

## COMMISSION REGULATION (EC) No 2107/98

of 1 October 1998

**imposing provisional anti-dumping duties on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic, Hungary and Saudi Arabia and accepting undertakings offered by certain exporters in connection with those imports**

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<sup>(1)</sup>, as last amended by Regulation (EC) No 905/98<sup>(2)</sup>, and in particular Articles 7 and 8 thereof,

After consulting the Advisory Committee,

Whereas:

## A. PROCEDURE

- (1) On 3 January 1998, the Commission announced, by a notice published in the *Official Journal of the European Communities*<sup>(3)</sup>, the initiation of an anti-dumping proceeding concerning imports of polypropylene binder or baler twine originating in Poland. On 28 February 1998<sup>(4)</sup>, the Commission similarly announced the initiation of an anti-dumping proceeding concerning imports of the same product originating in the Czech Republic, Hungary and Saudi Arabia.

The proceeding with respect to imports of polypropylene binder or baler twine originating in Poland was initiated subsequent to the lodging of a complaint by the Liaison Committee of European Union Twine, Cordage and Netting Industries (Eurocord) in November 1997.

The proceeding with respect to imports of the same product originating in the Czech Republic, Hungary and Saudi Arabia was initiated following a second complaint lodged by Eurocord in January 1998.

The complaints were lodged on behalf of Community producers representing a major proportion of the Community production of polypropylene binder or baler twine. The complaints contained evidence of dumping of the said product, and of material injury resulting therefrom, which

was considered sufficient to justify the opening of the proceedings.

It was subsequently considered appropriate, for both dumping and injury analysis purposes, to combine the two investigations (see recital 5).

- (2) The Commission officially advised the exporting producers and importers/distributors known to it, the representatives of the exporting countries and the complainant Community producers of the initiation of the proceedings. Interested parties were given the opportunity to make their views known in writing and to request a hearing. All parties who so requested were granted a hearing.

- (3) The Commission sent questionnaires to all parties known to be concerned and received information from 10 complainant Community producers, seven exporting producers in Poland, two exporting producers in the Czech Republic, three exporting producers in Hungary and one exporting producer in Saudi Arabia. The Commission also received meaningful and complete replies from one unrelated importer in the Community and one unrelated importer located in Switzerland.

- (4) 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, and carried out verification visits at the premises of the following companies:

(a) *Complainant Community producers*

Austria:

— Teufelberger, Linz, Austria;

Belgium:

— Ostend Stores, Oostende, Belgium;

Portugal:

— Cordex, Esmoriz, Portugal,

— Cotesi, Carvalhos, Portugal,

— Exporplas, Cortegaca, Portugal,

— Sicor, Cortegaca, Portugal.

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1.

<sup>(2)</sup> OJ L 128, 30. 4. 1998, p. 18.

<sup>(3)</sup> OJ C 1, 3. 1. 1998, p. 10.

<sup>(4)</sup> OJ C 65, 28. 2. 1998, p. 8.

(b) *Importers/distributors*

- W. B. V. Oelde, Oelde, Germany,
- Fybron, Luzern, Switzerland.

(c) *Exporting producers*

Poland:

- BZLP Beزالin, Bielsko-Biala,
- CZWC Chemitex, Sochaczew,
- Industrial Chemistry Research Institute, Warsaw,
- PAT Defalin sa, Swiebodzice,
- Terplast sp. zo.o, Sieradz;

Czech Republic:

- Lanex a.s., Bolatice,
- Juta a.s., Dvur Kralove nad Labem;

Hungary:

- Elso Magyar Kenderfono Rt, Szeged,
- Partium '70 Rt, Berettyoujfalu,
- Tiszai Vegyi Kombinat Rt, Tiszaujvaros;

Saudi Arabia:

- Saudi Yarn and Knitting Technology Factory (Synthec), a division of NAFA Enterprises Ltd, Riyadh.

- (5) With regard to both proceedings, the investigation of dumping covered the period 1 January to 31 December 1997 (hereinafter referred to as 'the investigation period') and the examination of injury covered the period from January 1994 to the end of the investigation period.

## B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

### 1. The product concerned

- (6) The product concerned is polypropylene binder or baler twine (hereinafter referred to as 'twines'). These twines are used in the agricultural sector, notably for binding bundles to be picked up by automatic balers or similar machines.

The product is manufactured in different thicknesses (runnages) and with different specifications in respect of, for example, knot and tensile strength, number of twists/turns per metre, colour, ultra-violet stabilisation and fibrillation. The investigation has shown that, notwithstanding the different thicknesses and specifications of the product concerned, all twines constitute a single product for the purposes of the investigation. The product concerned is currently classifiable within CN code ex 5607 41 00.

### 2. Like product

- (7) Polypropylene binder or baler twines produced and sold by the Community industry on the Community market were found to be alike to the imports from the exporting countries concerned in

their basic physical and technical characteristics and in their uses. The same is true with regard to the product manufactured and sold on the domestic market of the exporting countries concerned. All these products are, therefore, like products, as defined by Article 1(4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation').

- (8) One Hungarian exporter claimed that the products it sold to the Community market should not be likened to the products of the Community industry, as their end-use was different. However, since no evidence was provided to back up this assertion, the Commission sees no reason why these Hungarian products should be excluded from the scope of this proceeding.

## C. DUMPING

### 1. Poland

#### (a) *Cooperation*

- (9) Cooperating exporting producers accounted for a relatively low proportion of total imports originating in Poland. Seven exporting producers located in Poland initially replied to the questionnaire. Of these seven replies, however, two were considered to be wholly inadequate for the purposes of the investigation, as the information provided did not permit an accurate determination either of normal values or of export prices. These companies were duly informed and were then given the opportunity to rectify the deficiencies in their responses, which they failed to do. The two companies concerned were therefore informed that they would be considered as non-cooperating, in accordance with Article 18 of the Basic Regulation.

#### (b) *Normal value*

- (10) To neutralise the effects of inflation on the calculations, normal value was established for periods of time as close as possible to the relevant export dates where the appropriate information was provided by the exporting producers concerned. In all cases, the most detailed information was used. Thus, for four companies, normal values were calculated on a monthly basis and for one company, on an annual basis. This approach also takes into account that the production of the product concerned is capital intensive and that average stocking periods are short.
- (11) On this basis, it was first determined whether domestic prices could be used in the determination of normal value, i.e. whether domestic sales of the product concerned had been made in sufficient quantities to independent customers in the ordinary course of trade.

- (12) For all five cooperating companies, sales of twines made on the domestic market were, overall, made in representative quantities, i.e. they constituted 5 % or more of the quantity exported to the Community. However, the individual types of the product concerned sold for export to the Community largely did not correspond to those sold on the domestic market. On a per-type basis, indeed, it was found that, for all companies, the quantity of the product types concerned sold domestically was less than 5 % of the quantity of the comparable types sold for export to the Community. In all cases, therefore, normal value was constructed, in accordance with Article 2(3) of the Basic Regulation.

Constructed normal values were calculated on the basis of the cost of production in Poland (including selling, general and administrative (SGA) expenses) plus a reasonable amount for profit. In all cases, each company's own SGA expenses were used. The rate of profit was calculated, in accordance with Article 2(6) of the Basic Regulation, using the actual rate of profit established for the sole cooperating producer located in Poland which had sufficient quantities of domestic sales of the like product in the ordinary course of trade.

(c) *Export price*

- (13) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were therefore established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(d) *Comparison*

- (14) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. Adjustments were made for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, packing costs, credit and commissions.

(e) *Dumping margin*

- (15) Weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation.

The weighted average dumping margins provisionally determined for the five cooperating exporting producers, expressed as a percentage of the respec-

tive cif import prices at the Community border duty unpaid, are set out below:

— BZLP Beزالin:	20,1 %
— CZWC Chemitex:	22,7 %
— PAT Defalin sa:	16,3 %
— Industrial Chemistry Research Institute:	28,4 %
— Terplast sp zo.o:	27,9 %.

- (16) For those exporting producers located in Poland, which failed to cooperate with the investigation, dumping was determined on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation. This was done in order not to reward non-cooperation and in order to avoid circumvention.

Since there was a relatively high proportion of total imports from Poland accounted for by non-cooperators, a residual dumping margin was calculated, based on the highest dumping margin found for a representative type exported by a cooperating exporting producer in Poland.

The residual dumping margin determined for Poland, expressed as a percentage of the cif import price at the Community border duty unpaid, is 40,9 %.

## 2. Czech Republic

(a) *Normal value*

- (17) It was first determined whether domestic prices could be used in the determination of normal value, i.e. whether domestic sales of the product concerned had been made in sufficient quantities to independent customers in the ordinary course of trade.

- (18) For one of the two Czech exporting producers, sales of twines made on the domestic market were, overall, made in representative quantities, i.e. 5 % or more of the quantity exported to the Community. However, as for Poland, the individual types of the product concerned sold for export to the Community by this exporting producer largely did not correspond to those sold on the domestic market. On a per-type basis, indeed, it was found that the quantity of the product types concerned sold domestically was less than 5 % of the quantity of the comparable types sold for export to the Community.

Since the domestic prices of the other Czech exporting producer could not be used, as provided for by Article 2(1) of the Basic Regulation (the product types manufactured by the two cooperating exporting producers were different),

normal value was constructed in accordance with Article 2(3) of the Basic Regulation.

Constructed normal value was calculated for this exporting producer on the basis of the verified cost of production (including the company's own SGA expenses) plus a reasonable amount for profit. The rate of profit was calculated, in accordance with Article 2(6) of the Basic Regulation, using the profit established for domestic sales of the like product made in the ordinary course of trade by the producer concerned.

For the second Czech exporting producer concerned, it was found that sales of twines on the domestic market during the investigation period were, overall and on a per-type basis, made in representative quantities and in the ordinary course of trade.

Normal value for this company was therefore established on the basis of the comparable prices paid or payable for domestic sales of the product concerned by independent customers in the ordinary course of trade, in accordance with Article 2(1) of the Basic Regulation.

(b) *Export price*

- (19) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were therefore established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(c) *Comparison*

- (20) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. Adjustments were made for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs.

(d) *Dumping margin*

- (21) Weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation.

The weighted average dumping margins provisionally determined for the two cooperating exporting producers, expressed as a percentage of the respective cif import prices at the Community border duty unpaid, are set out below:

— Lanex a.s.:	24,8 %
— Juta a.s.:	24,9 %.

- (22) The proportion of total imports from the Czech Republic accounted for by cooperating producers was high. A residual duty was therefore calculated, on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation, using the highest dumping margin found for an individual cooperating company located in the Czech Republic.

The residual dumping margin determined for the Czech Republic, expressed as a percentage of the cif import price at the Community border duty unpaid, is 24,9 %.

### 3. Hungary

(a) *Normal value*

- (23) As for Poland (see recital 10), normal values were established for periods of time as close as possible to the relevant export dates, where the appropriate information was provided by the exporting producers concerned. For one company, normal values were thus calculated on a monthly basis and for two companies, on an annual basis.
- (24) It was first examined whether domestic prices could be used in the determination of normal value, i.e. whether domestic sales of the product concerned had been made in sufficient quantities to independent customers in the ordinary course of trade. Where this was not the case, normal value was constructed, in accordance with Article 2(3) of the Basic Regulation. The use of the prices of other exporting producers, as provided for by Article 2(1) of the Basic Regulation, was not considered appropriate as domestic sales of the product concerned were made in representative quantities in the ordinary course of trade by one company for very few product types only.
- (25) For all three cooperating Hungarian exporting producers, overall sales of twines on the domestic market exceeded the threshold of 5 % of export sales. As for Poland and the Czech Republic, however, the individual types of the product concerned sold to the Community largely did not correspond to those sold on the domestic market. At the level of individual product types the following was ascertained:

For one company, on a per-type basis, although domestic sales of a number of types exceeded the threshold of 5 % of export sales, none were made in the ordinary course of trade. Normal value was therefore constructed for all types exported in accordance with Article 2(3) of the Basic Regulation.

For the second company, on a per-type basis, the threshold of 5 % was exceeded for one type only. Fewer than 10 % of sales of this one type were, however, profitable. It was therefore determined that the product that had been exported to the Community had not been sold on the domestic market during the investigation period in sufficient quantities in the ordinary course of trade. Normal value was therefore constructed in accordance with Article 2(3) of the Basic Regulation.

For the remaining company, on a per-type basis, a number of product types were sold in representative quantities. For some of these types, however, fewer than 10 % of sales were profitable, i.e. they were not sold in the ordinary course of trade. For all product types which were either not sold in representative quantities or not in the ordinary course of trade, normal value was constructed. The remaining product types that had been exported to the Community had been sold on the domestic market in the ordinary course of trade in sufficient quantities and normal value was established on the basis of domestic selling prices of these types.

For all three cooperating exporting producers, constructed normal value was calculated, where appropriate, on the basis of the verified cost of production in Hungary (including SGA expenses) plus a reasonable amount for profit. In all cases, each company's own SGA expenses were used. The rate of profit was calculated, in accordance with Article 2(6) of the Basic Regulation, using the actual rate established for the sole cooperating Hungarian producer for which sufficient domestic sales of the like product were made in the ordinary course of trade.

#### (b) *Export price*

- (26) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

#### (c) *Comparison*

- (27) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. In particular, adjustments were made to export prices and normal values for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, credit and commissions, and for differences in level of trade, where warranted.

#### (d) *Dumping margin*

- (28) For two companies, weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation. For the third company, weighted average normal values were compared to individual export prices, as a pattern of export prices which differed significantly among purchasers was apparent and as the weighted average would not reflect the full degree of dumping being practised.

The weighted average dumping margins provisionally determined for the three cooperating exporting producers, expressed as a percentage of the respective cif import prices at the Community border duty unpaid, are set out below:

— Elso Magyar Kenderfono Rt:	33,3 %
— Partium '70 Rt:	12,1 %
— Tiszai Vegyi Kombinat Rt:	26,4 %.

- (29) The proportion of total imports from Hungary accounted for by cooperating producers was high. A residual duty was therefore calculated, on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation, using the highest dumping margin found for an individual cooperating company located in Hungary.

The residual dumping margin determined for Hungary, expressed as a percentage of the cif import price at the Community border duty unpaid, is 33,3 %.

## 4. Saudi Arabia

#### (a) *Normal value*

- (30) For the sole cooperating exporting producer, it was established that overall sales of twines on the domestic market exceeded the threshold of 5 % of export sales and were therefore made in representative quantities. This threshold was also

exceeded on an individual product type basis. It was further established that all domestic sales were made in the ordinary course of trade, pursuant to Article 2(4) of the Basic Regulation.

Normal value was therefore based for the Saudi Arabian exporting producer, as set out in Article 2(1) of the Basic Regulation, on the basis of the prices paid or payable for all domestic sales of the product concerned to independent customers in the Saudi Arabian market during the investigation period.

(b) *Export price*

- (31) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were therefore established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(c) *Comparison*

- (32) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. Adjustments were made for differences in transport, insurance, handling, loading and ancillary costs, commissions and after-sales costs.

(d) *Dumping Margin*

- (33) Weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation.

The weighted average dumping margin provisionally determined for the sole cooperating producer in Saudi Arabia, expressed as a percentage of the respective cif import prices at the Community border duty unpaid, is set out below:

— Saudi Yarn and Knitting Technology Factory (Synthec), a division of NAFA Enterprises Ltd: 36,8 %.

- (34) Since the cooperating producer accounted for almost all imports from Saudi Arabia, a residual duty was calculated, on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation, using the dumping margin found for this producer.

The residual dumping margin determined for Saudi Arabia, expressed as a percentage of the cif import

price at the Community border duty unpaid, is 36,8 %.

#### D. DEFINITION OF THE COMMUNITY INDUSTRY

- (35) Ten complainant Community producers initially replied to the questionnaire. Two of these 10 companies, however, subsequently did not cooperate with the investigation. The investigation showed that the share of the total Community production held by the remaining eight Community producers during the investigation period amounted to more than 70 % of total Community production. Therefore, the cooperating Community producers constitute the Community industry within the meaning of Article 4(1) of the Basic Regulation. Hereinafter, the cooperating Community producers are referred to as the 'Community industry'.

#### E. INJURY

##### 1. Consumption in the Community

- (36) Community consumption was based on the combined volume of sales made by the Community industry and by the remaining non-cooperating Community producers as well as on import volumes. As regards the latter, the data obtained from Eurostat were adjusted to take account of information supplied by the cooperating exporting producers and verified by the Commission. The volume of sales of the Community producers not cooperating in the proceeding was estimated, on the basis of the information available, at around 30 % of the total sales of all Community producers.

On the above basis, Community consumption increased slightly, from 40 230 tonnes in 1994 to 44 363 tonnes in 1995. In 1996 apparent consumption increased substantially to 52 798 tonnes, decreasing slightly thereafter, reaching 52 526 tonnes in the investigation period. This represents an overall increase of 31 % during the period considered.

##### 2. Imports of twines from the exporting countries concerned into the Community

###### (a) *Cumulation*

- (37) The dumping margins established are not *de minimis*, and market shares of the countries concerned were not negligible. Imports from the countries all showed an upward trend. Moreover, it was found that the prices of these imports were all in the same range.

It should also be recalled that twines imported from the exporting countries concerned are entirely interchangeable among themselves and with twines produced and sold by the Community industry and are sold through the same sales channels in a market which is transparent. It was therefore concluded, in accordance with Article 3(4) of the Basic Regulation, that a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and between the imported products and the like Community product.

(b) *Volume, value and market share of imports from the exporting countries concerned*

- (38) The volume of imports from the four countries concerned increased from 5 263 tonnes in 1994 to 16 441 tonnes during the investigation period, representing an increase of more than 200 %.
- (39) In terms of market share based on total Community consumption, the market penetration of the dumped imports from the four countries concerned rose from 13 % in 1994 to 31 % during the investigation period in volume terms — an increase of 138 %.

(c) *Prices of imports from the exporting countries concerned*

- (40) Prices of the imports from Poland, the Czech Republic and Saudi Arabia increased from 1994 to the end of the investigation period. It should be noted that, in the vast majority of cases, these prices were found to be significantly lower than those of the Community industry over the whole period considered. As concerns Hungary, prices decreased slightly during the same period.

(d) *Price undercutting of imports from the exporting countries concerned*

- (41) For the determination of price undercutting regarding the exporting countries concerned, the Commission analysed data referring to the investigation period. Price undercutting was established on the basis of a comparison of the export price with prices charged by the Community industry at the same level of trade, i.e. traders/distributors, which purchase directly from the exporting producers and the Community industry, and for directly comparable types of twines and for the four Member States with the most important markets, i.e. Germany, France, Italy and the United Kingdom.

Following this methodology, the price comparison was made on the basis of a sales volume representing approximately 70 % of the total volume of sales of all types of twines made by the Community industry. The transactions of the types of twines selected also represented a large proportion of the total volume of imports from the exporting countries concerned. The sales prices of the Community industry considered were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding transport costs. Adjustments were made to the exporting producers' selling prices (cif Community frontier) to take account of customs duty paid. All prices were compared after excluding discounts and rebates.

The results of the comparison (which with the exception of one Hungarian producer was conducted on a weighted-average to weighted-average basis) showed that price undercutting margins, expressed as a percentage of the Community industry's average selling prices, ranged as follows: for Poland from 5,7 to 17,4 % with an overall weighted average of 14,6 %, for the Czech Republic from 16,1 to 19,2 % with an overall weighted average of 16,1 % and for Hungary from 17,8 % to 21,4 % with an overall weighted average of 18,2 %. Price undercutting for Saudi Arabia was 3,8 %.

### 3. Situation of the Community industry

(a) *Production, capacity and capacity utilisation*

- (42) Production of the Community industry increased during the period considered, rising from 25 767 tonnes in 1994 to 30 133 tonnes in the investigation period. This represents an overall increase of 17 %. Production increased at a lower rate than Community consumption, which increased by 31 % during the period considered.
- (43) As regards capacity, it should be noted that the production facilities for twines are also used in the production of other products not concerned by the present proceedings, e.g. ropes. As a consequence, an estimate based on turnover, of the capacity normally attributed to the production of the product concerned by the Community industry had to be made. On this basis, capacity increased from 38 732 tonnes in 1994 to 42 984 tonnes during the investigation period, which represents an increase of 11 %. This increase was in line with expectations of market growth. The rate of capacity utilisation increased slightly during the period considered, rising from 66,5 % in 1994 to 70 % in the investigation period.

*(b) Sales volume of the Community industry*

- (44) The volume of sales of the Community industry on the Community market increased during the period considered, with the sales levels at 21 953 tonnes in 1994 and 24 166 tonnes in the investigation period. This represents an overall increase of 10 %. This trend shows that the sales of the Community industry did not follow the trend in consumption, which increased by 31 % during the period considered.

*(c) Market share*

- (45) The development of sales volume compared to that of Community consumption shows that the market share held by the Community industry decreased during the period considered. The market share of the Community industry decreased from 54,6 % in 1994 to 50,4 % in 1995, 49,2 % in 1996 and 46 % during the investigation period. The overall loss of market share was 8 percentage points between 1994 and the investigation period.

*(d) Stocks*

- (46) Stocks significantly increased between 1994 and the investigation period by 44,4 %.

*(e) Average sales price and price evolution*

- (47) The weighted average prices of the product concerned sold by the Community industry on the Community market fluctuated over the period considered, overall increasing by 10 %.

*(f) Profitability*

- (48) The profitability of the Community industry, expressed as a percentage of net sales, decreased from a weighted average profit of 3,9 % in 1994 to 1,9 % in the investigation period, i.e. a decrease of 50 %. It should be noted, however, that the financial situation deteriorated particularly from 1995 onwards, falling from a profit of 13,5 % to a profit of 1,9 % in the investigation period.

*(g) Investment*

- (49) Yearly investments made by the Community industry increased overall, going from ECU 1,07 million in 1994 to ECU 1,22 million in the investigation period, with a peak in 1996 of ECU 3,27 million. Although this represents an overall increase of 14 % over the period considered, investments have significantly decreased between 1996 and the investigation period.

*(h) Employment*

- (50) Employment levels in the Community industry for the product concerned increased during the period considered. Employment rose from 557 in 1994 to 689 in 1995. Since 1995 employment in the

Community industry decreased to 639, i.e. by 7,2 %.

**4. Conclusion on injury**

- (51) The investigation has shown that the Community industry was subject to substantial price undercutting from the dumped imports, which significantly increased in terms of volume and market share. In addition, the Community industry suffered a significant loss of market share (8 percentage points) at a time when Community consumption increased by 31 %.

Furthermore, the Community industry showed a significant deterioration of its financial results, in particular from 1995 onwards. In the light of the foregoing analysis, the Commission has provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(1) of the Basic Regulation.

**F. CAUSATION****1. Effect of the dumped imports**

- (52) In its examination of whether the material injury suffered by the Community industry had been caused by the dumped imports, the Commission found that the volume of dumped imports increased substantially between 1994 and the investigation period (210 %). It should be noted that, between 1994 and 1995, the volume of the dumped imports into the Community almost doubled and a further significant increase occurred between 1996 and the investigation period. This had the effect that the cumulated total market share of imports from the exporting countries concerned increased from 13,1 % in 1994 to 31 % in the investigation period, i.e. by 17,9 percentage points. In contrast, the Community industry's market share decreased by 8,6 percentage points between 1994 and the investigation period. Moreover, it should be noted that the Community industry lost 3,2 % in market share between 1996 and 1997 alone, which is the period during which the increase in imports from the exporting countries concerned became particularly relevant.

It is, furthermore, noted that the market for twine is price-sensitive and transparent. The Commission found that the product under investigation is to be considered as a commodity and that any downward pressure on prices tended to have an immediate impact on the market, in particular as the exporting producers and the Community industry sell their products to the same clients. In this context, the Commission found that the imports from the exporting countries concerned undercut the prices of the Community industry by between 3,8 and 21,4 % during the investigation period.



In addition, over the whole period considered the prices of imports from the countries under investigation were consistently and significantly lower than those of the Community industry. As a result of this, the Community industry had to adjust its prices to the market situation in order to avoid losing market share. Furthermore, the prices from the dumped imports were found to be the lowest in the market during the investigation period.

- (53) The situation of the Community industry was at its worst, with reference in particular to profitability and market share, during the investigation period, when the volume of imports from the exporting countries concerned into the Community was most significant.

Under the circumstances, it is concluded that the dumped imports of twines from the exporting countries concerned have caused material injury to the Community industry.

## 2. Other factors

### (a) Other imports

- (54) The effect of imports other than those from the exporting countries concerned on the situation of the Community industry was also examined on the basis of figures reported by Eurostat.

Imports from other countries not subject to the present investigations amounted to 2 043 tonnes during the investigation period, representing a total market share of 4 %, decreasing from a level of 4,6 % in 1994. During the investigation period, these imports were mainly from Costa Rica, USA, Slovenia, Turkey and Switzerland and, with the exception of imports from Costa Rica in 1996, were usually made at prices higher than those of the exporting countries concerned.

As far as Costa Rica is concerned, prices of imports were found to be lower, in 1996, than those from the countries concerned and its market share amounted to 2,2 %. However, as its prices were higher in 1997, its market share decreased to 1,4 %.

In this context, it should be recalled that, during the investigation period, prices of the dumped imports were found to be the lowest on the market. Moreover, the volume of the dumped imports alone was substantial throughout the period considered and, during the investigation period, such imports were found to represent 89 % of total imports.

It follows from the above that imports from countries other than the four countries concerned cannot have broken the causal link between the

dumped imports and the material injury suffered by the Community industry.

### (b) Development of consumption

- (55) Community consumption of twines increased in total by 31 % between 1994 and the investigation period, with a tendency to stabilise after 1996. The injury suffered by the Community industry cannot, therefore, be attributed to the trend in demand.

### (c) Export activity of the Community industry

- (56) During the period under investigation the Community industry's exports of twines to third countries, in terms of volume, remained stable. The sales prices charged by the Community industry in the export market were substantially higher than those applied in the Community market. Sales prices increased by 22 % on the export market in comparison to 10 % on the Community market. Thus, the export activity of the Community industry did not contribute to the injury suffered by the Community industry.

### (d) Competitiveness of the Community industry

- (57) It is recalled that, over the period considered, the Community industry made significant investments in replacement machinery in order to tie-up with developments in technology. These new machines enabled a leaner and more integrated production process to be put in place. The Community industry, moreover, continued its efforts in research and development and in quality control throughout the period considered. During the period under investigation the Community industry decreased its SGA costs by 8 %. The Community industry therefore improved its performance both in cost and in quality terms over the period considered.

### (e) Changes in the prices of raw material

- (58) The Commission also considered whether the injury suffered by the Community industry could have been caused by fluctuations in the cost of raw materials during the period considered, during which significant fluctuations in the cost of raw materials were found. Both Community producers and the producers in the exporting countries concerned were subject to such fluctuations. Overall, the prices of polypropylene granulates, the main raw material used in the production of the product concerned, increased by 39 % between 1994 and the investigation period. Considering that this raw material accounts for approximately 55 % of the total cost of production, the average sales

price charged by the Community industry should have increased by 21,5 % over the period considered to cover the overall increase in raw material costs. This should be compared with an overall increase in the sales prices of the Community industry of 10 % and the significant undercutting margins found for imports from the exporting countries concerned, which made it impossible for the Community industry to pass on the full increase of raw material costs to their customers.

### 3. Conclusion

- (59) Given the fact that twine is a commodity-type product offered in a transparent market, and that the Community-produced and the imported product are sold through the same sales channels in the Community, the Commission considers that dumped imports of twines originating in the exporting countries concerned had a significant impact on the Community market.

Although it cannot be excluded that certain imports from other third countries and variations in the cost of raw materials may have had a slight adverse effect on the situation of the Community industry, this does not detract from the fact that imports of twines originating in the exporting countries concerned, taken in isolation, caused material injury to the Community industry.

This conclusion is drawn in particular from the loss of market share of the Community industry combined with a deterioration in profitability, coinciding with a significant increase in the volume and market share of dumped imports at prices that constantly undercut those of the Community industry, and which were indeed at levels found to be the lowest on the market during the investigation period.

## G. COMMUNITY INTEREST

### 1. Introduction

- (60) It has been further examined whether, despite the conclusions on dumping and injury caused thereby, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose anti-dumping measures in this particular case. For this purpose, and pursuant to Article 21(1) of the Basic Regulation, the Commission considered the impact of measures for all parties involved in the proceedings and also the consequences of not taking measures.

In order to assess the likely impact of measures, the Commission requested information from all interested parties known to it, including the Community industry, the importers/distributors and users of the product concerned. It is to be noted that the Commission received only limited

and generic replies. The parties examined in the context of the present Community interest analysis fall into the following categories: the Community industry, the importers/distributors and users. It should be noted that twines are sold in the Community in their finished state, therefore no downstream processing industry as such is concerned by these proceedings.

### 2. Interests of the Community industry

#### (a) *Nature and structure of the Community industry*

- (61) Community producers are spread over most Member States. A large concentration of companies is, however, to be found in Portugal. The Portuguese producers accounted for approximately 60 % of the production of the Community industry in the investigation period.

The Community industry is made up, for the most part, of family-owned small- to medium-sized companies. The Community industry essentially transforms the raw materials into twines through the following main production phases: an extrusion phase (the melting of the raw materials into useable film), a stranding phase (creating strands from the film) and a twisting or braiding phase (twisting or braiding the strands to make up the twine).

#### (b) *Viability of the Community industry*

- (62) Although the Community industry suffered financial shortfalls, this does not mean that it is not structurally viable. Indeed, the Community industry invested significantly throughout the period considered in new machinery, which enabled the introduction of more efficient production processes. The Community industry also invested in quality assurance and control and has undertaken important research and development efforts to introduce the production of new types of twines providing a higher added value and involving more advanced technologies. Finally, at the end of the investigation period the Community industry still held a significant market share, which demonstrates that the Community industry is a reliable supplier.

#### (c) *Likely effects of the imposition or non-imposition of measures*

- (63) If the pressure exerted by the dumped imports were allowed to continue further — in particular in light of the significant increase in the market share of these imports — the financial situation of the Community industry would continue to deteriorate. The Community industry would then not be able to finance its efforts in developing new products

and over the longer-term company closures could follow. In this respect, it is noted that, in the course of the investigation period, as a consequence of the price pressure existing on the Community market during the period considered, one of the complainant Community producers stopped producing. It is very likely that, without measures to correct the effects of dumped imports, this negative trend will continue. Thus, the existence of the Community industry and 600 jobs, concentrated mainly in Portugal, may ultimately be at risk.

- (64) The imposition of measures may allow the Community industry to regain part of the previously held market share. Furthermore, the imposition of measures should enable the Community industry to improve profitability. The imposition of anti-dumping measures would therefore be in the interest of the Community industry.

### 3. Interests of the importers/distributors

- (65) The distribution chain of the product concerned is characterised by a small number of importers/distributors who hold significant levels of stocks of the product concerned. The importers/distributors generally act as intermediaries between the users (agricultural cooperatives and bale contractors) and both the Community industry and the exporting producers. As the importers/distributors are generally free to determine the source of their supply (Community-produced or imported), the Commission does not see that they would be significantly affected by the imposition or non-imposition of measures. Moreover, no evidence was submitted to the Commission that this would not be the case.

### 4. Interests of the users

- (66) The users of the product concerned mainly consist of bale contractors or individual farmers. Given the price-sensitivity of the market, the Commission considers that the impact of the imposition of measures would in all likelihood take the form of a price increase. It should be noted that twines are only used for the production of bales and that the costs relating to twines are peripheral to the main costs incurred by the individual farmer or bale contractor, when compared to other costs such as the depreciation of the baler machines, fuel, insurance, labour or maintenance. According to the information available, the Commission considers that the product concerned represents only a negligible part of the overall costs of the individual farmer or bale contractor, which may explain the lack of cooperation by the users in the present proceedings. Any expected price increase as a result of the imposition of measures would, therefore, be marginal for the users.

### 5. Consequence for competition in the Community market

- (67) As far as the competitive environment in the Community market is concerned, the level and nature of the measures are not such as to exclude from the Community market those exporting producers under investigation and therefore the measures will allow the continued presence of these exporting producers in the market.

Thus, users will continue to benefit from a market driven by a high number of suppliers.

### 6. Conclusion

- (68) The rate of increase of imports from the exporting countries concerned during the period considered, and the exporting producers' behaviour on the Community market, i.e. constantly and significantly undercutting the prices of the Community industry, indicate that there is a likelihood, in the absence of measures, that this trend will continue and further aggravate the injury caused to the Community industry.

The imposition of measures can be expected to assist the Community industry to improve profitability, with consequent beneficial effects on the competitive conditions on the Community market and the reduction of the threat of further closures and reductions in employment. It is also expected that measures will enable the Community industry to take full advantage of the investments made in recent years to continue developing new products of higher technology for new and specialised applications. As regards the user industries, any expected price increase would have only a marginal impact. The Commission has concluded that, in the circumstances, there are no compelling reasons not to impose measures.

## H. PROVISIONAL MEASURES

- (69) On the basis of the conclusions on dumping and injury set out above, the Commission considered the level of the provisional measures to be adopted. For this purpose, account has been taken of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

### 1. Injury elimination level

- (70) For the purpose of establishing the level of the provisional measures to be imposed, the Commission considered that the prices of the dumped imports should be increased to a non-injurious

level. The necessary price increase or injury margin was determined on the basis of a comparison of the weighted average export prices for those product types used in the determination of price undercutting at the cif Community frontier level, with the actual weighted average cost of production of the Community industry plus a profit margin of 5 %. This profit margin was considered, for the purpose of a preliminary determination, to be the minimum profit level necessary to make this sector viable. It takes account of the fact that the product concerned is considered by the interested parties as a commodity.

The resulting amount necessary to remove the injury, or injury margin, was established for each of the exporting producers concerned as a result of this comparison and was expressed as a percentage of the CIF value of their exports to the Community.

## 2. Provisional duties

- (71) According to Article 7(2) of the Basic Regulation, the level of the provisional duty should be equal to the margin of dumping or the amount necessary to remove the injury, whichever is lower. For four exporting producers, the provisional duty is equal to the amount necessary to remove the injury, and for seven exporting producers, it is equal to the dumping margin. For the reasons set out in recitals 22, 29 and 34, the residual duty for the Czech Republic, Hungary and Saudi Arabia was set at the level of the highest margin found for a cooperating exporting producer in each country in question. For the reasons set out in recital 16, the residual duty for Poland was set at the level of the highest margin found for a representative type exported by a cooperating exporting producer in Poland.

## 3. Undertakings

- (72) Certain exporting producers concerned by the proceedings offered price undertakings to the Commission, in accordance with Article 8(1) of the Basic Regulation. The Commission considered that

the undertakings offered by the exporting producers concerned were acceptable.

- (73) The Commission points out that in the event of a breach or withdrawal of the undertaking, an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the Basic Regulation.
- (74) Furthermore, it should be noted that, in accordance with Article 8(6) of the Basic Regulation, the investigation of dumping, injury and Community interest will be completed, notwithstanding the acceptance of undertakings during the course of the investigation.

## I. FINAL PROVISION

- (75) In the interest of sound administration, a period should be fixed within which the parties concerned may make their views known in writing and request a hearing.

Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty, which the Commission may propose,

HAS ADOPTED THIS REGULATION:

### *Article 1*

1. A provisional anti-dumping duty is hereby imposed on imports of polypropylene binder or baler twine, currently classifiable within CN code ex 5607 41 00 (TARIC code 5607 41 00\*10), originating in Poland, the Czech Republic, Hungary and Saudi Arabia.

2. The rate of provisional duties applicable to the net free-at-Community-frontier price of imports of the product concerned produced by the following companies, before duty, shall be as follows:

Country	Company	Provisional duty (%)	TARIC additional code
Poland	BZLP Beزالin	20,1	8450
	CZWC Chemitex	22,7	8568
	PAT Defalin sa	16,3	8569
	Industrial Chemistry Research Institute	12,8	8578
	Terplast sp zo.o	7,7	8579
	Others	30,6	8900

Country	Company	Provisional duty (%)	TARIC additional code
Czech Republic	Lanex a.s.	24,8	8580
	Others	24,9	8900
Hungary	All companies	32,9	8900
Saudi Arabia	All companies	3,9	—

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

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

#### Article 2

1. Notwithstanding Article 1, the provisional duty shall not apply to imports of polypropylene binder or baler twine produced and directly exported or invoiced to an importing company in the Community by the companies specifically mentioned in paragraph 3, in respect of which the price undertakings offered are hereby accepted.

2. However, in the event of a breach of the undertaking during any given reporting period, i.e. quarter of a calendar year, all sales of that period shall be deemed to be not subject to the undertaking, and the rate of provisional duties applicable to the net free-at-Community-frontier price of imports of the product concerned, before duty, as set out in paragraph 3, shall apply. This shall not prejudice the right of the Community institutions to take any action warranted pursuant to Article 8(9) and (10) of Regulation (EC) No 384/96.

3. Imports made within the context of the undertakings offered and accepted shall be declared under the following TARIC additional codes:

Country	Company	Provisional duty to be imposed in the event of a breach of the undertaking (%)	TARIC additional code
Hungary	Partium '70 Rt.	12,1	8581
	Tiszai Vegyi Kombinat Rt.	26,4	8582
	Elso Magyar Kenderfono Rt.	32,9	8583

#### Article 3

Pursuant to Article 20(1) of Regulation (EC) No 384/96 and without prejudice to Article 20(2) and (3) of that Regulation 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 apply to be heard by the Commission within one month of the date of entry into force of this Regulation.

In accordance with the provisions of Article 21(4) of Regulation (EC) No 384/96, the parties concerned may provide comments on the application of this Regulation within one month of the date of its entry into force.

*Article 4*

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

Article 1 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, 1 October 1998.

*For the Commission*

Leon BRITTAN

*Vice-President*

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