COMMISSION REGULATION (EC) No 1662/2002

of 18 September 2002

imposing provisional anti-dumping duties on imports of certain filament yarns of cellulose acetate originating in Lithuania and the United States of America

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] (basic Regulation), as last amended by Regulation (EC) No 2238/2000 [2], and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) On 20 December 2001, 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 non-textured artificial filament yarn of cellulose acetate originating in Lithuania and the United States of America.

(2) The anti-dumping proceeding was initiated as a result of a complaint lodged in November 2001 by the Comité international de la rayonne et des fibres synthetiques (CIRFS) on behalf of Community producers representing over 90 % of the total production in the Community. 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) Certain exporting producers claimed that the United States of America should not have been included in the proceeding due to the lack of adequate and accurate information on injurious dumping and causality at initiation stage. It should be noted that complainants have to show that their complaints are non-discriminatory with respect to third countries. Therefore, they have to provide an analysis of the situation of all countries with significant imports with a view of concluding whether such countries' imports are made at injurious volumes and prices and whether such countries' export prices are, prima facie, dumped. The information contained in the complaint showed similar behaviour for Lithuanian and United States exports in this respect. Imports from both countries were allegedly dumped and undercut/undersold the Community industry's prices/costs. Furthermore, the difficult situation of the industry coincided with the increase in imports from both countries concerned, the market shares of which were significant. Given also the analyses of the other possible causes of injury, these imports were found to have contributed to the injury suffered and the initiation of an investigation was therefore warranted.

(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 of 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 parties made their views known in writing. All parties who so requested within the time limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard orally.

(6) The Commission sent questionnaires to all 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 the two complaining Community producers, three exporting producers, and their related importers in the Community, seven users and one trader.

(7) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

(A) *Exporting producers*

— AB Dirbtinis Pluostas, Kaunas, Lithuania,

— Celanese Acetate LLC, Charlotte (NC), United States of America,

— Eastman Chemical Company, Kingsport (TN), United States of America.

(B) *Companies related to the exporting producers*

— DPI, Milan, Italy,

— Celanese NV, Lanaken, Belgium,

— Eastman Chemical Company BV, Rotterdam, Netherlands.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 257, 11.10.2000, p. 2.
[3] OJ C 364, 20.12.2001, p. 3.

(C) *Community producers*

— Industrias del acetato de Celulosa, SA (INACSA), Barcelona, Spain,

— Novaceta SpA, Magenta, Italy.

(D) *Users*

— Marioboselli Yarns SpA, Garbagnate Monastero, Italy,

— Tessitura Serica A.M. Taborelli srl, Faloppio, Italy.

(8) The investigation of dumping and injury covered the period from 1 October 2000 to 30 September 2001 (investigation period or IP). The examination of trends in the context of the injury analysis covered the period from 1 January 1997 to the end of the IP (period under consideration).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(9) The product concerned is certain non-textured artificial filament yarn of cellulose acetate (CAY). CAY is used to make textile fabrics. It is classifiable within CN codes 5403 33 10, 5403 33 90 and 5403 42 00.

(10) The most important characteristics of CAY are the colour, the decitex (weight per length of yarn), and the package (known in the market in the form of cheese, beam or back beam). Nylon or polyester might also be added to the yarn of cellulose acetate. All types of models of the product concerned have the same basic physical and chemical characteristics in spite of the differences in packaging, colour and decitex. Therefore, CAY can be considered as one single product.

2. Like product

(11) The imported products, the Community produced products and the products sold on the market of both exporting countries are similar in their essential physical and technical characteristics and in their uses. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Lithuania

(a) *Normal value*

(12) For the sole Lithuanian exporting producer, since total domestic sales of the product concerned during the IP represented less than 5 % of export sales to the Community, normal value had to be constructed. In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding an amount for selling, general and administrative (SG&A) costs and for profit to the exporter's cost of manufacturing. As domestic sales of the product concerned were not representative, and in the absence of any other apparent basis, for the purpose of a preliminary determination of dumping the information contained in the complaint was used for the establishment of SG&A costs and profit, in accordance with Article 2(6)(c) of the basic Regulation.

(b) *Export price*

(13) For those sales made to independent customers in the Community, the export price was established on the basis of the prices actually paid or payable for the product when sold to the Community, in accordance with Article 2(8) of the basic Regulation.

(14) For sales made via a related importer, the export price was constructed on the basis of resale prices to the first independent customers. Adjustments were made for all costs incurred between importation and resale. These costs included the related importer's SG&A costs and a reasonable profit margin. In order to establish a reasonable profit margin, and in the absence of any cooperating unrelated importer in the current investigation whose profit margin could be used for this purpose, the profit margin net of transport costs established for unrelated importers in another investigation covering the same general category of products (i.e. artificial filament yarns), was used. As a significant part of the exported product was further processed by the related importer through independent subcontractors in the Community before being resold to the first independent customer, the relevant processing costs, which represented a significant percentage of the selling price, were also deducted from the export price.

(c) *Comparison*

(15) For the purposes of a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences that were claimed and demonstrated to affect prices and price comparability. These adjustments were made, where appropriate, in respect of discounts and rebates, transport, insurance, handling, loading and ancillary costs, commissions and credit costs in accordance with Article 2(10) of the basic Regulation.

(d) *Dumping margin*

(16) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price. The provisional dumping margin expressed as a percentage of the cif Community frontier price duty unpaid, for the exporting producer concerned is:

Dirbtinis Pluostas: 30,8 %.

As the level of cooperation for Lithuania was high, the residual provisional dumping margin was set at the same level as for the cooperating company, i.e. 30,8 %.

2. **United States**

(a) *Cooperation*

(17) One of the two United States exporting producers submitted only the sections of the questionnaire relevant to the injury determination. However, the company allowed the Commission services to carry out on-spot verification visits at its premises, as well as the premises of its related importer. The company was warned in accordance with Article 18(6) of the basic Regulation that as a result of its only partial cooperation the dumping findings may be less favourable for it than if it had fully cooperated.

(b) *Normal value*

(18) For the other exporting producer which cooperated fully, in the absence of profitable domestic sales of the like product during the IP, normal value had to be constructed, in accordance with Article 2(3) of the basic Regulation. Normal value was constructed on the basis of this exporting producer's own cost of manufacturing and SG&A costs. Its own SG&A costs could be used because the domestic sales of the like product made by the exporting producer were representative as defined in Article 2(2) of the basic Regulation. For the profit margin, in the absence of profitable sales in the same general category of products and of any other basis, for the purpose of a preliminary determination of dumping, the information contained in the complaint was used, in accordance with Article 2(6)(c) of the basic Regulation.

(19) In the absence of relevant information from the partially cooperating exporting producer, the normal value for the partially cooperating producer was established on the basis of information obtained from the fully cooperating exporting producer in the United States of America, in accordance with Article 18(1) of the basic Regulation.

(c) *Export price*

(20) Since all the sales of the two exporting producers were made via related importers, export price was constructed on the basis of the resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale. These costs included the related importer's SG&A costs and a reasonable profit margin. In order to establish a reasonable profit margin, and in the absence of any cooperating unrelated importer in the current investigation whose profit margin could be used for this purpose, the profit margin net of transport costs established for unrelated importers in another investigation covering the same general category of products (i.e. artificial filament yarns), was used. Some of the exports from one exporting producer were further processed by its related importer in the Community. These processing costs were also deducted from the export price.

(d) *Comparison*

(21) For the purposes of a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences that were claimed and demonstrated to affect prices and price comparability. These adjustments were made, where appropriate, in respect of physical differences, discounts and rebates, transport, insurance, handling, loading and ancillary costs, commissions and credit costs in accordance with Article 2(10) of the basic Regulation.

(e) *Dumping margin*

(22) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal values with the weighted average export price. The provisional dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, for the exporting producers concerned are:

Celanese Acetate LLC: 84,8 % and

Eastman Chemical Company: 104,8 %.

(23) As the volume of imports from the United States companies which either partially or fully cooperated was high, the provisional residual dumping margin was set at the same level as for the United States company with the highest dumping margin established, i.e. 104,8 %.

D. **DEFINITION OF THE COMMUNITY INDUSTRY**

(24) Within the Community, the product considered was manufactured by:

— two producers located in Italy and Spain, on behalf of which the complaint was lodged and which fully cooperated in the investigation,

— one producer related to a United States exporter and not supporting the investigation.

(25) Due to a lack of cooperation and therefore a lack of data, the economic operator which is related to a producer in the countries concerned (Celanese) has provisionally been excluded from the definition of the Community industry.

(26) The two cooperating complaining Community producers fulfil the requirements of Article 5(4) of the basic Regulation, since they account for 93 % of Community production of the product concerned. They are therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the basic Regulation.

E. **INJURY**

(a) *Apparent Community consumption*

(27) For the calculation of the apparent consumption of the product concerned on the Community market, the Commission added the sales volume of the Community industry and of the other Community producer to the total imports into the Community as shown under CN codes 5403 33 10, 5403 33 90 and 5403 42 00.

(28) On this basis, apparent consumption of the product concerned in the Community decreased from around 38 000 tonnes in 1997 to 29 000 tonnes in the IP, this means by 24 %.

(29) The drop was particularly marked between 1998 and 1999 (– 28 %), mainly in the aftermath of the Asian crisis which happened in autumn of 1997. Afterwards it partly recovered and consumption was up 6 % between 1999 and the IP. The overall decrease in Community consumption is mainly attributable to the substitution of filament yarn of cellulose acetate by lower-priced polyester yarn as well as final products, directly imported from Asia.

(b) *Cumulative assessment of the effects of the imports concerned*

(30) The Commission examined whether imports of CAY originating in Lithuania and the United States of America should be assessed cumulatively in accordance with Article 3(4) of the basic Regulation.

(31) The margin of dumping established in relation to the imports from each of the countries concerned was above the *de minimis* threshold as defined in Article 9(3) of the basic Regulation and the volume of imports from each of these countries was not negligible.

(32) As regards the conditions of competition, the investigation showed that CAY imported from the countries concerned, were alike in all their essential physical and technical characteristics. Furthermore, on that basis, CAY was interchangeable and was marketed in the Community during the period under consideration through comparable sales channels under similar commercial conditions.

(33) It was argued that imports originating in the United States of America should be decumulated from the investigation as the complainants clearly distinguished the effects of imports from the United States of America and Lithuania. Secondly, it was argued that imports from the United States of America are not undercutting domestic prices to the same degree as imports from Lithuania. Thirdly, one exporting producer from the United States of America has decided not to make any future investments in the acetate yarn business. Fourthly, it was argued that the increase in imports from the United States of America is mainly due to the closing of a production facility in the Community and substitution by sales of United States origin. As far as the first argument is concerned, it should be noted that both countries are included in the complaint and both of them are underselling. Secondly, whilst it is true that United States prices are only slightly undercutting, it should however be borne in mind that prices of the Community industry have been depressed to a significant degree and that underselling occurred. As far as the remaining two arguments are concerned, they do not seem to be relevant in the context of the decision on decumulation.

(34) In the light of the above, the Commission services provisionally considered that all the criteria set out in Article 3(4) of the basic Regulation were met and that imports from the countries concerned should therefore be examined cumulatively.

(c) *Imports originating in the countries concerned*

Volume

(35) The volume of imports of the product concerned originating in Lithuania and the United States of America into the Community increased by 63 % over the period under consideration.

(36) Imports decreased by 13 % between 1997 and 1998. Imports remained practically stable in 1999 despite the fact that consumption in the Community market decreased by 28 % in this year. Subsequently, import volumes more than doubled in 2000 although consumption remained by and large stable during the period 1999-IP.

Market share

(37) Over the period under consideration the share of the Community market held by the dumped imports from the countries concerned increased by 14 percentage points.

(38) The joint market share held by the two countries concerned increased by 14 percentage points during the period under consideration. After a slight decrease in 1998, it increased significantly in 1999 and 2000.

(d) *Prices*

Price evolution

(39) Between 1997 and the IP, the average cif prices of imports originating in Lithuania and the United States of America decreased by 14 %. The decrease occurred steadily over the period under consideration.

Price undercutting

(40) A comparison for comparable types of the product concerned was made between the exporting producers' and the Community industry's average selling prices in the Community, net of all rebates and taxes to unrelated customers, at the same level of trade (both related importers and the Community industry sell to the same types of users). The prices of the Community industry were at an ex-works level. The constructed cif Community frontier prices of exporting producers of the countries concerned were adjusted for post importation costs, applicable duties (in the case of the United States imports) and a profit margin for importers. However, some of the exports from two exporting producers were further processed by their related importers in the Community. These processing costs were not deducted from the export price for reasons of comparability with the corresponding product types of the Community industry.

(41) This comparison showed that during the IP the products concerned originating in the countries concerned were sold in the Community at prices which undercut the Community industry's prices, when expressed as a percentage of the latter, as follows: Lithuania between 4 % and 8 %, United States of America: between 0 % and around 2 %. The relatively low undercutting margins are not an indication of non-injurious export prices. On the contrary, they are a result of the price depression exerted on the sales prices of the Community industry.

(e) *Situation of the Community industry*

Preliminary remarks

(42) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry. For reasons of confidentiality, figures are presented in an indexed or approximate form.

Capacity, production and capacity utilisation rate

(43) The production capacity was reduced significantly by 23 % during the period under consideration, mainly as a result of the rationalisation of the production facilities by one of the complaining Community producers. The first reduction of capacity was introduced in 1999 and downsizing continued in the IP.

(44) The production of the Community industry decreased by 28 % during the period under consideration.

(45) After a decrease of 5 % in 1998, production plummeted in 1999 with a drop of 28 %. This was in line with the shrinking market. After stabilisation in 2000, production recovered slightly during the IP. It should be noted that production decreased following the trend of Community industry's decreasing sales.

(46) Given the practically stable production capacity in the period 1997 to 1999, capacity utilisation first followed the same trend as production. After the sharp drop of production in 1999 of 25 %, the Community industry reduced capacity and thereby improved capacity utilisation by 11 % in 2000 and another 13 % during the IP, albeit against the background of an overall capacity reduction.

Inventories

(47) The level of closing stocks of the Community industry evolved as follows:

(48) Stocks decreased by 5 % during the period under consideration but constituted 13 % of the sales volume in 1997 whereas in the IP they accounted for 18 % of the sales volume.

Sales volume and market share

(49) The sales by the Community industry on the Community market decreased by 35 % in terms of volume and by 40 % in terms of value during the period under consideration.

(50) In line with the market, sales to unrelated customers dropped sharply in 1999. While the total consumption in the Community increased after 1999, the Community industry nevertheless sold less during the IP than in the year after the Asian crisis.

(51) The market share held by the Community industry decreased by 15 % over the period under consideration.

(52) The Community industry lost some market share in the year 1999 and incurred a further substantial loss in 2000. In the IP it was able to regain some market share but was still far below the of 1999.

Growth

(53) While the Community consumption decreased by 24 % between 1997 and the investigation period, the sales volume of the Community industry decreased by around 35 %. On the other hand, volume of imports concerned increased by 63 %. The Community industry thus lost 12 percentage points of its market share, whereas the imports concerned managed to increase their market share by 14 percentage points during the same period. This means that the Community industry reduced its presence in the market to an extent exceeding the decline in growth of the market between 1997 and the IP.

Sales prices

(54) The Community producers average net sales price of the product concerned produced and sold in the Community decreased by 6 % between 1997 and the IP.

(55) Sales prices remained practically stable until 1999 and were reduced slightly in 2000 and the IP.

(56) The evolution in prices should be seen in comparison with the evolution of the unit cost of production. In 1999, the unit cost of the Community industry increased by 16 % mainly because of the decrease in production. Due to the restructuring and the dismissal of employees, the unit costs could be reduced gradually. However, they were still 10 % above the 1997 level.

Employment

(57) Between 1997 and the IP, the level of employment of the Community industry decreased by 29 %.

(58) In an effort to increase productivity in order to reduce unit costs, staff was reduced significantly from 1999 onwards. The reduction was particularly marked in 2000 with a decline of 14 %.

Productivity

(59) Between 1997 and 1999 productivity, measured as output per person employed per year, fell by 29 % and improved subsequently due to the restructuring of the Community industry. In the IP it just slightly exceeded the 1997 level.

Wages

(60) Between 1997 and the IP, the average wage per employee increased by 8 %.

(61) After stable wages in 1998 and a slight reduction in 1999, nominal average wages per employee increased to a level that was 8 % higher in the IP than in 1997. It should be noted that total wages paid decreased given the lay off of staff.

Investments

(62) The Community industry's total investments in the product concerned decreased by 42 % between 1997 and the IP.

(63) In 1999 investments plummeted by 55 %, then recovered in the IP by 14 % but were still far below the 1997/1998 level.

Profitability

(64) Over the period under consideration, profitability of sales in the EC to unrelated customers in terms of profit/loss before tax on net sales decreased by 13 to 16 percentage points.

(65) The Community industry was profitable in the years 1997 and 1998 with average profitability between 8 % and 16 %. In the aftermath of the Asian crisis, they incurred losses in the range of 17 % and 12 % of turnover. As a result of the reorganisation, the Community industry just reached profitable levels again in the IP but these still remained far below sustainable profit margins.

Cash flow, return on investment and ability to raise capital

(66) The cash flow generated by the product concerned declined by 84 % during the period under consideration.

(67) The cash flow fell by 32 % in 1998 and a further 47 % in 1999. In 2000, it continued to decline and then stabilised in the IP.

(68) The return on capital employed developed similarly to the profitability and fell by 93 % between 1997 and the IP. The most significant decline occurred in 1999 when the Community industry incurred losses. Due to the reorganisation it improved by 19 % in 2000 and 21 % in the IP.

(69) The investigation has shown that the complaining Community producers were not experiencing difficulties in their ability to raise capital. In this respect, it should be noted that the shareholders of the Community industry decided to support the cellulose acetate business and to provide necessary capital.

Magnitude of dumping margin

(70) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the countries concerned, this impact is substantial.

(f) *Conclusion on injury*

(71) The examination of the abovementioned factors shows that between 1997 and the IP the situation of the Community industry deteriorated. This resulted in a deteriorating market share (– 12 %), profitability (between – 13 % and – 16 %), cash flow (– 84 %) and return on capital employed (–93 %). There were also negative effects as regards production volume (– 28 %) and sales volume (– 35 %). Staff was reduced by 29 % during the period under consideration. However, part of these negative developments were the result of the contraction in demand. The development in terms of capacity utilisation which looks at first sight positive, should be seen in the light of the decreasing sales and market share and the ensuing adjustment process undertaken by the Community industry in terms of capacity reduction.

(72) In the light of the foregoing it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

F. **CAUSATION**

(a) *Introduction*

(73) In order to reach its conclusions on the cause of the injury suffered by the Community industry and in accordance with Article 3(6) and (7) of the basic Regulation, the Commission services examined the impact of all known factors and their consequences on the situation in that industry. Known factors other than the dumped imports, which could at the same time have injured the Community industry, were also examined to ensure that the possible injury caused by these other factors was not attributed to the dumped imports.

(b) *Effects of the dumped imports*

(74) Between 1997 and the IP, dumped imports from the countries concerned increased significantly in volume (63 %) and in market share (from 12 % in 1997 to 26 % in the IP). As regards the export prices, they decreased substantially during the whole period under consideration and undercut Community's industry prices during the IP on average by 2,9 %. Moreover, undercutting figures did not show the full impact of the dumped imports, since Community prices were depressed (see recital 54). All this coincided with the deterioration of the situation of the Community industry in terms of price reductions, reduced market shares as well as deteriorating profitability.

(75) Prices of dumped imports were below those of the Community industry throughout the period under consideration and exerted a pressure on them which forced the Community industry to decrease prices in spite of increasing costs of production. It is therefore considered that the dumped imports caused material injury to the Community industry.

(c) *Effects of other factors*

Performance of other Community producers

(76) One Community producer not supporting the complaint closed its production facility in the beginning of 2002, phasing out production already during the investigation period. Therefore it can be concluded that the products produced and sold by this only other Community producer did not contribute to the injury suffered by the Community industry.

(77) It was submitted that the increase in imports from the United States of America was only due to the lower sales volume by Celanese from its Community production. This argument was provisionally rejected, as the demoralisation of the production was an internal company decision whereas the investigation has to focus on the developments of dumped imports as a whole. Moreover, these dumped imports also coincided with the deterioration of the Community industry's situation.

Self-inflicted injury

(78) It was submitted that the Community industry imported filament yarn of cellulose acetate from the United States of America at low prices thereby inflicting injury upon itself. This purchase was due to timing problems in the production process. Given the small quantity involved (approximately 1 % of total imports from the countries concerned during the IP), it is provisionally concluded that these imports cannot have contributed to the injury suffered by the Community industry.

Adverse exchange rate movements

(79) One exporting producer submitted that adverse currency rates (GBP/EUR) were a major contributing factor to the closure of two production plants of a Community producer in the United Kingdom. Indeed, in the press release announcing the plant closure, exchange rate problems were listed as a reason for the decision. However, after examination this seems to have been a minor factor in a wider context. Furthermore, the production facilities in the United Kingdom constituted only a small part of the Community production whereas most of the production capacity as well as the consumption is located in Italy and Spain. Therefore, it was provisionally concluded that this had only a minor impact on the Community industry, if any.

Contraction of demand

(80) Increased substitution of lower-priced polyester filament yarn for cellulose acetate yarn has occurred in many fabrics, including linings and apparels. In addition, the Community industry as well as the users suffered from competition from downstream products such as fabrics or garments directly imported from the Far East, reinforced after the Asian financial crisis. All parties involved in the proceeding agreed on this aspect. However, the sharp drop of consumption in the Community market occurred between 1998 and 1999 (– 28 %) whilst the imports from the countries concerned remained mainly stable. It was also during that period that the Community industry incurred heavy losses. Subsequently, i.e. in 2000, imports from the countries concerned more than doubled, thereby nearly doubling their market share as well. The consumption in the Community market increased after the Asian crisis by 6 % (1999-IP), whereas the sales volume of the Community industry remained stable during the same period. In terms of sales value, it lost another 6 %. The Community industry adjusted its production capacity as well as the number of employees to the contracted

market, but during the IP due to the reduction in its market share, which has been taken over by the dumped imports, it was still only just breaking even. In other words, during the IP the problem for the Community industry was not the contraction in demand (because the industry has adjusted to that already before) but the dumped imports from the countries concerned. It is therefore provisionally concluded that the contraction of demand contributed only to a minor extent to the injury suffered by the Community industry.

Imports from third countries

(81) According to the available information, the total import volume of the product concerned originating in third countries decreased by 62 %, and their market share fluctuated around 1 %. Therefore, they are provisionally considered not to have had a significant impact on the Community industry.

(d) *Conclusion on causation*

(82) Given the above analysis which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is provisionally concluded that these other factors as such did not reverse the fact that the material injury found may be attributed to the dumped imports.

(83) It is therefore provisionally concluded that the dumped imports originating in Lithuania and the United States of America have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

G. **COMMUNITY INTEREST**

(84) In order to assess the Community interest, the Commission carried out an investigation into the likely effects of the imposition/non-imposition of anti-dumping measures on the economic operators concerned. Questionnaires were sent to all interested parties known to be concerned, including importers, other Community producers and users known to the Commission services.

(a) *Interest of the Community industry*

(85) Following an imposition of measures, it is expected that the volume of sales of the product concerned by the Community industry on the Community market would stabilise. This would enable the Community industry to recover lost market shares and, by increasing capacity utilisation, decrease unit production costs and increase productivity. Furthermore, the level of the Community industry's prices would in all likelihood increase moderately as a result. In conclusion, it is expected that the stabilisation in production and sales volume, on the one hand, and the further decrease in unit costs, on the other hand, combined with a moderate price increase, will allow the Community industry to improve its financial situation.

(86) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the Community industry will continue. The Community industry is particularly marked by a loss of sales volume and market shares and insufficient profitability. Indeed, in view of the decreasing sales volume and the material injury suffered during the IP, it is obvious that the financial situation of the Community industry will deteriorate further in the absence of any measures. This would ultimately lead to further cuts in production, closures of certain production lines and therefore threaten employment and investments in the Community.

(87) Accordingly, it is provisionally concluded that the imposition of anti-dumping measures would allow the Community industry to recover from the injurious dumping.

(b) *Interest of unrelated importers/traders in the Community*

(88) Questionnaires were sent to nine importers named in the complaint, out of which five declared not to be concerned by the investigation as they did not import from the countries concerned or they did not import the product concerned at all during the IP, one is related to a producer in Lithuania and two declared to be users of the product concerned and accordingly received the corresponding questionnaire for users.

(89) A trader purchasing only from the Community industry was in favour of anti-dumping duties in order to stabilise the market.

(90) Therefore, it can be provisionally concluded that the likely effects of the imposition of anti-dumping measures on unrelated importers/traders would not be significant as no objections were raised.

(c) *Interest of the user industry*

(91) The main user of the product concerned in the Community is the textile industry producing linings, women's apparel and furnishings. Most of the users are located in Italy and Spain.

(92) Questionnaires were sent to 40 users out of which seven returned a complete questionnaire reply. They represent a total turnover of around EUR105 million and sales of nearly EUR1 million of products incorporating the product concerned. This means that 49 % of their turnover is generated by products incorporating the product concerned. Their purchases of filament yarn of cellulose acetate amounted to 2 726 tons which represented 9,5 % of the total consumption in the Community.

(93) In addition, several users sent letters outlining their concerns regarding the possible imposition of anti-dumping duties.

(94) During the period under consideration, profitability of sales of products incorporating the product concerned in terms of profit/loss before taxes on net sales increased from 3,1 % to 5,1 %.

(95) Cellulose acetate presents on average around 27 % of the users' cost of production of products incorporating the product concerned which means that an imposition of a duty would have an impact on their costs of production. As the Community industry still has free capacity and the market might shrink even further, as well as there is also the possibility of sourcing from countries or companies not subject to anti-dumping duty, price increases, if any, are expected to be moderate.

(96) Nearly all users expect a decline in demand for filament yarn of cellulose acetate in the Community in the years to come due to the strong competition from the Far East both from finished products and alternative yarns. Consequently, the importance of the product concerned for users will diminish in the future.

(97) Users expressed quite diverse opinions on the possible imposition of duties. Some users stressed that the low-priced raw material is essential in order to compete with cheap imports of products from Asia using the product concerned as raw material. Other users claimed that the imports destabilise the market and therefore they supported the imposition of measures. Users processing imports from the countries concerned were against measures and users processing EU material were in favour of measures.

(98) Overall, given the diverse views, the user's profitability and the possibility to pass on at least partially price increased in the product concerned, it is provisionally concluded that the imposition of anti-dumping measures will not have serious consequences on the user industry.

(d) *Interest of raw material suppliers*

(99) The Community industry as well as one exporting producer buy the main raw material, cellulose flakes from sources in the Community. It was submitted that purchases by the Lithuanian exporting producer would come to a halt affecting the company from which it is sourcing its raw material seriously as this company has only a small customer base. As this claim was not substantiated, it was provisionally rejected.

(e) *Competition and trade distorting effects*

(100) It was submitted that the Community industry had a market sharing agreement and thus inflated prices artificially and that an imposition of a duty would lead to a monopoly of the Italian producer as the capacity of the Spanish producer is limited. As these allegations were not substantiated, they were provisionally rejected.

(f) *Consequences for relations with third countries*

(101) It has been argued that the imposition of measures is against the Community interest as it will have a negative impact on the Lithuania-EU relations. In this respect, it should be noted that the Community interest test is designed to examine the effect of a possible imposition or non-imposition of anti-dumping measures on the various economic operators in the Community. Therefore, the point raised is not included in the Community interest test.

(g) *Conclusion on Community interest*

(102) In the light of the above, it is provisionally concluded that no compelling reasons exist against imposing measures in the present case and that the application of measures would be in the interest of the Community.

H. **PROVISIONAL MEASURES**

(a) *Injury elimination level*

(103) The level of the provisional anti-dumping measures should be sufficient to eliminate the injurious effect caused to the Community industry by the dumped imports, without exceeding the dumping margins found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.

(104) On the basis of the information available, it was preliminarily found that a profit margin of 12 % of turnover could be regarded as an appropriate level which the Community industry could be expected to obtain in the absence of injurious dumping, taking into account the average level of profitability obtained by the Community Industry in the period 1997 to 1998 i.e. before the effects of the Asian crisis were felt (see recital 80). It is considered that in these years there was a normal competitive and representative situation on the Community market where Community producers competed normally with imports and where the Community industry, in the absence of injurious dumping, made a normal profit margin which in some cases exceeded the level of 12 %. The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry by the actual loss/profit made during the IP and by adding the abovementioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.

(105) The injury elimination margins thus established are as follows:

Lithuania	Dirtiness Pluostas	20,1 %
USA	Celanese	16,3 %
	Eastman	*de minimis*.

(b) *Provisional anti-dumping measures*

(106) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, a provisional anti-dumping duty should be imposed in respect of imports originating in Lithuania and the United States of America at the level of the lower of the injury margins found, as they are lower than the dumping margins.

(107) The levels of the duties proposed are as follows:

Country	Company	Rate of duty (%)
Lithuania	All companies	20,1
United States of America	Celanese Acetate LLC	16,3
	Eastman Chemical Company	0
	All other companies	16,3

(108) The individual company anti-dumping duty rates 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 duty rates (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 rates and shall be subject to the duty rate applicable to 'all other companies'.

(109) 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, for example, 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 rates.

I. **UNDERTAKINGS**

(110) The sole cooperating exporting producer in Lithuania, expressed its willingness to offer an undertaking. However, it was provisionally determined that due to the large number of product types concerned in this case, the complexity of distinguishing between these different product types, and the large variance of the unit price of these product types, the monitoring of an undertaking would be impractical. Therefore, the Commission did not consider that an undertaking would provide a satisfactory solution for the purposes of this determination.

J. **FINAL PROVISION**

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

[1] European Commission
Directorate-General Trade
Directorate B
Rue de la Loi/Wetstraat 200
B-1049 Brussels.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of certain non-textured artificial filament yarn of cellulose acetate, falling within CN codes 5403 33 10, 5403 33 90 and 5403 42 00 and originating in Lithuania and the United States of America.

2. The rate of the provisional anti-dumping duty applicable to the net-at-Community-frontier price, before duty, for products produced by the following companies shall be as follows:

Country	Company	Rate of duty (%)	TARIC additional code
Lithuania	All companies	20,1	—
United States of America	Celanese Acetate LLC, 2300 Archdale Drive, Charlotte, N.C., 28210, United States of America	16,3	A409
	Eastman Chemical Company, PO Box 511, Kingsport, Tennessee 37762, United States of America	0	A410
	All other companies	16,3	A999

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

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

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may present their views in writing and request a hearing from the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Regulation 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 that of 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, 18 September 2002.

For the Commission

Pascal LAMY

Member of the Commission