

COMMISSION REGULATION (EEC) No 2818/91

of 23 September 1991

imposing a provisional anti-dumping duty on imports of cotton yarn originating in Brazil, Egypt and Turkey and terminating the anti-dumping proceeding in respect of cotton yarn originating in India and Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having informed the EEC-Turkey Association Council, pursuant to Article 47 (2) of the additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey⁽²⁾, and being aware of the fact that the provisional anti-dumping duty concerning Turkey imposed by this Regulation should be repealed if the Association Council issues a recommendation within the time period provided in that provision,

After consultations within the Advisory Committee as provided for under the above Regulation,

WHEREAS:

A. PROCEDURE

(a) General

- (1) In 1989 the Commission received a written complaint lodged by 'Eurocoton' (Committee of the cotton and allied textile industries of the EEC) on behalf of producers representing about 95 % of the Community production of the cotton yarn concerned.

This complaint contained evidence of dumping of cotton yarn originating in Brazil, Egypt, India, Thailand and Turkey and of material injury resulting therefrom, which was considered sufficient to justify opening a proceeding.

In a notice published in the *Official Journal of the European Communities*⁽³⁾, the Commission accordingly announced the initiation of an anti-dumping proceeding concerning imports into the Community of cotton yarn falling within CN codes

5205 and 5206 originating in Brazil, Egypt, India, Thailand and Turkey.

- (2) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants.

It called on the parties known to be concerned to reply to the questionnaires sent to them, and gave them the opportunity to make their views known in writing and request a hearing.

- (3) Most of the exporters and the complainant Community producers made their views known in writing. Submissions were also made by a number of importers and by the European Trade Union Committee of Textiles, Clothing and Leather.

Both exporters and complainant Community producers requested and obtained hearings.

The product

Description :

- (4) Cotton yarn (other than sewing thread) not put up for retail sale.

The product under consideration is all types of cotton yarn, classified on the basis of the so called 'English count system'. This system is designed to classify cotton yarn according to its thickness.

Combined nomenclature (CN)

- (5) Cotton yarns concerned fall under the following codes :
- 5205 : from 5205 11 00 to 5205 45 90 cotton yarn (other than sewing thread) containing at least 85 % by weight of cotton,
 - 5206 : from 5206 11 00 to 5206 45 90 cotton yarn (other than sewing thread) containing less than 85 % by weight of cotton.

Like product

- (6) It was noted that all types of cotton yarn for sale, both in the exporting countries and the Community market, had physical characteristics closely resembling each other and were manufactured

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 293, 29. 12. 1972, p. 4.

⁽³⁾ OJ No C 72, 22. 3. 1990, p. 3.

using the same basic technology and on the same type of equipment. Moreover, these cotton yarns had a high degree of interchangeability in their end use.

Accordingly, the Commission took the view that all cotton yarn counts, exported to the Community from the countries concerned, were to be treated as a 'like product', within the meaning of Regulation (EEC) No 2423/88 of both the products manufactured and sold on the domestic market of each of the exporting countries, and to the products manufactured and sold by the Community industry.

(b) Community industry

- (7) Given the large number of companies involved, the small scale of most of these companies and the administrative difficulties of investigating each of them, questionnaires were sent to a number of producers, chosen on the basis of their size and geographic location.

The Community producers, from which acceptable replies were received, were found to be representative of the Community industry, within the meaning of Article 4 (5) of Regulation (EEC) No 2423/88.

(c) Producers/exporters

- (8) Given the number of countries involved (5) and the large number of exporting companies (53) which agreed to cooperate, the Commission considered it necessary to make a selection of companies for verification purposes, in order to conclude the procedure within reasonable time limits and to expedite the case in the most efficient manner. Therefore, a limited number of producers/exporters were selected for which a full investigation was carried out.

The selection of companies for verification purposes was made for Brazil, Egypt, India and Turkey. Accordingly, companies were chosen by objective criteria based on parameters such as: volume of production, volume of exports, product range and volume of domestic sales.

In Thailand only two companies cooperated, therefore there was no necessity for selection.

The criteria of the selection and the names of the companies chosen were discussed and agreed in advance during meetings between the Commission and the associations which represented the producers/exporters.

At the same time the exporters' associations together with most of the cooperating producers/exporters were informed that the application of this selection would have the following consequences:

- any dumping margins were to be based on the individual figures for each company actually selected for verification purposes,
- a weighted average of the margins of dumping found attributable to the companies cooperating but not selected for verification purposes,
- the use of the most appropriate available facts in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88 would be applied to companies which did not cooperate.

No objections were raised by the exporters' associations in respect of the above procedure as well as of its consequences.

(d) Investigation

- (9) The Commission sought and verified all the information it deemed necessary for the purposes of making a preliminary determination of dumping and consequent injury, for the parties which agreed to cooperate. To these ends it carried out inspections at the premises of:

Community producers:

Belgium:	Kortrijkse Textiel Maatschappij;
France:	Ets Caulliez Frères (SA) Filature Fremaux Filature de Chenimenil Filature de Démangevelle Filature Réquillart Filature de Béchamp Filature et tissages des Établissements Héritiers de Georges Perrin La Cotonnière d'Armentières La Cotonnière du Touquet;
Germany:	Fils Textil GmbH Lauffenmühle GmbH Textilgruppe Hof (Neue Baumwollspinnerei & Weberei Hof AG/Vogtländische Baumwollspinnerei AG);
Greece:	Naoussa Spinning Mills SA Piraiiki-Patraiki SA Volos Spinning MFG Co. SA Iliotex SA Textile Mills;

Italy :	Cotonificio Bresciano Ottolini SpA
	Cotonificio di Biadene SpA
	Cotonificio Honneger SpA
	Cotonificio Olcese Veneziano SpA
	Cotonificio di Conegliano
	Filati Filartex SpA
	Franzoni SpA
	Nuova Manifattura Cottoniera Meridionale ;
Portugal :	Arco Têxteis — Empresa Industrial de Santo Tirso Lda
	Sociedade Têxtil Flor do Rio Lda ;
Spain :	Grupo Mitasa
	Hilaturas Gossypium, SA
	La Preparacion Textil SA
	Serra Feliú, SA
United Kingdom :	Textil Santanderina SA ;
	Courtaulds Spinning
	Shiloh Spinners Ltd.

Exporters/producers in the countries concerned :

Brazil :	Fábrica de Rendas Arp SA, Rio de Janeiro
	Fiação e Tecelagem Kanebo do Brasil, São Paulo
	Nisshinbo do Brasil Indústria Têxtil Lda, São Paulo ;
Egypt :	Unirab Spinning & Weaving Co., Alexandria
	Misr Shebin El Kom For Spinning & Weaving (Shebintex), Menoufia
	Misr El Amria Spinning & Weaving Co., Alexandria
	Misr Iran Textile Co. 'Miratex', Suez ;
India :	Sholingur Textiles Ltd, Madras
	Gokak Mills Ltd, Bombay
	Nav Maharashtra Sahakari Soot Girani, Ichalkaranji
	Thiagarajar Mills Ltd, Madurai ;
Thailand :	Bangkok Weaving Mills Ltd, Bangkok
	Thai Melon Textile Co. Ltd, Rangsit Pathumthani ;
Turkey :	Taris (Tarim Satis Kooperatifleri Birli Keri), Izmir
	Ceytaş, (Ceyhan Tekstil Sanayii AŞ), Ceyhan
	Yalova Elyaf ve İplik Sanayii ve Ticaret AŞ, Istanbul
	Birko (Birlesik Koyunlular Mensucat Tic ve San AŞ), Niğde

Söktaş Pamuk ve Tarım Urune-rini Değerlendirme Ticaret ve Sanayii AŞ, Söke

Yidaş, Tarsus.

- (10) The following producers/exporters in the countries concerned responded to the questionnaires sent by the Commission and agreed to cooperate in the investigation but were not selected for verification purposes and therefore were not visited :

Brazil :	Filobel SA Indústrias Têxteis do Brasil, São Paulo
	Toyobo do Brasil Indústria Têxtil Lda, São Paulo
	Indústria Têxtil Tsuzuki Ltd, São Paulo
	SA Têxtil Nova Odessa, São Paulo
	Cotonificio de São Bernardo, São Paulo
	Companhia Brasileira de Fiação, São Paulo ;
Egypt :	El Siouf Spinning & Weaving Co., Alexandria
	Delta Spinning & Weaving Co., Tanta
	El Sharkia Spinning & Weaving Co., Zagazig
	Misr Spinning & Weaving Co., Mehalla El Kubra
	Misr Fine Spinning & Weaving Co., Kafr El Dawar
	El Nasr Wool & Selected Textiles Co. 'Stia', Alexandria
	Dakhalia Spinning & Weaving Co., Mansoura
	Alexandria Spinning & Weaving Co., Alexandria ;
India :	Madhavnager Cotton Mills Ltd, Bombay
	Vardhman Spinning & General Mills Ltd, Ludhiana
	Loyal Textile Mills Ltd, Kovil-patti
	GTN Textiles Ltd, Alwaye
	Keshavial Talakchaud, Bombay
	Patodia Syntex Ltd, Bombay
	Sajjan Udyog, Bombay
	Vanaja Textiles Ltd, Trichur
	Yarn Syndicate, Calcutta
	The Coimbatore Pioneer Mills Ltd, Coimbatore
	DCM Limited, Delhi
	Kwality Spinning Mills Ltd, Pollachi ;

Turkey : Sönnez Pamuklu Sanayil AŞ, Bursa
 Cukurova Sanayi Isletmeleri TAŞ, Tarsus
 Akip Tekstil, Istanbul
 Karsu (Tekstil Sanay ve Tic AŞ), Kayseri
 Trakya Iplik Sanayi AŞ, Istanbul
 Bisas Bursaiplik Sanayil AŞ, Bursa
 Mertaş Manisali Errensel Pazadama ve Ticaret AŞ, Izmir
 Hateks (Hatay Tekstil Isletmeieria AŞ), Antakya-Hatay.

- (11) The dumping investigation covered the period 1 January to 31 December 1989.

Given the large number of interested parties involved, and due to the complexity of the proceeding, in particular the difficulties met by the Commission in obtaining, from interested parties, the relevant data to allow a provisional finding to be made, the investigation exceeded the normal period of one year.

B. NORMAL VALUE

(a) General

- (12) For the product sold in sufficient quantity, in the ordinary course of trade, normal value was provisionally determined on the basis of the weighted average domestic prices of the like product for those producers/exporters who cooperated and were then selected for verification purposes. These prices were net of all discounts and rebates directly linked to the sales of cotton yarn.

Normal value was calculated by taking into account the different count numbers of cotton yarn.

In cases where there were no domestic sales or these were found to be made in substantial quantities at prices which did not permit recovery, in the normal course of trade during the investigation period, of all costs reasonably allocated, normal value was determined on the basis of a constructed value of the like product. This constructed value was calculated by adding to the cost of production a reasonable margin of profit, corresponding to the weighted average of profits realized by other producers/exporters on profitable sales of the like product on the domestic market.

Particular situations

- (13) For the purposes of determining normal value, the Commission took account of particular situations occurring in the following countries :

(a) Egypt

The Commission found that all cotton yarn spinning companies were directly or indirectly state owned. In establishing whether domestic prices were reliable it was found that domestic prices of cotton and cotton yarn were fixed by governmental authorities.

Furthermore, raw cotton was sold in the domestic market at a price considerably lower than the price of raw cotton exported from Egypt. This had a direct impact on the domestic price of cotton yarn.

Under these conditions, the Commission came to the provisional conclusion that both domestic cotton yarn and raw cotton prices were influenced by non-market forces to such an extent that their artificiality prevented them from being considered as made in the ordinary course of trade. Consequently, the Commission considered it appropriate to determine the normal value of cotton yarn on the basis of constructed value. The constructed values were calculated by taking all actual costs, both fixed and variable, incurred by the producers/exporters, with the exception of the cost of raw cotton, and adding a reasonable margin of profit.

The cost of raw cotton was provisionally calculated by the Commission by reference to the price, duly adjusted, of a similar quality of raw cotton when bought by the producers concerned, in the ordinary course of trade (on the international market). The profit margin considered necessary to ensure an adequate return on sales in this sector, in Egypt, was 5 %.

(b) Brazil and Turkey

- (14) Given the high inflationary situation prevailing in these two countries, the Commission established normal value on a monthly basis in order to permit a proper comparison for export price.

C. EXPORT PRICE

(a) General

- (15) The Commission found that in all countries exports were made to independent importers in the Community, and accordingly, export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community.

(b) Exchange rate

- (16) When normal value was calculated on a yearly basis, the exchange rate applied to the export price was also based on a yearly average.
- (17) As regards Brazil and Turkey, for the reasons explained in recital 14, the Commission considered it more appropriate to use an exchange rate based on a monthly average.

In respect of Brazil, the exporters argued that special circumstances prevailed in 1989 in the economy of their country during the investigation period. These circumstances arose from the Brazilian Government enforcing a rate of exchange of 1 Novo Cruzado to US \$ 1, during the first quarter of 1989. This, according to the exporters, had the effect of artificially depressing export prices, while inflation continued on the Brazilian market, with the effect of increasing the prices of domestic sales expressed in Novo Cruzados. The consequence, in the opinion of those exporters, was that artificial dumping took place.

Therefore, the Brazilian exporters claimed that due account should be taken of their situation to neutralize the effects described. Specifically they requested the use of inflation adjusted exchange rates that could provide an export price permitting a fair comparison with the normal value.

When examining this submission, the Commission noted that the rates of exchange taken into consideration were those officially established by the Government of Brazil, which is a market economy country. In this respect, the Brazilian exporters were not able, during the preliminary investigation, to produce any arguments that the official exchange rates did not correspond to a realistic economic situation. Therefore, the request for an adjustment of the export price has been rejected at this stage of the proceeding.

D. COMPARISON**(a) General**

- (18) For the purpose of a fair comparison between normal value and export price and in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88, the Commission took account of differences affecting price comparability such as different physical characteristics and selling expenses. All comparisons were made at the same level of

trade. Furthermore, since export prices varied considerably, normal value for cotton yarn sold domestically was compared with the export price of the same cotton yarn counts on a transaction by transaction basis.

(b) Differences in physical characteristics

- (19) The Commission found that in some cases the cotton yarn counts sold domestically did not correspond to those sold for exports. In such cases, adjustments were made to take due account of the differences in physical characteristics, notably by estimating the value of such differences on the basis of either the level of prices of cotton yarn counts sold domestically or of the costs of production of the same counts exported plus a profit margin established from other counts domestically sold by the same exporter.

(c) Differences in selling expenses

- (20) Adjustments were made to normal value in respect of differences in credit terms, commissions, salaries paid to salesmen, packing, transport, insurance, handling and ancillary costs, whenever evidence was provided that these expenses were directly related to the sales under consideration.

(d) Differences in import charges and indirect taxes**(21) India**

The Indian exporters claimed an adjustment to normal value according to Article 2 (10) (b) of Regulation (EEC) No 2423/88. They argued that this adjustment should be allowed in respect of indirect taxes levied on materials physically incorporated in cotton yarn sold in India. These taxes are refunded on exported products under a system known as 'cash compensatory support' and amount to 8 % of the fob export value for companies selling both on the domestic and export markets, and to 4 % of the fob export value for the companies totally dedicated to the export market.

After examining the evidence submitted by the relevant Indian companies in this context, it was concluded that the amount refunded in the framework of the system described above corresponded essentially to the indirect taxes borne by the like product and by materials incorporated therein when sold domestically. Moreover, the Commission was officially informed by the Indian authorities that the 'cash compensatory support' system had

been suspended with effect from 3 July 1991, so that it is reasonable to expect that export prices will increase accordingly. Under these circumstances, the adjustment was duly allowed.

(22) *Thailand*

The Thai exporters claimed an adjustment to normal value, according to Article 2 (10) (b) of Regulation (EEC) No 2423/88, in respect of a refund of import duties paid for raw cotton, equivalent to 2,97 % of the fob export price of their exports of cotton yarn.

The Commission received evidence of the payments made for the import charges on the import of raw cotton incorporated in the cotton yarn when destined for consumption in Thailand. Evidence was also provided of the amounts relating to the import charges, described above, refunded in respect of cotton exported to the Community. Under these circumstances the adjustment was duly allowed.

E. DUMPING MARGIN

(a) Cooperating producers/exporters

- (23) The margins of dumping established varied according to the company visited. The weighted average margins expressed as a percentage of the total cif value of the product concerned were as follows:

(i) *Brazil*

Fábrica de Rendas Arp SA	7,0 %
Fiação e Tecelagem Kanebo do Brasil	15,8 %
Nisshinbo do Brasil Indústria Têxtil Lda	12,1 %.

The weighted average of the dumping margins found for the companies included in the sample is 12,9 %;

(ii) *Egypt*

Misr El Amria Spinning & Weaving Co.	12,5 %
Misr Iran Textile Co. 'Miratex'	4,9 %
Misr Shebin El Kom For Spinning & Weaving (Shebintex)	7,0 %
Unirab Spinning & Weaving Co.	8,4 %.

The weighted average of the dumping margins found for the companies included in the sample was 8,1 %;

(iii) *India*

Godak Mills Ltd	0,2 %
Sholingur Textiles Ltd	0,2 %
Thiaragajar Mills Ltd	0,1 %
NAV Maharashtra Sahakari Soot Girani	9,5 %.

The weighted average of the dumping margins found for the companies included in the sample was 1,8 %;

(iv) *Thailand*

Bangkok Weaving Mills	7,9 %
Thai Melon	0,1 %;

(v) *Turkey*

Yalova Elyaf ve Iplik Sanayii ve Ticaret AŞ	5,6 %
Ceytaş (Ceyhan Tekstil Sanayii AŞ)	15,8 %
Yidaş	4,9 %
Birko (Birlesik Koyunlular Mensucat Tic ve San AŞ)	7,7 %
Taris (Tarim Satis Kooperatifleri Birli Keri)	8,6 %
Söktaş Pamuk ve Tarim Urunerini Değerlendirme Ticaret ve Sanayii AŞ	10,0 %.

The weighted average of the dumping margins found for the companies included in the sample was 10,0 %.

(b) Non-cooperating producers/exporters

- (24) For those producers/exporters that neither replied to the Commission's questionnaire, nor otherwise made themselves known, dumping was determined on the basis of the facts available in accordance with the provision of Article 7 (7) (b) of Regulation EEC No 2423/88.

In this context, the Commission found that the level of cooperation of the exporters from India, Egypt, Thailand and Turkey was reasonably high.

The Commission therefore considered that the result of its investigation in these countries provided the most appropriate basis for the determination of the margin of dumping. If the dumping margin for the non-cooperating exporters was any lower than the highest dumping margin found in each country, i.e. 12,5 % for Egypt, 9,5 % for India, 7,9 % for Thailand and 15,8 % for Turkey, it could provide an opportunity for circumvention of the duty. It was therefore considered appropriate to use these dumping margins for the non-cooperating producers/exporters.

- (25) As regards Brazil, the Commission noted that in 1989 the exports of the cooperating companies of this country reached a relatively low level in comparison with the total volume of cotton yarn exports to the EC. The Commission considered that such a low coverage of exports could not be considered as representative. Therefore other available information was used to establish a relevant margin of dumping for the non cooperating Brazilian exporting companies.

For the purposes of the provisional calculation, normal value was determined on the basis of cost of production data supplied by the complainant Community industry plus a reasonable margin of profit corresponding to the average profit achieved by the cooperating companies.

As regards export price, its determination was made on the basis of the Eurostat figures duly adjusted to take account of the differences affecting price comparability. When comparing normal value and export price, as calculated above, the result of this comparison led to the determination of the margin of dumping for non cooperating Brazilian companies as 25,3 %.

F. INJURY

1. Cumulation

- (26) In establishing the impact of the dumped imports on the Community industry, the Commission has considered whether the effects of all dumped imports from the countries concerned in the present investigation should be analysed cumulatively. In this context, it was noted that the products exported by each of these countries were alike in all respects and were marketed in the Community within a same period and under similar commercial policy, to compete with each other and with cotton yarn produced in the Community. The levels of volumes imported were also taken into consideration.

After examination of these elements, the Commission concluded that, with the exception of India and Thailand (see recital 27) and for the purpose of establishing the level of injury sustained by the Community industry, the exports from Brazil, Egypt and Turkey produced a similar and simultaneous effect on the Community industry which must be assessed jointly.

- (27) It was considered that given the small market shares held by the exports from India and Thailand, there were insufficient grounds to cumulate these exports with those from Brazil, Egypt and Turkey.

2. Evolution of Community consumption

- (28) In examining the Community consumption for the period 1986 to 1989, the Commission found that the size of the Community market had slightly increased. Indeed, consumption amounted to 1 153 000 tonnes in 1986, with an increase up to 1 291 000 tonnes in 1987, which was an exceptional year. In the following years the consumption decreased to 1 185 000 tonnes (1988) and to 1 184 000 tonnes (1989).

3. Volume and market share of dumped imports

- (29) In considering the period between 1986 and 1989, dumped imports from Brazil, Egypt and Turkey were approximately 131 733 tonnes in 1986, 159 351 tonnes in 1987, 142 966 tonnes in 1988 and 142 747 tonnes in 1989. The trend examined on a yearly basis showed that there was a significant increase of 21 % in 1987 but a decrease of 10 % in 1988 and 0,15 % in 1989. The overall trend during this period showed an increase of 8,3 % in total.

Imports at dumped prices from India in the same period were as follows :

2 624 tonnes in 1986, 37 260 tonnes in 1987, 20 048 tonnes in 1988, 8 545 tonnes in 1989.

Imports at dumped prices from Thailand in the same period were as follows :

10 239 tonnes in 1986, 12 463 tonnes in 1987, 13 904 tonnes in 1988, 1 287 tonnes in 1989.

- (30) The market share of the Brazilian, Egyptian and Turkish exporters considered together was as follows : 11,4 % in 1986, 12,3 % in 1987, 12,1 % in 1988 and in 1989.

The market share of Indian cotton imports was 0,2 % in 1986, 2,9 % in 1987, 1,7 % in 1988 and 0,7 % in 1989.

The market share of the Thai cotton imports was 0,9 % in 1986 and in 1987, 1,1 % in 1988 and 0,1 % in 1989.

4. Price of dumped imports

- (31) The Commission investigated the price undercutting practised by the Brazilian, Egyptian, Indian, Thai and Turkish exporters during the investigation period.

The comparison between the prices of the dumped imports and the prices of the like product in the Community was made on a count basis between cif Community frontier prices charged by the exporters and the ex-works prices charged by the Community industry duly adjusted. In cases where

a particular count imported had not been sold during the investigation period by and of the Community producers, the price of the nearest count, duly adjusted to take account of physical differences (see recital 12) was used.

Adjustments were also made to ensure comparability in terms of transport costs deducted from the Community selling prices, as well as for customs duty on the import prices, when appropriate.

(32) The comparison outlined above showed the following results distinguished by country:

- (a) Brazil — the undercutting found for the three companies visited ranged between 2,6 and 7,5 %;
- (b) Egypt — the undercutting found for the four companies visited ranged between 9,2 and 17,6 %;
- (c) India — the undercutting found for the four companies visited ranged between 3,3 and 24,1 %;
- (d) Thailand — the undercutting for the two companies visited ranged between 13,7 and 14,1 %;
- (e) Turkey — the undercutting found for the six companies visited ranged between 4,7 and 24,5 %.

5. Other relevant economic factors

(a) *Production and capacity utilization*

(33) The production of the Community producers investigated, as indicated in recital 7, amounted to 282 014 tonnes in 1986, 298 468 tonnes in 1987, 284 396 tonnes in 1988 and 297 713 tonnes in 1989. Therefore, in the overall period there was an increase in production of about 5 %.

(34) The examination of the trend of the rate of production capacity utilization showed that this corresponded in 1986 to 82 % of the actual capacity, to 85 % in 1987, to 80 % in 1988 and 82 % in 1989. In evaluating these factors account has to be taken of the fact that manufacturing cotton yarn is a capital intensive business. Indeed, the maintenance of relatively stable capacity utilization figures is mainly a result of a considerable reduction in overall capacity, caused by significant plant closures in the Community (see recital 38).

(b) *Sales and market share*

(35) The sales by the Community producers investigated corresponded to 225 311 tonnes in 1986,

233 624 tonnes in 1987, 219 602 tonnes in 1988 and 242 955 tonnes in 1989.

The market share of sales in the EC of the Community producers investigated increased, in the period between 1986 and 1989, by 1 percentage point. Indeed, the market share of these producers was 19,5 % in 1986, 18,1 % in 1987, 18,5 % in 1988 and 20,5 % in 1989.

(c) *Prices*

(36) The prices of cotton yarn in the Community market of the Community producers investigated, increased on a weighted average basis from ECU 3,47 per kilo in 1986 to ECU 3,54 per kilo in 1987, but then they declined significantly to ECU 3,39 per kilo in 1988, and to ECU 3,12 in 1989.

(d) *Investments*

(37) Over a period of four years, the Community industry investigated invested ECU 542 000 000 in order to modernize plant and equipment. As a result of this investment the Community producers achieved a high level of technology in cotton spinning which ranks amongst the most advanced in the world.

The Commission found reasonable evidence of increasing efficiency in the Community industry during the four years considered. This evidence was given by an index published periodically, on which basis it has been possible to measure the productivity in five Member States, by reference to the HOK (heure-ouvrier-kilo) index, which gives the indication of the number of hours worked required to produce 100 kg of cotton yarn. The HOK index changed from 7,34 in 1986 to 6,75 in 1989 showing a clear increase in productivity as a consequence of the improvement in efficiency.

(e) *Profitability*

(38) The evolution of profits before taxes show that, in 1986 and 1987, the Community producers investigated made reasonable returns on sales of 8,3 and 7,7 % respectively. These profits turned into losses of 1,8 % in 1988 and 5,7 % in 1989. Therefore the percentage decrease in profitability between 1986 and 1989 was 14 percentage points.

Furthermore, it is worth noting that out of all Community companies investigated only four, accounting for 4,8 % of the Community industry investigated output, showed profits in 1989. These profits ranged between 2 and 5 % (net profit over sales). The remaining companies which accounted for 95,2 % of the Community companies' investigated output incurred losses.

(f) *Plant closure*

- (39) According to the information available, it was established that between 1988 and 1989, 54 spinning plants were forced to close.

The existence of this situation was further supported by the fact that some Community producers, to which questionnaires had been sent, made themselves known but declined to participate in the proceeding as they were unable to provide the necessary data, due to the closure of their plants.

(g) *Employment*

- (40) When looking at the employment situation in the companies investigated, the Commission established that there was a sharp decline of the number of employees in the sector. These employees amounted to 18 100 in 1986, and then decreased to 17 661 in 1987 to 16 393 in 1988, and to 15 512 in 1989. This shows that the overall job losses from 1986 to 1989 corresponded to 2 588.

6. Conclusion on injury

- (41) In the light of the above, the Commission came to the following provisional conclusions:

- 1987 was the last year when the Community producers investigated registered profits; since then, they have suffered financial losses which, in the reference period, accounted for 5,7 %. These losses took place in spite of the fact that the Community producers had made considerable investment efforts to achieve a high technological level and consequently improved productivity, efficiency and competitiveness,
- the Community producers investigated made significant investments during the four years taken into consideration but most of them did not benefit from any return in 1988 and 1989,
- the selling prices of the Community producers investigated were eroded, obliging them to sell at unprofitable prices levels in order to maintain market share and to cover fixed costs,
- a considerable number of Community producers were forced out of the market with the loss of a substantial number of jobs,
- the Community producers investigated increased their production mainly because they were forced to operate at a high level of output to achieve cost efficiency in order to be competitive and to maintain market share. For this reason, production volumes as well as other economic indicators such as capacity utilization,

and sales, cannot be held to be significant for injury determination.

The abovementioned price depression, the considerable financial losses over the last two years, the lack of return on investment, the closure of a large number of plants and the substantial loss of jobs led the Commission to the conclusion that for the purpose of its provisional findings the Community industry suffered material injury within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88.

H. CAUSATION OF INJURY

(a) *General*

- (42) In assessing whether the Community industry has suffered material injury through the effects of the dumped imports, it is appropriate to consider the particular sensitivity of the cotton yarn market to any modification in price, given that cotton yarn is a typical commodity product.

(b) *Effects of dumped imports*

- (43) In its examination of the extent to which the material injury suffered by the Community industry was caused by the effects of the dumping described above, the Commission found that the loss of profitability and the other negative economic circumstances coincided with the continuing price depression and price undercutting on the Community market, owing to the low-price imports from the countries mentioned in the complaint. This combined effect was multiplied by the high sensitivity of the cotton yarn market to any downward movement, however slight.

The downward pressure on prices of cotton yarn in the Community market forced the Community industry to decrease its prices to levels below its cost of production, despite the progress made in terms of efficiency and productivity. In these circumstances, it is reasonable to conclude that the closure of spinning plants and the loss of jobs incurred by the Community producers were due, to a large extent, to the unfair competition caused by dumped imports and not simply as a result of restructuring in the Community industry.

Although the Commission was aware, during this investigation, that some job losses resulted from investments in high technology plants, removing many manual tasks, it was also the case that, throughout the Community, many companies were forced by the dumped import, to resort to redundancies, short-time working and partial or total plant closures in an effort to maintain profitability.

(c) Effects of other imports

- (44) The Commission also considered whether injury had been caused by imports from other third countries and found that during the reference period only one other country exported cotton yarn to the Community in considerable volume. According to the information available, no evidence of any significant market disruption was found relating to imports from that country. Furthermore, neither the exporters nor the complainants have provided evidence of dumping and injury for which this country could be considered as responsible.

(d) Effects of quantitative restrictions

- (45) The Commission has also examined the argument alleging that, because of the existence of quantitative restrictions applied to the imports of the product in question originating in the countries concerned, no injury could be caused to the Community industry by these imports. The Commission considers, in this respect, that quantitative restrictions protect the Community industry from excessive volumes of imports but cannot prevent injury resulting from unfair trading practices such as dumping imports at very low prices.

(e) Conclusion

- (46) The investigation did not reveal any other factors than the dumped imports which caused material injury to the Community industry. The Commission, therefore, concluded that the effects of dumped imports of cotton yarn, originating in the countries concerned and taken in isolation, have to be considered as causing material injury to Community industry.

However, given the negligible market shares held by the exports at dumped prices from India and Thailand, the Commission considers that these exports have not significantly contributed to the injury suffered by the Community industry.

I. COMMUNITY INTEREST

- (47) The Commission considers that, without measures to correct the effect of dumped imports, the number of Community cotton yarn spinners forced out of the market would increase progressively with further loss of jobs. In this respect, clear evidence can be found in the statistics available. For instance, the Commission is informed that in 1990, 34 Community spinning mills closed with a loss of 7 072 jobs. This negative trend has continued in 1991.

- (48) Some importers made submissions claiming that there should be no imposition of anti-dumping measures on cotton yarn. In particular, they argued that these measures would raise prices on the Community market and that this would adversely affect end-users such as fabric and garment manufacturers and, ultimately, consumers.

In addition they argued that third country exporters concerned would respond to the imposition of this duty by concentrating on manufacture of fabric and finished textile products, which would then be exported to the Community, further adversely affecting fabric and garment manufacturers in the Community.

In this respect, the Commission considers that a short-term advantage given to end-users, in terms of lower prices, cannot justify unfair competition which is detrimental to the Community industry. In the medium term the consumer should benefit from a sound competition situation in which the number of suppliers is not diminished by unfair trading.

The Commission cannot exclude an increase in imports of cotton fabrics or garments into the Community, but such a theoretical consequence cannot be considered as an acceptable reason for not applying anti-dumping measures. Indeed these measures are aimed only at placing the Community cotton spinning industry in a position of fair competition.

The Commission also took into account the fact that the complaint had been submitted by Eurocoton which represents cotton spinners and weavers. This was considered as clear evidence that, in balancing the interests of both categories, priority should be given to the protection of the spinning industry from unfair competition caused by dumping practices. This is confirmed indirectly, by the fact that neither weavers nor garment makers in the Community have expressed any objections to the possible adoption of protective measures in this proceeding.

Moreover, this view was fully shared, in a submission made by the European Trade Union Committee of Textiles, Clothing and Leather, representing virtually all the Community textile industry, from the chemical fibres to knitted or crocheted articles' producers.

- (49) Consequently, after examining the various points of view, the Commission has concluded that it is in the interest of the Community to eliminate the injurious effects of the dumped imports, through the adoption of protective measures in the form of provisional duties. This should be done in order to prevent further injury being caused before the end of the proceeding.

J. DUTY**(a) General**

- (50) For the purpose of establishing the level of the provisional duty, the Commission took account of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

In order to remove totally the injury sustained by the Community industry, the Community producers would need to be placed in the position where they could achieve adequate profitability. In order to obtain this profitability, the price of the exports of cotton yarn from the countries concerned should be increased to a level sufficient to enable the Community industry to obtain a reasonable profit.

Consequently, it appears that the provisional duty to remove injury should cover the difference (hereafter 'price underselling') between the Brazilian, Egyptian and Turkish cotton yarn prices and the price level required for the Community industry to cover its costs and to make a reasonable profit.

- (51) In comparing the relevant export prices with the price level, the Commission established, as was the case for the determination of the dumping margin, a distinction between the cooperating producers/exporters selected for verification purposes, the cooperating producers/exporters not selected and the other producers/exporters.

(b) Cooperating producers/exporters selected for verification purposes

- (52) The Commission established the reasonable price level for the most representative counts on the basis of the average production costs of the Community producers concerned, duly adjusted to take account of differences in the level of trade and including a profit of 5 %. It was considered that 5 % was the minimum profit required in order to allow an adequate return on sales, the possibility of future investment and, consequently, the continued viability of this industry.

This price, as described above, was compared to the weighted average export price of the corresponding cotton yarn counts of cif level, customs duty paid.

The results of this comparison, expressed on a weighted average basis as a percentage of the free-at-Community-frontier price, were as follows :

Brazil

Price underselling margins varied from 11,2 to 36,2 %

Egypt

Price underselling margins varied from 19 to 33,7 %

Turkey

Price underselling margins varied from 16,8 to 39,9 %.

(c) Cooperating producers/exporters not selected for verification purposes

- (53) The price underselling margin of each company was determined on the basis of the weighted average of the price underselling, calculated for the companies of the same country included in the sample.

The price underselling margins resulting from these calculations were as follows :

— Brazil	19,3 %
— Egypt	30,1 %
— Turkey	23,7 %.

(d) Determination of duty

- (54) Finally in determining the level of the provisional duties, the Commission took account of Article 13 (3) of Regulation (EEC) No 2423/88. Consequently, the rate of duty to be applied to each producer/exporter was limited to that adequate to remove the injury, in the case that this rate was lower than the dumping margin found for the producer/exporter concerned.

K. TERMINATION OF THE PROCEEDING IN RESPECT OF IMPORTS OF COTTON YARN ORIGINATING IN INDIA AND THAILAND

- (55) As referred in recital 46, imports of the product concerned originating in India and Thailand have not significantly contributed to the injury suffered by the Community industry. Also taking account of the generally low margins of dumping found, no protective measures are necessary, so the Commission considers that the proceeding should be terminated in respect of these imports.
- (56) No objections to these conclusions were raised in the Advisory Committee.
- (57) The complainant has been informed of the facts and principal considerations on the basis of which the Commission intended to terminate the proceeding with regard to imports of cotton yarn originating in India and Thailand,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of cotton yarn falling within CN codes 5205 11 00 to 5205 45 90 and 5206 11 00 to 5206 45 90 and originating in Brazil, Egypt and Turkey.

2. The rate of duty applicable to the net free-at-Community-frontier price before duty shall be as follows:

(a) 25,3 % for cotton yarn originating in Brazil, Taric additional code 8551 with the exception of imports manufactured by the following companies, which shall be subject to the rate of duty mentioned hereunder:

	<i>Rate of duty</i>	<i>Taric additional code</i>
Fábrica de Rendas Arp SA	7,0 %	8552
Nisshinbo do Brasil Indústria Têxtil Ltda	12,1 %	8553
Fiação e Tecelagem Kanebo do Brasil	11,2 %	8554
Filobel SA Indústrias Têxtels do Brasil	12,9 %	8555
Toyobo do Brasil Indústria Têxtil Ltda	12,9 %	8555
Indústria Têxtil Tsuzuki Ltd	12,9 %	8555
SA Têxtil Nova Odessa	12,9 %	8555
Cotonifício de São Bernardo	12,9 %	8555
Companhia Brasileira de Fiação	12,9 %	8555;

b) 12,5 % for cotton yarn originating in Egypt, Taric additional code 8556 with the exception of imports manufactured by the following companies, which shall be subject to the rate of duty mentioned hereunder:

	<i>Rate of duty</i>	<i>Taric additional code</i>
Misr El Amria Spinning & Weaving Co.	12,5 %	8557
Misr Iran Textile Co „Miratex”	4,9 %	8558
Misr Shebin El Kom For Spinning & Weaving (Shebintex)	7,0 %	8559
Unirab Spinning & Weaving Co.	8,4 %	8560
El Siouf Spinning & Weaving Co.	8,1 %	8561
Delta Spinning & Weaving Co.	8,1 %	8561
El Sharkia Spinning & Weaving Co.	8,1 %	8561
Misr Spinning & Weaving Co.	8,1 %	8561
Misr Fine Spinning & Weaving Co.	8,1 %	8561
El Nasr Wool & Selected Textiles Co. „Stia”	8,1 %	8561
Dakhalia Spinning & Weaving Co.	8,1 %	8561

Alexandria Spinning & Weaving Co. 8,1 % 8561;

c) 15,8 % for cotton yarn originating in Turkey, Taric additional code 8562 with the exception of imports manufactured by the following companies, which shall be subject to the rate of duty mentioned hereunder:

	<i>Rate of duty</i>	<i>Taric additional code</i>
Birko (Birlesik Koyunlular Mensucat Tic ve San AŞ)	7,7 %	8563
Ceytaş (Ceyhan Tekstil Sanayii AŞ)	15,8 %	8564
Söktas Pamuk ve Tarım Urunerini Değerlendirme Ticaret ve Sanayii AŞ	10,0 %	8565
Taris (Tarım Satis Kooperatifleri Birli Keri)	8,6 %	8566
Yalova Elyaf ve Iplik Sanayii ve Ticaret AŞ	5,6 %	8567
Yidaş	4,9 %	8568
Sönnez Pamuklu Sanayii AŞ	10,0 %	8569
Cukurova Sanayi isletmeleri TAŞ	10,0 %	8569
Akip Tekstil	10,0 %	8569
Karsu (Tekstil Sanay ve Tic AŞ)	10,0 %	8569
Trakya Iplik Sanayi AŞ	10,0 %	8569
Bisas Bursaiplik Sanayii AŞ	10,0 %	8569
Meptaş Manisali Errensel Pazadama ve Ticaret AŞ	10,0 %	8569
Hateks (Hatay Tekstil isletmeieria AŞ)	10,0 %	8569.

3. The free-at-Community-frontier price as indicated in paragraph 2 shall be net if the actual conditions of payment provide for payment within 30 days of the arrival of the goods on the customs territory of the Community. It shall be increased by 1 % for each further month by which the period for payment is extended.

4. In cases where the exporting company is not the same as the producing company the rate of duty applicable to the imports of the products of the producing company shall apply.

5. The provisions in force concerning customs duties shall apply.

6. The release for free circulation in the Community of the products originating in Brazil, Egypt and Turkey referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty mentioned in paragraph 2.

Article 2

The anti-dumping proceeding concerning imports of cotton yarn falling within CN codes 5205 11 00 to 5205 45 90 and 5206 11 00 to 5206 45 90 and originating in India and Thailand is hereby terminated.

Article 3

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard by the

Commission within one month of the entry into force of this Regulation.

Article 4

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 2423/88, it shall apply for a period of four months, unless the Council adopts definitive measures before that period has elapsed.

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

Done at Brussels, 23 September 1991.

For the Commission

Frans ANDRIESSEN

Vice-President
