which data are sufficiently complete for the Community industry in the structure it had in the IP.

(97) However to have a full understanding of the situation of the Community industry, especially concerning prices and profitability, it is necessary to have a view on the development of the Community PET market over a longer period. Data submitted by the Community industry and obtained from external professional sources were thus used wherever necessary.

2. **Development of the Community PET market since the beginning of the 90s**

(98) PET is a product which started to be widely used in the Community to bottle soft drinks in the late 80s and mineral and spring water progressively thereafter. As a consequence, Community demand for PET has been growing very quickly since the beginning of the 90s (by more than 10 % per year). The growth potential of this market is still considerable, with the water market not yet mature in many Community countries and demand for other applications (beer, milk, prepared food) starting to develop.

[1] See *inter alia* OJ L 16, 21.1.2000, p. 30, Commission Regulation (EC) No 124/2000.

(99) At the beginning of the 90s, the Community PET industry started to develop through the conversion of existing polyester fibres or yarn plants. Rapidly, however, growing demand required completely new production lines to be built specifically for PET and for its major raw materials. Despite the rapid expansion of investments in new facilities, supply did not meet demand, and this was also the case in other parts of the world. As a result, during the first half of 1995, there was a worldwide shortage of PET. This resulted in huge increases in prices of PET and of its major raw materials. These increases proved temporary because sufficient capacities for PET and its raw materials came into production in the Community a few months later. Users of PET, anticipating that prices would drop, stopped purchasing as soon as the summer 1995 peak was over (the consumption of PET follows the same seasonality as the consumption of soft drinks and water). Prices started then to decrease dramatically. This drop came earlier and was more significant than the drop in prices of raw materials. As a result of this gap, the Community industry registered losses at the beginning of 1996. These losses were expected to be temporary, but as a result of the arrival of dumped imports on the Community market, as will be shown below, the situation in fact deteriorated further.

3. **Consumption**

(100) Apparent consumption of PET in the Community was established on the basis of the total imports of the product concerned into the Community, plus the total verified sales of the Community industry on the Community market, and estimates of sales of the non-co-operating Community producers (based on their known production capacities and the average sales to capacity rates calculated for the Community industry).

(101) Community consumption of PET reached approximately 1 350 000 tonnes during the IP. As shown in the table below, it increased by 63 % from 1996 to the IP. Compared to 1998, consumption in the IP remained almost stable, due mainly to the building of stocks by users in 1998, taking advantage of the very low level of prices at that time.

Community consumption	1996	1997	1998	IP
	825 608 t	1 090 915 t	1 311 008 t	1 349 169 t
Index (1996 — 100)	100	132	159	163

4. **Imports into the Community from the countries concerned**

Cumulative assessment of the effects of the imports concerned

(102) It was first examined whether imports from all countries concerned should be assessed cumulatively, taking into account the findings on dumping as established above.

(a) Imports originating in India, Korea, Malaysia and Thailand

(103) It was found that:

— the dumping margins found were more than *de minimis* for all four countries;

— the volumes of imports were not negligible during the IP, as is illustrated by the market shares of these countries that ranged from 2,6 to 8 % (9 to 28,5 % in terms of import shares);

— the cumulative assessment appeared appropriate in view of the conditions of competition both between the imports originating in these countries, and between these imports and the like Community product. This is evidenced by the fact that volumes and market shares of these imports have been multiplied by at least a factor of 3 between 1996 and the IP. Their price behaviour was similar, with a decrease ranging from 42 % to 66 % between 1996 and the IP. In the IP, their prices were at levels close to each other and they undercut the Community industry's average prices up to 15,4 %. Furthermore, they used the same or similar channels of trade.

(104) For these reasons, it was provisionally concluded that imports originating in India, Korea, Malaysia and Thailand should be assessed cumulatively.

(b) Imports originating in Indonesia and Taiwan

(105) Similarly to imports originating in the above countries,

— the dumping margins found were more than *de minimis* for both countries;

— the volumes of imports were not negligible during the IP, as is illustrated by market shares of 2,7 % for imports originating in Indonesia and 2,8 % for imports originating in Taiwan;

— their price behaviour was similar, with a decrease of 40 % for imports originating in Indonesia and 42 % for imports originating in Taiwan between 1996 and the IP. In the IP, their prices were at levels close to each other and close to the prices of the countries above and they undercut the Community industry's average prices up to 5 %. Furthermore, they used the same or similar channels of trade.

(106) The development of volume imported, though, differed from that of the countries above. The volume of imports originating in Indonesia decreased by 18 % overall between 1996 and the IP, but this is the result of a decrease of 30 % between 1996 and 1997, an increase of 100 % between 1997 and 1998 and a decrease of 42 % between 1998 and the IP. Between 1996 and the IP, volumes of imports originating in Taiwan decreased by 23 %, and they showed an annual pattern similar to those originating in Indonesia (– 51 % between 1996 and 1997, + 92 % between 1997 and 1998, – 18 % between 1998 and the IP).

(107) In view of the above, it is provisionally concluded that imports originating in Indonesia and Taiwan were mostly made under the same conditions of competition, used the same channels of trade, grew steadily between 1997 and 1998 (like imports of the countries above), had substantial market shares during the IP and were made at the same level of prices that were found to be dumped. It was therefore appropriate to assess imports originating in all the six countries concerned cumulatively.

Volume of imports concerned

(108) Volume of imports concerned developed as follows:

Imports	1996	1997	1998	IP
Total countries concerned	130 036 t	161 188 t	346 059 t	307 184 t
Index (1996 — 100)	100	124	266	236

(109) The volume of imports concerned grew by 136 %, between 1996 and the IP, to reach a level of 307 184 tonnes. After a steady rise that took place from the beginning of 1998 to the end of that year, imports started to decrease at the beginning of 1999, at a time when the Community industry had decreased its prices, and users' and importers' stocks were high; imports, however, remained substantial.

Market shares of imports concerned

(110) Market share of imports concerned developed as follows:

Market shares of imports	1996	1997	1998	IP
Total countries concerned	15,8 %	14,8 %	26,4 %	22,8 %
Index (1996 — 100)	100	94	168	145

(111) The market share of the imports concerned nearly reached 23 % during the IP, an increase by 45 % on its 1996 level. Between 1998 and the IP, the market share of these imports decreased slightly, as a result of the reduction in import volumes described above.

Prices of imports concerned

(112) Prices of imports concerned decreased by 45 % from 1996 to the IP, by 24 % between 1996 and 1997, by 10,5 % between 1997 and 1998 and by 19 % between 1998 and the IP. On average, the cif duty unpaid price for the product concerned originating in the countries concerned was 550 EUR/t during the IP. The investigation showed that a large number of exporters were selling at a loss to the Community, indicating an aggressive pricing policy regarding the Community market.

Price undercutting

(113) A comparison of selling prices on the Community market during the IP was made between the prices of the Community industry and those of the exporting producers in the countries concerned. This comparison was made after deduction of rebates and discounts. The prices of the Community industry were adjusted to ex-works prices. The prices of the dumped imports were cif Community frontier, plus duties, and with an adjustment for level of trade and handling costs. The adjustments have been based on information collected during the investigation, notably from co-operating unrelated importers.

(114) On this base, the price undercutting by the dumped imports was:

Undercutting margins: ranges					
India	Indonesia	Korea	Malaysia	Taiwan	Thailand
1,2 — 7,9 %	0 — 2,2 %	0 %	11,8 — 12,9 %	0 %	0 %

These low average rates of undercutting are due to the price suppression caused by the behaviour of the exporting producers in the countries concerned which sold not only at dumped prices, but also at loss-making prices. The Community industry was in fact forced to match the prices of the dumped imports to try and keep its market share. It should be borne in mind that, given the market power of several large buyers of products made of PET, the market is driven almost entirely by price considerations.

5. **Situation of the Community industry**

Production, production capacity and capacity utilisation

(115) As shown in the table below, production over the period 1996 to the end of the IP increased by 89 %. During the same period, capacity increased by 83 % reflecting the investment efforts made by the Community industry to be in a position to supply the fast-growing Community market. The capacity utilisation rate of the Community industry remained fairly stable over the period. The plant and equipment used by the Community industry are almost totally dedicated to production of the product concerned.

	1996	1997	1998	IP
Production	543 318 t	750 254 t	920 988 t	1 030 781 t
Index (1996 — 100)	100	138	169	189
Capacity	721 252 t	1 031 086 t	1 276 569 t	1 325 745 t
Index (1996 — 100)	100	142	176	183
Capacity utilisation	75 %	73 %	72 %	78 %

Sales volume, value and unit prices

(116) As shown in the table below, sales made by the Community industry to unrelated customers on the Community market during the period 1996 to the investigation period increased in volume by 62 % (in this context, selling prices of Italpet have not been considered reliable and have been disregarded). Average selling prices fell by 36 % over the same time period, and between 1998 and the IP alone, prices decreased by 18 % to reach a level of 670 EUR/t delivered to the final customer.

	1996	1997	1998	IP
Sales volume	522 925 t	708 272 t	783 415 t	847 376 t
Index (1996 — 100)	100	135	150	162
Av. Selling price (delivered)	1 055 EUR/t	861 EUR/t	827 EUR/t	670 EUR/t
Index (1996 — 100)	100	82	78	64

Market share

(117) The Community industry's market share was 63 % in 1996, 65 % in 1997, 60 % in 1998 and 62 % during the IP. Between 1997 and 1998, market share fell by 5 percentage points, it partially recovered in the IP, at a time when the Community industry considerably decreased its prices as shown above.

Profitability

(118) Before 1995, the Community industry was profitable at a time when, as explained earlier, it was operating on a fairly new and fast growing market. In 1995, when supply was very tight, the Community industry was earning a profit around 20 % return on sales. As the fall in PET prices from the last quarter of 1995 was not immediately matched by corresponding reductions in costs, losses started to be registered in 1996: on annual averages, raw material costs, especially those of PTA, increased by 8 % between 1995 and 1996, whereas prices for PET fell by 35 %. As a result, losses of 19 % were registered in 1996. The price decrease, however, was seen as an overreaction of the market after a shortage. The Community industry had been expecting to see prices and profit margins slowly recover, but at a time of low priced imports from the countries concerned, margins did not rise and, in 1997, losses remained at 19 %.

(119) In 1998, losses started to be reduced, but towards the end of the year, at the beginning of the IP, the Community industry had to match prices of dumped imports in order to regain lost market share. As a result, financial losses deteriorated by a further 15 percentage points to reach 32 % of net turnover during the IP.

(120) Several interested parties have claimed that the PET market is cyclical, with regular under-capacity crises that lead to price increases and thus profits at high levels, followed by over-capacities that depress prices and may result in losses. They requested that this cyclical element be taken into consideration in the analysis and claimed that the IP corresponded to the low phase of the cycle. Furthermore, they claimed that it was already clear that the Community industry was recovering and that a new peak in the cycle would be reached sometime between 2002 and 2003. They therefore asked that profits should be looked at over a longer period and not viewed at a given moment of time.

(121) The Commission has rejected this claim, considering that PET is a product in which large consumption developed fairly recently and that it was too early to judge whether the market was cyclical or not. Furthermore, the bottom of the cycle, if it can be seen as such, lasted from mid-1996 to mid-1999; this is too long to be attributed to the cycle.

Employment

(122) At the end of the IP, approximately 1 450 persons were employed by the Community industry, an increase of 20 % compared to 1996. Between 1998 and the IP, this trend ended as approximately 30 persons were made redundant in order to reduce costs.

Investment

(123) From 1996 to 1998 the Community industry invested a total of 516 million EUR in new or extended capacities, an average of 172 million EUR per year. During the IP, only 31 million EUR were invested.

(124) To meet future demand, which is expected to continue to grow steadily in the coming years, new investment will be needed. Most of the Community producers had plans to invest, but losses during the IP were so significant that shareholders refused to agree to these plans. As a result, no significant increase in the capacity of the Community industry will take place between 2000 and the beginning of 2002, since it takes approximately two years to bring a new PET plant into production.

6. **Conclusion on injury**

(125) From 1996 to the IP, imports concerned increased by 136 %, gaining 7 percentage points in market share to reach a share of nearly 23 %. This share reached 26,4 % in 1998, before the Community industry decided to defend its market position (that had declined by 5 percentage points between 1997 and 1998) by decreasing its prices significantly.

(126) From 1996 to the IP, average prices of the imports concerned decreased by 45 %, with a decrease of 19 % between 1998 and the IP alone. Between 1996 and the IP, prices of the Community industry decreased by 36 %, with a similar decrease of 18 % between 1998 and the IP.

(127) The Community industry, which had been suffering from depressed profit margins and financial losses since 1996 was not able to return to a healthier situation. On the contrary, during the IP, the Community industry experienced worsening financial losses because it had to decrease its prices to defend its market position. Furthermore, despite a rapidly expanding market, the Community industry was not able to invest due to its precarious situation.

(128) The Commission therefore considers that the Community industry has suffered material injury within the meaning of Article 3 of the Basic Regulation.

E. **CAUSATION OF INJURY**

1. **Introduction**

(129) In accordance with Article 3(6) of the Basic Regulation, the Commission examined whether the material injury suffered by the Community industry had been caused by the dumped imports from the countries concerned. In accordance with Article 3(7) of the Basic Regulation, the Commission also examined other factors in order to ensure that injury caused by other factors was not attributed to the dumped imports.

2. **Effect of the dumped imports**

(130) In 1997, low priced imports from the countries concerned started to depress prices and suppress price increases that would have been necessary to take into account the development in raw material costs. The structure of the market, with a limited number of large buyers and, in comparison, many suppliers, was such that the effect of the dumped imports spread rapidly across the market.

(131) Between 1997 and the IP, imports from these countries developed as follows:

— volumes more than doubled (in the second half of 1998, imports were growing even faster than in the first half of the year, a pattern totally contradicting the seasonal pattern of consumption and confirming that some customers or traders were taking advantage of the low level of price, of the imports concerned);

— their market share nearly reached 23 % whereas it had been 14,8 % in 1997;

— their prices fell by 27 %.

(132) During the same period, the Community industry:

— was forced to match price decreases because some major customers were halting purchases and demanding prices as low as those of dumped imports;

— saw its profitability further deteriorate;

— completely halted all its investment plans.

(133) In view of this clear coincidence in time between the development of import volumes and prices, on one hand, and, the deterioration of the situation of the Community industry on the other, it was concluded that the low priced dumped imports from the countries concerned had a significant negative impact on the situation of the Community industry.

3. **Effect of other factors**

Imports from other countries

(134) During the investigation period, other imports into the Community of the product concerned originated mainly in Saudi Arabia, Turkey and the United States. During the IP, these imports had market shares of 1,3 %, 1 % and 1,6 % respectively. The volume of imports originating in the United States nearly halved between 1996 and the IP, while imports originating in Saudi Arabia doubled and those originating in Turkey increased by 7 %, as shown in the table below.

	1996	1997	1998	IP
Countries other than the 6 concerned				
Quantities	83 054 t	88 994 t	79 376 t	71 186 t
Market share	10 %	8 %	6 %	5 %
cif prices	1 358 EUR/t	1 674 EUR/t	1 869 EUR/t	1 431 EUR/t
Of which USA				
Quantities	40 978 t	37 109 t	30 479 t	21 983 t
Market share	5,0 %	3,4 %	2,3 %	1,6 %
cif prices	1 242 EUR/t	1 023 EUR/t	1 181 EUR/t	1 250 EUR/t
Of which Turkey				
Quantities	12 013 t	19 430 t	11 939 t	12 811 t
Market share	1,5 %	1,8 %	0,9 %	0,9 %
cif prices	995 EUR/t	848 EUR/t	903 EUR/t	740 EUR/t
Of which Saudi Arabia				
Quantities	8 373 t	22 212 t	17 512 t	16 952 t
Market share	1,0 %	2,0 %	1,3 %	1,3 %
cif prices	605 EUR/t	711 EUR/t	691 EUR/t	512 EUR/t

(135) The prices of imports originating in the United States and Turkey were well above those of imports originating in the countries concerned and also above the Community industry's average selling prices.

(136) Prices of imports originating in Saudi Arabia reached a very low level during the IP. Although their market share was only 1,3 %, it cannot be excluded that they contributed to the injury suffered by the Community industry.

Development of Community consumption

(137) Community consumption of PET has grown quickly and is estimated to continue do so for the next ten years at least. A contraction of the market, therefore, is not a cause of injury.

Over-capacity and exacerbated price competition on the Community market

(138) Several interested parties contended that the Community industry had misjudged the cyclical nature of the market, thus creating an over-capacity that had depressed prices and exacerbated price competition between Community producers. Certain parties also claimed that the Community industry's injury was self-inflicted because of an attempt by the industry to exclude Asian exporting producers from the Community market by substantially decreasing selling prices.

(139) In addition, certain users claimed that the Community industry had over-reacted to pricing pressures and should have known that considerations of security of supply on the part of major users in the Community would have afforded it a substantial degree of protection.

(140) The Commission has examined these claims:

— Regarding over-capacity of PET producers located in the Community market, the investigation did not support this contention. It was found that, over the analysis period, the capacity of the Community industry and of the other Community PET producers was approximately of the same size as the Community consumption, furthermore increases in capacity were in the same proportion as increases in consumption on a medium term basis. On the other hand, a large excess capacity existed in Asia, that was worsened by a collapse of demand in China at the beginning of 1998 for the closely allied PET product used for the production of polyester fibres produced in identical facilities. This meant that exporting producers in the countries concerned had spare capacity available for the production of PET, and that they used this to sell products in the Community at dumped prices.

— Regarding an exacerbation of price competition between Community producers, the investigation has shown that since 1996, competition on the Community market was indeed intense between all suppliers, including exporting producers in the countries concerned. Nonetheless, the pricing pressure exercised by the imports concerned increased in mid-1998 because import volumes were growing rapidly (volumes nearly doubled in a few months) and very low price offers were being made. Attempts made by the Community industry to resist the price decreases demanded by users led to falling sales. The Community industry's reaction to these developments was to follow the prices of the dumped imports down in an effort not to lose customers.

— As to the security of supply considerations, the Commission found that the fact that some customers halted their purchases was a clear indication to the Community industry that users could very well find other suppliers, provided they were offering cheaper prices.

— The contention that price decreases had been made only to try and exclude competitors from the countries concerned from the Community market cannot be accepted since the Community industry decreased its prices mainly in reaction to market share losses.

(141) The claim that injury was self-inflicted and/or due to an over-capacity situation on the Community market was, therefore, not retained.

Prices of raw materials

(142) Several interested parties claimed that price decreases were driven by decreases in the prices of the main raw materials.

(143) Raw material costs represent approximately 60 % of the total costs of production of PET. Purified terephthalic acid (PTA) is the major raw material used in PET. PTA is mostly made with paraxylene (PX), itself a distillate of oil. PX, PTA and PET, therefore, roughly follow oil price and US$ fluctuations, with mark-up effects that depend on the supply/demand situation at a given time for these 3 different products.

(144) There is a strong link between PTA prices and PET prices, and PET producers, therefore, do not have much room to set their prices. Indeed, the investigation has shown that PET users carefully followed PTA prices in order to be in a good position to negotiate PET prices.

(145) The Commission noted that from the second quarter 1998 to the fourth quarter 1998, there was a severe erosion in margins vis-à-vis PTA prices. This deterioration corresponds to the time when dumped imports from the countries concerned nearly doubled their already significant market share, and the Community industry had to react by decreasing its prices to a greater extent than the decreases in PTA prices. The contention that prices decreased only because raw material prices were decreasing has therefore not been confirmed by the investigation.

4. **Conclusion on causation**

(146) The Commission found that there was strong evidence of the causal link between the dumped imports and the material injury. This conclusion is based, in particular, on the fact that prices on the Community market were depressed and suppressed since the beginning of 1997, when prices of imports originating in the countries concerned started to decrease more rapidly than prices of the Community industry. During the 3rd quarter of 1998, a new phase started as the dumped imports grew very rapidly and nearly doubled their market share (from 14,8 % in 1997 it went to 26,4 % in 1998) while the Community industry had lost 5 percentage points in market share. With the prices of these dumped imports still decreasing, the Community industry was forced to further decrease its prices to stop its market share falling; this resulted in deteriorating financial losses and a complete halt in investment plans, despite a clearly foreseeable rapid growth in demand.

(147) The investigation has further shown that it cannot be excluded, though, that imports originating in Saudi Arabia may have contributed to the injury suffered by the Community industry. However, the investigation has shown that neither this factor nor the other factors examined above had an impact on the situation of the Community industry such as to break the causal link between the dumped imports from the countries concerned and the injury suffered by the Community industry.

(148) It is therefore provisionally concluded that the dumped imports originating in the countries concerned have caused material injury to the Community industry within the meaning of Article 3(6) of the Basic Regulation.

F. **COMMUNITY INTEREST**

1. **General remarks**

(149) The Commission examined whether, despite the conclusion on injurious dumping, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose and in accordance with Article 21(1) of the Basic Regulation, the impact of possible measures on all parties involved in this proceeding, and the consequences of taking or not taking measures, were considered on the basis of all evidence submitted.

2. **The investigation**

(150) The Commission sent questionnaires to importers, suppliers of raw materials, industrial users of the product concerned, and to associations representing mineral water and soft drinks producers. In total, 93 questionnaires were sent out, but only 17 replies were received within the time limits set.

(151) Questionnaire responses were received within the time limits set from:

Three importers

— Polytrade Gmbh (Germany)

— Global Services International (Italy)

— Helm AG (Germany)

These importers represent 35 % of the imports concerned.

Five direct suppliers of raw materials:

— BASF AG (Germany)

— BP Amoco Chemicals Ltd (UK)

— Exxon Mobil Chemical Europe Inc (Belgium)

— INEOS plc (UK)

— Interquisa (Spain)

These suppliers represent more than 75 % of raw materials purchased by the Community industry.

Nine users of PET in three sectors (for the description of these sectors, see below):

Preforms/bottle converters:

— Crown Cork and Seals - European division (France)

— Guala Closures, Polybox Group (Italy)

— IFAP spa (Italy)

— Sodripack NV (Belgium)

Mineral and spring water producers:

— Evian — Volvic, Danone Group (France)

— Perrier Vittel M.T, Nestlé Group (France)

Soft drinks integrated bottlers:

— Cott Beverages Ltd. (UK)

— Schweppes Belgium (Belgium)

— Silver Spring Mineral Water Ltd (UK)

These users represent 16 % of the imports concerned and 17 % of the Community consumption of PET.

(152) The Commission was also contacted by five professional associations that gave some aggregated information, and made comments on behalf of their members:

The Union of EU Soft Drinks Associations

UNESEM (the European association of mineral and spring water producers)

ANEABE (the Spanish association of Mineral Water producers)

MINERACQA (the Italian association of Mineral Water producers)

Chambre Syndicale des eaux minérales (the French association of Mineral Water producers)

3. **Likely effects of imposition of measures on the Community industry**

(153) As mentioned above, the Community industry consists of nine producers which suffered material injury caused by dumped imports originating in the countries concerned. This injury consists mainly of increased and substantial financial losses due to price depression and suppression. Moreover, because of these losses, the Community industry has postponed investments in new plants (the average cost of a PET plant is more than 100 million €) despite foreseeable growth in demand. Since 1996, this industry has been heavily restructured and during the last two years, because of prolonged financial losses, two of the multinationals engaged (ICI and Shell) have sold their PET activities.

(154) It is clear that the measures proposed would benefit the Community industry which, by its restructuring efforts, has demonstrated its ambition to maintain a presence in a sector in full expansion, and which is totally viable, as is demonstrated by its export performance: its sales outside the Community represented 18 % of its total sales during the IP and they developed more rapidly than sales in the Community.

(155) If, on the other hand, measures are not imposed, losses at the level observed in the IP are not sustainable and the future of the Community industry, which employs 1 450 people, would be seriously jeopardised.

(156) Although certain volatile factors, evoked by several interested parties, such as exchange rate fluctuations and oil prices, can have temporary positive effects on the industry's performance (in this industry it seems that periods of increasing prices of raw materials are favourable to increase profit margins of PET producers), without anti-dumping measures to remove the effects of unfair trade, the industry has little prospect of a lasting recovery from its present poor financial situation. Furthermore, to allow the new investments necessary for the long-term viability, it is essential that the industry is given the opportunity to improve its profits.

4. **Likely effects of imposition of measures on importers**

(157) For one of the co-operating importers, the product concerned represented the majority of its turnover. If duties were imposed on imports of PET, the importer argued that the whole company would be endangered.

(158) For the second co-operating importer, the product concerned represented around a quarter of its turnover. Therefore it is likely that this importer would be less affected by measures.

(159) For the third co-operating importer, the product concerned represented a very minor percentage of its turnover. Therefore it is likely that this importer would not be seriously affected by measures.

(160) Total staff directly employed in selling the product concerned is only some ten people for the three co-operating companies in the Community.

(161) As the purpose of anti-dumping measures is only to restore fair trade and not to prohibit imports, the Commission considers it likely that a number of clients of importers will continue to purchase PET originating in the countries concerned. Therefore the existence of these importers seems not to be at stake.

5. **Likely effects of imposition of measures on upstream industries**

The PTA and PX producers

(162) The three co-operating producers (BP AMOCO, Interquisa, and Exxon) are part of petro-chemical groups and made huge investments in the last five years in order to respond to the growing Community demand for these products.

(163) Total staff employed in their PTA/PX production facilities was around 700 people during the IP.

(164) The only purchaser of PTA is the polyester industry (of which the PET industry represents 60 % of Community purchases of PTA). Community PTA producers sell more than 75 % of their production in the Community. Therefore the situation of the Community PTA producers is very much dependent on the health of Community PET producers. In a situation of very low prices of PET, the producers of PTA are also obliged to lower their prices. Indeed, during the IP, the co-operating suppliers lowered their profit margins, because their clients were in such a difficult situation that they were afraid they would stop producing and thus consuming PTA.

(165) The co-operating PX Community producer situation is even worse because it operates in a very competitive market and, in the recent years, its profit margin was very low or negative. In 1999, Community PX production has been reduced because the level of prices was considered unacceptable.

(166) The imposition of measures, therefore, will benefit both these industries and allow new investments to be made to match the growing demand.

The MEG producers

(167) The two co-operating producers (BASF, INEOS) are part of chemical groups and produce a large range of chemical products. The staffs employed in MEG production was about 100 people.

(168) PET production is not the only possible outlet for this product, which is widely used for other purposes and notably in the car industry. Hence, these companies are less directly affected by the price and demand trends of PET. The investigation has shown, however, that the market for this product is very competitive and that profitability has deteriorated in the last two years because of the difficulties of the Community PET industry.

Conclusion

(169) The imposition of anti-dumping measures clearly appears to be in the interest of the upstream industries. They would not only improve their situation but also be in a position to invest in the coming years.

6. **Likely effects of imposition of measures on downstream industries**

Description of the user sectors

(170) PET is at present mostly used to produce bottles for soft drinks and mineral and spring water. Its use to produce packages other than for drinks (solid foodstuffs or detergents) and to produce sheets is still marginal. Bottles in PET are produced in two steps in order to obtain enough strength: 'preforms' are obtained by mould injection of PET, these preforms are then blown and transformed into bottles. Preforms can be fairly easily transported because they are small and dense, while empty bottles are fragile and very expensive to transport.

(171) The water and soft drinks markets are organised differently in terms of bottling:

— Mineral and spring water producers have more constraints in terms of health regulations. They are generally obliged to have a bottling plant close to their springs, their raw materials have to follow strict norms and, in certain countries, to be authorised by health authorities. The large majority of preforms used by water producers are self produced, usually in workshops close to the blowing and filling lines.

— Soft drinks producers tend to locate in places convenient to minimise distribution costs.

— Producers with well-known trademarks tend to buy preforms and/or blown bottles. They have a network of certified suppliers called preforms/bottle converters. None of these producers replied to the questionnaire or made themselves known. Hence, the Commission has not been able to take them into account.

— Smaller soft drink producers or producers of products branded by customers (especially the mass retailing trade sector), tend to produce their own preforms and to blow their own bottles.

(172) On this basis three major groups of users of PET can be identified:

— preforms/bottle converters, that account for approximately 40 % of PET consumption in the Community;

— mineral and spring water producers, whose share in PET consumption is around 35 %;

— soft drinks integrated bottlers, that account for around 7 % of PET consumption.

The remaining consumption of PET is used by different food and pharmaceutical packaging sectors and by plastic sheet producers.

Preforms/Bottle converters

(173) The preform converters are the main users of PET, but the four co-operating companies represented only some 7 % of Community consumption of PET. The imports of these companies were some 10 % of imports from the countries concerned. These imports represented more than 30 % of their consumption of PET.

(174) Some of the major converters (Schmalbach Lubeca, Alpla and Resilux) did not cooperate in the investigation.

(175) Total staff employed by the co-operating companies amounted to more than 400.

(176) On the basis of information available to the Commission, the amount of PET used to produce preforms represents some 75 % of the manufacturing costs of a preform and some 70 % of the total cost of production. It is therefore a critical element for these companies. The investigation found that, in most cases, the negotiation of selling price of preforms includes a mechanism for reflecting the variation of PET prices.

(177) However, since competition in the industry is very strong and purchases of soft drinks preforms/bottles are concentrated in the hands of a few big buyers (the well known branded soft drink producers), it is not clear to what extent the converters will be able to transfer the increase of PET prices on to the prices of preforms.

(178) Users, as well as importers, argued that duties would push some multinational preform converters and/or soft drink bottlers to move their highly standardised preforms production plants to countries in Eastern Europe in order to avoid the anti-dumping duties. Most of the big companies in this industry already have some plants in these countries and would seem, therefore, able to quite easily move part of their production outside the Community. The import of preforms is free of custom duties.

(179) According to the information made available to the Commission, the cost of transport is not a sufficient barrier to avoid such relocation. e.g. a truck of 0,5 litre preforms contains some 17 tonnes instead of 24 tonnes of PET chips; the transport cost of preforms is therefore some 30 % higher than the transport cost of PET but the overall impact on such increase in transport price on costs of production is only some 2,5 %. However, competitive advantages already existed in the Community's neighbouring countries at the time when no anti-dumping duties were applicable without causing relocation. This is due to the fact that these advantages were more than compensated by considerations of proximity, flexibility and reliability of supplies essentials to the users.

(180) On the basis of the information provided by the co-operating companies, it was concluded that the imposition of anti-dumping measures would have a major impact on the manufacturing cost of converters. However, the impact on profitability of converters cannot be clearly stated. Moreover, as mentioned above, the co-operating companies represent only a very small proportion of the converter industry. It is therefore difficult to assess the likely effect on this industry as a whole.

The mineral and spring water producers

(181) The two co-operating companies in this industry represented approximately 10 % of Community consumption of the product concerned. The imports of these companies were some 1 % of imports from the countries concerned. These imports represented less than 4 % of their consumption of PET.

(182) Total staff employed in production using the product concerned amounted to more than 4 000 in the two companies considered together.

(183) The two co-operating companies are the two biggest players in the French mineral water market. The Danone and Nestle groups also own mineral water springs in other Member States but replied only for their French branches. Therefore the co-operating companies represent a rather small part of the Community mineral water sector, which is itself only a part of the bottled water sector. Moreover, the co-operating companies are only involved in the production of branded mineral water and have thus a specific cost structure.

(184) The cost of PET is the biggest component in these companies' manufacturing cost (less than a quarter) and some 10 % of the total cost of production.

(185) Concerning low ranged mineral water and spring water, the associations representing these companies pointed out that, since their general and administrative costs are very low compared to those of branded mineral water producers, the cost of PET has a bigger impact on their total cost of production and on profitability. Therefore, the increases in price consequent to the imposition of anti-dumping measures would severely affect these producers, that already operate with low margins and would not be able to increase their selling prices because their main customers, the supermarket chains, would refuse price increases.

(186) With regard to the low range mineral water and spring water sectors, no producers cooperated on an individual basis. The only information provided to the Commission, by associations of water producers, has been submitted very late and has not been verified, therefore it did not allow conclusions to be reached on the impact of measures on companies in these sectors.

(187) On the basis of the verified information provided by the co-operating companies, the Commission concludes that the impact of the measures proposed on the mineral water producers will not be significant, because they are very profitable and because they import only small volumes of PET. Moreover, given their position on the market, the top range mineral water producers can probably increase their selling prices.

The soft drink integrated bottlers

(188) The three co-operating companies in this industry represented approximately 2 % of Community consumption of the product concerned. The imports of these companies were some 5 % of imports from the countries concerned. These imports represented more than 65 % of their consumption of PET.

(189) Total staff employed in production using the product concerned amounted to some 200 people in the three companies considered together.

(190) The co-operating companies are vertically integrated backwards and forwards i.e. they produce preforms, convert them into bottles and fill them with soft drinks. These companies represent only a small percentage of the total soft drinks industry and are mainly producing for distributors and low range brands.

(191) On the basis of information available to the Commission, the PET used to produce soft drink containers represented more than 10 % of manufacturing costs and some 8 % of the total cost of production. It was therefore an important cost element for these companies.

(192) The soft drink integrated bottlers sold mainly to supermarket chains. Since the retail prices of low range soft drinks have decreased in recent years, and since the large retailers involved have very strong market power, the producers of soft drinks will face resistance to any attempt at increasing their selling prices.

(193) The Commission considers that the imposition of measures may reduce margins in this industry as the increase in costs resulting from the measures is unlikely to be matched by a corresponding increase in revenues.

7. **Likely effects of imposition of measures on supply of PET on the Community market**

(194) Several users and importers of PET have expressed their concern about a possible shortage of PET on the Community market in the next two years and the fact that imports will be necessary and should not be discouraged by high duties.

(195) The Commission considered that, if there is a shortage of supply on the Community market, this would be because the Community industry suffered injury from dumped imports and was not in a position to invest, despite the foreseeable growth in demand. It is therefore urgent that the Community industry be assured of the fair competitive conditions to allow it to make the investments that have been postponed as a result of injurious dumping.

(196) Imports at fair non dumped prices will, in any case, be possible, since existing overcapacities in Asia will not be exhausted before the necessary new investments by the Community industry enter into production.

8. **Conclusion on Community interest**

(197) It is clear that the imposition of anti-dumping measures is in the interest of both the Community industry and its suppliers of raw materials.

(198) The imposition of measures will allow these sectors to improve profitability and to have the possibility of making the new investments which are crucial for the long-term viability of these capital-intensive sectors.

(199) The assessment of the effects on the other sectors concerned is much less clear, principally because conclusions are being drawn on the basis of information provided by the co-operating companies, the representativeness of which was estimated to be low. Although there are indications that measures could have an impact in certain sectors, it is difficult, at this stage, to draw firm conclusions on the effect of measures on a wider basis due to a lack of information. As such, this lack of co-operation suggests that any negative effect for the sectors concerned is not significant.

(200) What is clear, however is that the Community industry has suffered from injurious dumping which has suppressed its prices and prevented the restoration of a healthier financial situation. If this situation remains unchanged, losses at the levels reached during the IP will be unsustainable and the Community industry will cease producing PET in the Community.

(201) If the Community industry were forced to cease, or dramatically reduce, the production of PET, the Community would become dependent on external supplies and would face stronger price fluctuations in case of shortages. Such a situation would indeed be detrimental to the interest of users which have said that they do not want to rely only on imported PET.

(202) In view of the above, the Commission concluded that, at the provisional stage, no compelling reasons exist not to impose provisional anti-dumping measures in the present case.

G. **PROVISIONAL ANTI-DUMPING MEASURES**

1. **Injury elimination level**

(203) In order to prevent further injury being caused by the dumped imports, it was considered appropriate to adopt anti-dumping measures in the form of provisional duties.

(204) For the purpose of determining the level of these duties, the Commission took account of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.

(205) As the injury consists principally of price depression and the suppression of price increases necessary to restore profitability, the removal of such injury requires that the industry should be able to increase selling prices. To achieve this, prices of imports of the product concerned originating in the countries subject to investigation should be increased to a non-injurious level.

(206) To this end, the Commission determined a non injurious price based on production costs of the Community industry (not taking into account costs of some companies of the Community industry considered as exceptional or unduly high), together with a reasonable profit margin of 7 %, this being considered necessary to ensure the viability of the industry and being a profit which this industry could expect in the absence of dumped imports. In view of the financial losses incurred by the Community industry in the years prior to the IP, the Commission will examine, at the definitive stage, whether this non injurious price accurately reflects the situation in the present case, in the light, in particular, of developments in exchange rates and in the prices of raw materials.

(207) The non-injurious price was compared with the prices of the dumped imports used to establish undercutting, as outlined at recital 115. Differences resulting from this comparison were then expressed as a percentage of the total cif import value.

2. **Provisional measures**

(208) In the light of the foregoing, it is considered that a provisional anti-dumping duty should be imposed at the level of the dumping margin found, but should not be higher than the injury margin calculated above in accordance with Article 7(2) of the basic Regulation.

(209) In the parallel anti subsidy proceeding countervailing duties on PET originating in India, Malaysia, Taiwan and Thailand are also imposed. Since no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation, the level of anti-dumping duties takes into account the amount of countervailing duty established in this anti-subsidy proceeding, in accordance with Article 14(1) of the basic Regulation.

(210) For India and Malaysia it was not considered appropriate to impose both countervailing and anti-dumping duties to the full extent of the relevant subsidy and dumping margins established because the subsidies found were either export subsidies or *de minimis*.

(211) With regard to Taiwan and Thailand, the subsidies found in the parallel investigation are not export subsidies and are therefore considered not to have affected the export price and the corresponding dumping margin. Consequently, the countervailing duties can be imposed together with the anti-dumping duties, to the extent that both duties taken together do not exceed the injury elimination margin.

(212) As regards, the residual duty to be applied to non co-operating exporting producers, the level of co-operation was considered good for all countries. The residual duty was fixed therefore on the basis of the highest total duty rate established for a co-operating producer in each country, i.e. on the basis of both anti-dumping and countervailing duties taken together (and therefore, for India, the residual anti-dumping duty is lower than the anti-dumping duties attributed to specific companies).

(213) On the basis of the above, anti-dumping duty rates have been established by comparing the injury elimination margins, the dumping margins and, where applicable, the countervailing duty rates and their nature.

(214) That PET prices can fluctuate in line with fluctuations in crude oil prices, should not entail a higher duty. It was therefore considered appropriate to impose duties in the form of a specific amount per tonne. These amounts result from the application of the anti-dumping duty rate to the cif export prices used for the calculation of the injury elimination level during the IP.

(215) The proposed anti-dumping duties are the following:

INDIA

Company	Injury elimination margin	Dumping margin	Countervailing duty rate (resulting from export subsidies)	Anti-dumping duty rate	Proposed anti-dumping duty
Reliance Industries Ltd	44,3 %	52,6 %	12,5 %	31,8 %	160,1 EUR/t
Pearl Engineering Polymers Ltd	33,6 %	30,0 %	5,8 %	24,2 %	130,8 EUR/t
Elque Polyester Ltd (*)	44,3 %	51,2 %	11,1 %	33,2 %	167,1 EUR/t
Futura Polymers Ltd (*)	44,3 %	56,9 %	16,8 %	27,5 %	138,4 EUR/t
All Others			16,8 %	27,5 %	138,4 EUR/t

INDONESIA

Company	Injury elimination margin	Dumping margin	Anti-dumping duty rate	Proposed anti-dumping duty
Bakrie Kasei	35,1 %	63,5 %	35,1 %	187,7 EUR/t
Polypet	32,9 %	73,7 %	32,9 %	178,9 EUR/t
Indorama	17,8 %	15,2 %	15,2 %	92,1 EUR/t
All others			35,1 %	187,7 EUR/t

KOREA

Company	Injury elimination margin	Dumping margin	Anti-dumping duty rate	Proposed anti-dumping duty
Honam	16,9 %	19,8 %	16,9 %	101,4 EUR/t
Tongkook	26,5 %	55,8 %	26,5 %	148,3 EUR/t
Daehan	28,5 %	5,1 %	5,1 %	28,2 EUR/t
SK Chemicals	11,0 %	3,2 %	3,2 %	20,1 EUR/t
All tohers			26,5 %	148,3 EUR/t

MALAYSIA

Company	Injury elimination margin	Dumping margin	Countervailing duty rate (resulting from export subsidies)	Anti-dumping duty rate	Proposed anti-dumping duty
MPI Polyester Industries	54,2 %	34,2 %	0 %	34,2 %	160,1 EUR/t
Hualon Corporation	52,1 %	8,3 %	4,2 %	4,1 %	19,4 EUR/t
All others			4,2 %	34,2 %	160,1 EUR/t

TAIWAN

Company	Injury elimination margin	Dumping margin	Countervailing duty rate	Anti-dumping duty rate	Proposed anti-dumping duty
Nan Ya Plastics (*)	26,3 %	12,4 %	1,5 %	12,4 %	69,5 EUR/t
Far Eastern	8,2 %	8,1 %	0 %	8,1 %	52,1 EUR/t
Shingkong	16,6 %	8,1 %	2 %	8,1 %	48,8 EUR/t
Tuntex	26,3 %	12,4 %	0 %	12,4 %	69,5 EUR/t
All others			2 %	12,4 %	69,5 EUR/t

THAILAND

Company	Injury elimination margin	Dumping margin	Countervailing duty rate	Anti-dumping duty rate	Proposed anti-dumping duty
Thai Singkong Ltd.	22,6 %	32,5 %	8,5 %	14,1 %	82,6 EUR/t
All others			8,5 %	14,1 %	82,6 EUR/t

(*) Co-operating in the parallel anti-subsidy proceeding. The injury margin was determined on the highest injury margin found for a company co-operating in both proceedings. The dumping margin was determined on the basis of the export subsidy found and of the highest dumping margin reached in a company co-operating in both proceedings had it not benefited from an export subsidy. (i.e. 56,2 % - 12,5 % = 40,1 %).

(216) The individual company specific anti-dumping duties specified in this regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duties (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these duties and shall be subject to the duties applicable to 'all other companies'.

(217) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

H. **FINAL PROVISION**

(218) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this regulation are provisional and may have to be reconsidered for the purposes of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of polyethylene terephthalate with a coefficient of viscosity number of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728, classified under CN code 3907 60 20 and CN code ex 3907 60 80 (TARIC code 3907 60 80 10) and originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand.

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

Country	Provision duty EUR/t	TARIC Additional code
India	138,4	A999
Indonesia	187,7	A999
Malaysia	160,1	A999

[1] European Commission
Directorate-General for Trade
Directorate E
DM 24 - 5/77
Rue de la Loi/Wetstraat 200

B-1049 Bruxelles/Brussel.

Country	Provision duty EUR/t	TARIC Additional code
Republic of Korea	148,3	A999
Taiwan	69,5	A999
Thailand	82,6	A999

The above rates shall not apply to the products manufactured by the companies listed below, which shall be subject to the following anti-dumping duty

Country	Company	Provisional duty EUR/t	TARIC Additional Code
India	Pearl Engineering Polymers Limited	130,8	A182
India	Reliance Industries Ltd.	160,1	A181
India	Elque Polyester	167,1	A183
India	Futura Polyester	138,4	A184
Indonesia	P.T. Bakrie Kasei Corporation	187,7	A191
Indonesia	P.T. Indorama Synthetics Tbk	92,1	A192
Indonesia	P.T. Polypet Karyapersada	178,9	A193
Malaysia	Hualon Corporation	19,4	A186
Malaysia	MPI Polyester Industries	160,1	A185
The Republic of Korea	Daehan Synthetic Fiber Corporation	28,2	A194
The Republic of Korea	Honam Petrochemical Corporation	101,4	A195
The Republic of Korea	SK Chemicals Corporation	20,1	A196
The Republic of Korea	Tongkook Corporation	148,3	A197
Taiwan	Far Eastern Textile Ltd.	52,1	A188
Taiwan	Tuntex Distinct Corporation	69,5	A198
Taiwan	Shinkong Synthetic Fibers Corporation, Taipei	48,8	A189
Taiwan	Nan Ya Plastics Corp., Taipei	69,5	A187
Thailand	Thai Shingkong Industrial Corporation Limited	82,6	A190

3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 [1], the amount of anti-dumping duty, calculated on the basis of the fixed amounts set out above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

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

[1] OJ L 253, 11.10.1993, p. 1.

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 384/96 interested parties may make their views known in writing and apply to be heard orally by the Commission within 10 days of the date of entry into force of this Regulation.

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

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 4 August 2000.

For the Commission

Pascal LAMY

Member of the Commission