

COMMISSION

COMMISSION DECISION

of 6 January 1998

terminating the anti-dumping proceeding concerning imports of video tapes in cassettes originating in Hong Kong and the Republic of Korea

(98/19/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Article 23(1) thereof,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidised imports from countries not members of the European Economic Community⁽³⁾, and in particular Articles 9(1) and 15,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) The Council, by Regulation (EEC) No 1768/89⁽⁴⁾, imposed a definitive anti-dumping duty on imports of video cassettes originating in the Republic of Korea and Hong Kong and terminated the anti-dumping proceeding with regard to imports of video tape reels originating in those same countries.

At the same time, the Commission accepted an undertaking offered by one Hong Kong exporter, Wing Shing Cassette Mfg Ltd⁽⁵⁾.

(2) At the request of Hong Kong companies which had not exported during the original investigation period, newcomer reviews were subsequently carried out, pursuant to Article 14 of Council Regulation (EEC) No 2423/88 (hereinafter referred

to as Regulation 2423/88). As a result of one of these reviews, no measures were imposed on the imports concerned; in the others, variable and *ad valorem* duties were imposed⁽⁶⁾.

(3) Following the publication of a notice of impending expiry of the measures in force⁽⁷⁾, a request for a review of the Regulation imposing the anti-dumping measures was lodged by the European Chemical Industrial Council (Cefic), acting on behalf of two producers of video cassettes in the Community, allegedly representing 45 % of total Community production.

Cefic claimed in its request that the expiry of the measures would lead to a recurrence of injury and that, despite the measures in force, continued and aggravated injurious effects from imported video cassettes from South Korea and Hong Kong were being felt, due to the low prices of these imports resulting from increased dumping. The evidence presented was considered sufficient, and in May 1994, the Commission gave notice of its intention to carry out a review⁽⁸⁾.

(4) It should be recalled that in 1991 anti-dumping measures were adopted with regard to the same product originating in the People's Republic of China⁽⁹⁾.

These measures expired on the grounds that the Community industry failed to cooperate in the recently conducted expiry review investigation⁽¹⁰⁾.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ L 209, 2. 8. 1988, p. 1.

⁽⁴⁾ OJ L 174, 22. 6. 1989, p. 1.

⁽⁵⁾ OJ L 174, 22. 6. 1989, p. 30.

⁽⁶⁾ OJ L 343, 7. 12. 1990, p. 1;

OJ L 139, 22. 5. 1992, p. 1;

OJ L 182, 2. 7. 1992, p. 6.

⁽⁷⁾ OJ C 344, 22. 12. 1993, p. 3.

⁽⁸⁾ OJ C 142, 25. 5. 1994, p. 2.

⁽⁹⁾ OJ L 293, 24. 10. 1991, p. 12.

⁽¹⁰⁾ OJ L 304, 7. 11. 1997, p. 19.

B. REVIEW INVESTIGATION

(5) By a notice published in September 1994⁽¹⁾, the Commission announced the initiation of a review investigation in accordance with Article 15 of Regulation 2423/88.

(6) The Commission officially advised the complainant Community industry, the exporters and the importers known to be concerned and the representatives of the exporting countries, and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(7) The Commission sent questionnaires to the parties known to be concerned and received replies from the two Community producers on behalf of which the review request had been lodged, from three Korean exporters and from importers in the Community related to two of the Korean exporters. Only one Hong Kong exporter cooperated by submitting a questionnaire response, from which it appeared that the company had not been exporting the product concerned during the investigation period, as defined in recital 11 below. No other Hong Kong exporters sent in questionnaire replies, although a number of companies in Hong Kong indicated that they were no longer exporting video cassettes to the Community.

The Commission received a submission from the Hong Kong government.

(8) The questionnaire response submitted by one of the two Community producers was considered to contain insufficient information; in addition, the company failed to submit a non-confidential version of its questionnaire response. Therefore, for the determination of injury, the Commission could not take into consideration the information supplied by this producer [see also recital (17)].

(9) On the basis of a request put forward by the Korean exporters, the three cooperating Korean exporters concerned and the Community industry met and exchanged views, in accordance with Article 7(6) of Regulation 2423/88.

(10) During the investigation, the Commission sought and verified all information it deemed necessary for the purposes of a determination and carried out verification visits at the premises of the following companies:

(a) Community producer:

— BASF Magnetics, GmbH, Mannheim (Germany), and its related sales companies,

— BASF Magnetics France, SA, Levallois-Perret (France),

— BASF, plc, Wembley, Middlesex (United Kingdom),
(hereinafter jointly referred to as BASF Magnetics);

(b) Producers/exporters in the Republic of Korea:

— SKC Ltd, Seoul,
— Kolon Industries Inc., Seoul,
— LG Electronics Inc., Seoul;

(c) Importers in the Community related to Korean producers/exporters

Germany:

— Kolon International GmbH, Frankfurt,
— SKC Europe GmbH, Frankfurt,
— LG Electronics Deutschland GmbH, Willich,

United Kingdom:

— Kolon Industries Inc., London (branch office),
— LG Electronics UK Ltd, Slough;

France:

— LG GoldStar France SARL, Marne La Vallée.

(11) The investigation period applied in the present proceeding was from 1 July 1993 until 30 June 1994. For the purposes of establishing whether the Community industry had suffered injury caused by the imports in question, the period from 1989, the year in which the measures under review were adopted, to the end of the investigation period was analysed. However, in that analysis, account had to be taken of two factors: first, for the period before 1991, the import data are only available in weight, and it is only from 1991 that more detailed statistical information has become available in respect of imports of video cassettes in units (both in volume and value), thus permitting a better analysis of the imports and their impact. Secondly, as outlined in recital 18, a significant change in the structure of the Community industry occurred in 1991, and consequently the analysis of the performance of the Community industry could only be done in a meaningful manner using figures from 1991 onward.

Consequently, the period between 1991 and the 30 June 1994 has provided the principal basis on which the existence of material injury to the Community industry has been examined.

(12) The investigation exceeded the indicative period of one year mentioned in Article 7(9)(a) of Regulation 2423/88, in the main due to the voluminous data to be analysed for a commodity product such as video cassettes which are sold in many varieties (i.e. different qualities and playing lengths), and the

⁽¹⁾ OJ C 260, 17. 9. 1994, p. 10.

fact that the quantity of transactions was extremely large. Furthermore, extensions were granted for replying to questionnaires upon request from various parties, including the Community industry. In addition, the Commission had to ask some parties to provide additional information on crucial issues.

Another element which influenced the investigation was the change of ownership of one of the complainants, as explained below (recital 18), which could have affected the continuation of the investigation. These negotiations, which led to the sale of BASF Magnetics to the Korean KOHAP group, were started in 1996 and came to a conclusion in January 1997.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

- (13) The product which is covered by this review investigation is video tape in cassettes, prepared for recording but not recorded upon (i.e. video cassettes) operating under VHS standard, falling under CN code (ex) 8523 13 00.

As stated in Commission Regulation (EC) No 4062/88⁽¹⁾ imposing provisional duties on video cassettes from Hong Kong and Korea, video cassettes are in general manufactured under licence from JVC (Japan Victor Company). They are used in video cameras to take video films, or in video cassette recorders to record and play back television programmes, as well as pre-recorded movies or films taken with a video camera. Video cassettes may differ in relation to the length of the tape inserted in the cassette and the quality of the tape used, but can be considered as one category of products.

The investigation has shown that video cassettes produced and sold on the respective domestic market of Hong Kong and Korea and those exported to the Community from these countries have the same basic technical and physical characteristics, and have identical uses. The same is true when comparing the imported video cassettes from these countries into the Community and the video cassettes produced and sold by the Community industry. Furthermore, in terms of customer perception and sales channels, video cassettes from Hong Kong and Korea, and video cassettes sold by the Community industry are competing directly with each other.

Therefore, and in line with the findings of the Regulation under review, it was found that video cassettes originating in Korea and Hong Kong and those sold in the Community by the Community industry, form a like product within the meaning of Article 2(12) of Regulation 2423/88.

D. COMMUNITY INDUSTRY

- (14) At the time of the original investigation, the Community industry on behalf of which the complaint had been lodged, consisted of four producers. These producers were Agfa-Gevaert AG, BASF Magnetics GmbH, Magna Tonträger Produktions GmbH and PDM Magnetics.

After the imposition of the measures under review, Magna Tonträger Produktions GmbH ceased production of video cassettes. The production of Agfa-Gevaert was taken over by one of the other Community producers (BASF Magnetics GmbH). Furthermore, the production of PDM Magnetics was taken over by another company, Sauerland-Kunststoffe GmbH & Co., KG (hereinafter Sauerland). As a result, of the four complainant companies in the original investigation, two remained: BASF Magnetics and Sauerland. These two producers represented some 45 % of total production of video cassettes in the Community.

- (15) One of the exporters claimed that, based on Article 4(5) of Regulation 2423/88, BASF Magnetics should have been excluded from the definition of the Community industry, since BASF Magnetics was itself an importer of video cassettes. It was established during the investigation, however, that imports by BASF Magnetics from one of the countries concerned had indeed taken place in the past, but at low levels and during a limited period of time. The imports of video cassettes took place on an OEM basis, and consisted of specific orders for a particular market of a Member State where price competition was most severe. The volume of the imports was small in relation to total sales (at around 4 % for one year) and had been undertaken by the Community producer in an attempt to defend itself against fierce competition, including that from low priced imports, on that particular market. No imports were made by BASF Magnetics during the investigation period.

For these reasons, it was considered that BASF Magnetics should not be excluded from the definition of 'Community industry' in the sense of Article 4(5) of Regulation 2423/88.

⁽¹⁾ OJ L 356, 24. 12. 1988, p. 47.

- (16) Furthermore, it was claimed by Korean exporters that there was production in the Community by assemblers of video cassettes which should have been considered as part of the total production in the Community. The inclusion of this output would mean that the Community producers requesting the review would fall short of the required major proportion of Community production. However, when assessing the level of representativeness, it was considered, that the output of companies involved in mere assembly operations could not be regarded as genuine Community production. The value added in the assembly process of video cassettes is indeed limited. In addition, none of these assemblers claimed to be a Community producer. Consequently, only BASF Magnetics and Sauerland could be considered to be Community producers.

One of the two above companies, i.e. Sauerland, submitted an insufficient reply to the questionnaire. Therefore, the situation of this producer could not be taken into consideration for the purpose of the injury findings. It was found that the remaining cooperating Community producer, BASF Magnetics, representing by far the largest part of the total output of these two producers.

- (17) On the basis of the above factors, it was concluded that for the purpose of this proceeding, BASF Magnetics, alone fulfilled the requirements of Article 4(5) of Regulation 2423/88 and thus was considered as the Community industry within the meaning of this Article.
- (18) It is noted that after the investigation period, on 22 January 1997, change in ownership of BASF Magnetics occurred, and BASF Magnetics became part of the Korean KOHAP group. Subsequently the name of BASF Magnetics GmbH was altered to EMTEC Magnetics GmbH. This company expressed its continued support to the review request and the ongoing investigation.

E. INJURY

1. Community consumption of video cassettes

- (19) The most appropriate way to determine developments on the Community market was to carry out an analysis in unit terms. As regards Community consumption, it was found that figures coming from independent market research, and supplied by the Community industry, constituted the most reliable source, for two basic reasons; First, the calculation of apparent consumption was not

possible, since individual sales data from other market participants could not be obtained and secondly, official import statistics present data by weight (and not in units).

- (20) As regards the level of consumption, it appeared that after a steady rise in preceding years, Community consumption reached a peak in 1992 at 394 million units. On the basis of data available for 1993 and 1994, it was estimated that consumption in the investigation period was at 380 million units.

2. Factory relating to the imports

(a) Volume and market share of imports

- (21) It is recalled that the information available to the Commission from Eurostat covers a CN heading which includes video tape in cassettes as well as video tape on reels. Therefore, the Communities' official import statistics cannot give a precise picture of the level of imports of video tape in cassettes taken in isolation. For this reason, it was found necessary to consider other sources of information alongside Comext, such as official export statistics from the countries concerned, and other Community import data, containing more detailed information. These other Community import data, giving individual statistics for each type of video cassettes, are only available however from 1991, and conclusions drawn on this basis can therefore only relate to the period after 1991.

The Community industry claimed that the assessment of imports from Hong Kong should include imports from Macao, as these were allegedly of Hong Kong origin and were simply exported through Macao. However, an investigation conducted in 1994 by the Commission showed that the imports from Macao in question should be considered as being of Chinese origin. Consequently, there were no grounds to view imports from Macao as originating in Hong Kong.

With regard to imports from both Hong Kong and Korea, it is noted that the volume of imports recorded by Eurostat under CN heading 8523 13 00 (in tonnes) dropped drastically following the imposition of the original measures in 1989 as compared to 1988: in 1988, imports from Hong Kong were at 8 289 tonnes and fell to 1 314 tonnes in 1989, i.e. a drop of 84 %. Imports from Korea were at 17 511 tonnes in 1988, compared to 11 491 tonnes in 1989, i.e. a decline of 34 %.

Between 1989 and the end of the investigation period, imports from Hong Kong under the above CN code remained at a very low level, being at 1 279 tonnes in the investigation period. For Korea, imports showed in fact an increase between 1989 and 1990/1991 (from 11 491 tonnes to 20 938 tonnes), but steadily declined afterwards to 13 500 tonnes showing an overall decline of 23 % between 1988 and the investigation period.

As far as the development of imports in units is concerned, it appeared on the basis of data available that imports from Hong Kong remained at low levels between 1991 and the investigation period (4,8 million units). For Korea, imports declined from 37,3 million units in 1991 to 26,7 million units in the investigation period, i.e. a fall of 28 %.

- (22) As mentioned above (recital 19), Community consumption of video cassettes is expressed in units, whereas official import statistics present data by weight. Since not all imports of video tape from Hong Kong and Korea under the relevant customs code necessarily consisted of video tape in cassettes, the statistics of Comext could not be used to establish market share. Consequently, in order to assess the market share of the dumped imports, the information available from the above mentioned sources regarding imports in units was used.

That assessment showed that between 1991 and 1993, the market share for Hong Kong remained below 1 %, increasing to just 1,3 % in the investigation period, as a result of a slight increase in imports against a decrease in consumption. For Korea, market share decreased from 9,8 % in 1991 to 7 % in the investigation period.

- (23) The above evaluation of imports from the countries concerned and their market shares demonstrated that in general, imports from the countries concerned had decreased significantly over the period considered.

(b) *Prices of the imports*

Price developments

- (24) Given the fact that the data from Comext cover video tape in cassettes as well as video tape on reels, and the fact that these data covered a mixture of all types of video cassettes, import price data from Comext would not be meaningful.

An evaluation was therefore made using the information available in units. This was based on the two types of cassettes (E-180 and E-240) which

were most commonly imported and which represented the majority (more than 75 %) of the cassettes imported from the countries concerned during the investigation period.

It was established for these two types of cassettes that prices of imports from Hong Kong in fact increased between 1991 and the investigation period, by 57 % for the E-180 model and by 17 % for the E-240 model. For Korea, prices of imports of the E-180 model showed a certain increase (9 %) and prices of the E-240 model remained stable.

Price undercutting

- (25) It was examined whether the sales in the Community of video cassettes originating in Hong Kong and Korea were made at prices which undercut the prices of the Community producers. This analysis was done on the basis of sales made in three Member States which were considered representative given that their consumption of the product concerned accounted for more than two thirds of overall Community consumption.

- (26) It was found that for imports from Korea there was a certain amount of undercutting in two of the three Member States which were analysed, at levels varying between different types of video cassettes. For imports from Hong Kong, it was not possible to establish any particular level of undercutting as none of the exporters in Hong Kong cooperated in the investigation. Moreover, the Community industry was not able to provide any further evidence of sales on the Community market of video cassettes originating in Hong Kong, which in itself can be explained by the very low level of imports and market share held by imports from Hong Kong. Therefore, in accordance with Article 7(7)(b) of Regulation 2423/88, findings were made on the facts available to the Commission.

It was considered that statistical data provided the most appropriate source of information. The import figures, which were analysed for the two types of cassette most commonly imported, showed that during the investigation period imports from Hong Kong were sold at prices very similar to those of imports from Korea. Although a higher anti-dumping duty is applicable to imports from Hong Kong, 21,9 %, as opposed to 3,8 % for Korea, it was nevertheless concluded that imports from Hong Kong were also sold at prices which to a certain degree undercut those of the Community industry.

3. Factors relating to the Community industry

(27) In describing the situation of the Community industry, account had to be taken of the fact that in 1991 the acquisition of Agfa by BASF AG took place. A comparison with prior years would, therefore, not be meaningful, as explained in recital 11. Given that the Community industry in the sense of Article 4(5) of Regulation 2423/88 consists of a single company, the figures relating to that company are, for reasons of confidentiality, given only in relative terms.

(a) Sales volume and market share

(28) Between 1991 and 1993, sales of the product concerned by the Community industry decreased by some 27 %. However, between 1993 and the investigation period, an increase of nearly 6 % was recorded. The same trend applied to its market share, which after a decrease between 1991 and 1993, rose in the investigation period by 10 index points.

(b) Sales prices, turnover and profitability

(29) As to the sales prices of the Community industry, a decrease of more than 20 % between 1991 and the investigation period was noted. This decrease was accompanied by a larger decrease of the cost of production. Some of this cost reduction was realised through the closing of one of the plants used for a part of video cassette production. The closure was due to a decision to outsource a particular part of the production process. Even though the Community industry had lost turnover as a result of decreasing sales and lower selling prices, it was able, as a result of important cost reductions, to achieve a significant improvement of its financial situation. From the period 1991/92, financial losses were progressively eliminated, with a situation of around break-even reached in the investigation period. However, in spite of this positive trend, the financial situation of the Community industry was still unsatisfactory in the investigation period.

(c) Production, capacity and capacity utilisation

(30) Taking into consideration the abovementioned acquisition by BASF AG of Agfa in 1991, an increase in total production was recorded for 1992. Between 1992 and 1993, production dropped by 19 %, but increased again between 1993 and the investigation period (by 3 %). Capacity utilisation, according to BASF Magnetics, could be adjusted in

line with production requirements at any given time, resulting in a stable utilisation of the capacity available.

(d) Personnel employed

(31) Between 1991 and the investigation period, the Community industry reduced the workforce involved in the production and sales of video cassettes by more than 40 %. This reduction of employment was to a significant degree the result of closure of the production site referred to above, which alone led to the disappearance of more than 450 jobs.

(e) Conclusion

(32) The examination of the above mentioned indicators shows that negative developments occurred during the period 1991-1993. However, the situation of the Community industry has been more positive between 1993 and the investigation period, showing signs of a recovery and an improving trend. Nevertheless, in spite of the improvement, the financial position of the Community industry remained unsatisfactory, notably as regards its financial performance.

F. CAUSATION

(33) The Commission investigated whether the volumes and prices of the imports concerned were responsible for the situation of the Community industry, and had an impact thereon to a degree which enables it to be classified as material injury within the meaning of Article 4(1) of Regulation 2423/88. Care was taken to ensure that any effects on the situation of the Community industry caused by other factors was not attributed to the imports concerned.

(34) As far as Hong Kong is concerned, imports strongly decreased from 1988 levels and, during the investigation period, held only a 1,3 % market share. As a result, it cannot, in the specific circumstances of the case, be maintained that imports from Hong Kong continued to have an impact which can be classified as material on the situation of the Community industry.

(35) In respect of Korea, imports also diminished, with a market share of 7 % in the investigation period, compared with a market share of about 9,8 % in 1991. This loss of market share was, in percentage terms, stronger than that recorded for the Community industry.

- (36) As to the developments of import prices for video cassettes of Korean origin, a stable slightly increasing trend was observed while for cassettes originating in Hong Kong, import prices rose significantly.
- (37) The investigation also showed that the downward movement in BASF's sales prices was accompanied by an even stronger decrease in its costs of production, leading to an improvement of the company's financial situation.
- (38) As regards imports from third countries, some of them increased their import volumes substantially over the period examined. Between the year of the adoption of the measures (1989) and the investigation period, imports in particular from India, Macao, Malaysia, Singapore, Taiwan, Thailand and Turkey increased from 4 415 tonnes to 21 310 tonnes. Between 1991 and the investigation period, the number of units imported from these countries went from nearly 32 million units to 82 million units. In terms of market share, this represents a move from an 8,5 % to 21,7 %, to which the market shares of the USA (2,2 %) and of Japan (6,7 %) in the investigation period must be added. It is also important to note that an assessment for the investigation period showed that prices of imports from these countries were considerably below those of imports from Hong Kong and Korea and consequently undercutting substantially those of the Community industry.

In summary, at the same time that imports from other countries were increasing, imports from Hong Kong and Korea were falling.

- (39) It should be noted that a number of other (non-complainant) producers exist in the Community together with a certain number of assemblers of video cassettes. None of these other producers/assemblers presented themselves in support of the request lodged on behalf of BASF Magnetics and Sauerland.

On the basis of the facts available, it was determined that in the investigation period some 40 % (in terms of market share) of the Community market was supplied by imported video cassettes, with the remaining 60 % accounted for by suppliers within the Community, including the Community industry. It is therefore likely that competitive pressure from these other Community sources has played a considerable part in the price decline on the Community market, to which the Community industry was forced to align. In this respect, it should also be noted that competition from suppliers within the Community increased since Saehan Media, one of the Korean exporters

subject to the measures under review, set up a production plant in Ireland in order to supply the market from within the Community.

Conclusion on causation

- (40) In the light of the above, it is concluded that the combined imports from Hong Kong and Korea did not, in isolation, have an impact on the situation of the Community industry which can be classified as material. The fact that the Community industry did not obtain better results appears rather to be attributable to imports from other third countries and competition from other sources within the Community.

G. RECURRENCE OF INJURY

- (41) In accordance with Article 15 of Regulation 2423/88, it was assessed whether the expiry of the measures would be likely to lead to a recurrence of injury.

In the light of the following arguments and the above analysis, the following was considered:

- As regards the volume of imports, the above mentioned factors show the existence of low imports from Hong Kong, and decreasing imports from Korea. In the light of this and the imports from other countries and competition from other sources, it cannot be expected that imports from Hong Kong and Korea will again increase to injurious levels should the existing measures expire. Regarding the claim of the Community industry that the potential for exports from Hong Kong could be demonstrated by imports from Hong Kong origin being shipped through Macao, this allegation could not be accepted, for the reasons outlined in recital 21.

Furthermore, it is worth recalling that imports from Korea are subject to relatively low anti-dumping duties and that, although these duties have in themselves had a remedial effect, it can not be expected that their disappearance would in the foreseeable future, have a strong impact on the export behaviour of the Korean producers and lead to significantly higher quantities of imports of video cassettes originating in Korea.

- As regards price depression, the limited volumes and higher prices of the imports from Hong Kong and Korea in comparison with imports from other countries, and the strong competition from other sources within the

Community, do not suggest that the expiry and the anti-dumping measures concerning these two countries will have an appreciable price depressing effect on the Community market.

- As to the existence of unused capacity in the countries subject to this proceeding, the statistics have shown that imports from Hong Kong have been at very low levels since the measures under review were imposed. It cannot be expected that, for this extended period of time, a significant production capacity has remained in place. This conclusion is strengthened by an analysis of Hong Kong export statistics, which show that world-wide exports from Hong Kong have strongly decreased since 1988. This is also an indication that its production capacity has also diminished. In this regard, it is noted that the estimate made by the Community industry of idle production capacity in Hong Kong of 28 million units has not been supported by evidence.

As to Korean production capacity, it should first of all be recalled that production capacity fell as a result of the relocation of production by Saehan to a site within the Community. Furthermore, the investigation showed that the average production capacity utilisation of the three cooperating producers, which in the investigation period accounted for the quasi totality of exports to the Community, was above 80 %. On the basis of these factors, it is concluded that, although the unused capacity would still represent a significant amount of video cassettes, large scope for increasing production and exports does not exist. In addition, no circumstances exist, such as the imposition of anti-dumping duties by third countries, which clearly indicate that the remaining production potential would be directed towards exports to the Community. The trends in Korean exports to the Community would indeed indicate the contrary, as the investigation showed a strong decrease in the volume of imports from Korea between 1992 and the investigation period, and a decrease in its market share, a trend which is confirmed by developments in more recent years.

- As regards stocks, the investigation showed that with average stocks being at slightly over 8 % of production for the co-operating Korean firms, no important excess volumes existed.

(42) In view of the fact that the length of the investigation has substantially exceeded the normal time period, and in view of the changes in the structure of the Community industry mentioned in recital 18 it was deemed appropriate to assess whether the foregoing developments were sustained after the investigation period: this assessment revealed a further fall for the imports from Hong Kong to a level of 0,5 % market share in 1996 in the market of the 15 Member States and a drastic fall in imports from Korea which fell to a market share of 0,5 % in 1996 (in the Community of 15). At the same time, the Community industry showed further signs of recovery.

(43) From the above factors, the conclusion is drawn that it cannot be expected that, as a result of the expiry of the current anti-dumping measures, imports originating in Hong Kong and Korea will have a renewed injurious impact on the Community industry which could be qualified as material.

H. DUMPING

(44) In view of the above conclusions, i.e. that imports from Hong Kong and Korea have not had an impact which can be classified as material, and the fact that a recurrence of injury as a result of a lapsing of the measures is not expected, the conditions for a continuation of the current measures have not been met. The existence or not of a particular level of dumping for imports from individual sources could not alter the conclusions reached and has, therefore, not been established.

I. CONCLUSION

(45) Given the above findings, it is considered that any existing injury suffered by the Community industry has not, to a degree which allows it to be classified as material, been caused by dumped imports of video cassettes from Hong Kong and Korea but by imports from other third countries and competition from non-complainant Community operators. Furthermore, as set out in recitals (41) to (43) it can not be expected that, as a result of the expiry of the current measures, there will be a recurrence of injury, or a threat of injury, caused by imports from these two countries. It is considered therefore that the anti-dumping proceeding concerning imports of video tapes in cassettes originating in Hong Kong and the Republic of Korea should be terminated, and that

the anti-dumping measures in force should expire forthwith. This conclusion is reinforced by the fact that anti-dumping measures applicable to imports of videocassettes originating in the People's Republic of China have expired as mentioned in recital (4) and that any discriminatory treatment of imports originating in Korea and Hong Kong should be avoided.

- (46) The Commission communicated its conclusions to the Community industry, which expressed its disagreement on particular points and on the conclusion reached. However, after examination of the information and arguments provided, the Commission confirms the above conclusion.
- (47) The Member States did not raise any objections to the termination of the review proceeding.

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping review proceeding concerning imports into the Community of video tapes in cassettes, falling within CN code ex 8523 13 00 originating in Hong Kong and the Republic of Korea is terminated.

Done at Brussels, 6 January 1998.

For the Commission

Leon BRITTAN

Vice-President
