COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.07.1998
COM(1998) 487 final

Proposal for a

COUNCIL REGULATION (EC)

imposing a definitive anti-dumping duty on imports of certain unbleached cotton fabrics originating in the People's Republic of China, Egypt, India, Indonesia and Pakistan, definitively collecting the provisional duty imposed and terminating the anti-dumping proceeding in respect of imports of these fabrics originating in Turkey

(presented by the Commission)

EXPLANATORY MEMORANDUM

Subject: Anti-dumping proceeding concerning imports of unbleached cotton fabrics originating in the People's Republic of China, India, Indonesia, Pakistan, Egypt and Turkey

Proposal for definitive measures

(1) The Commission, by Regulation (EC) No 773/98 imposed provisional anti-dumping duties on imports into the Community of certain unbleached cotton fabrics originating in the above-mentioned countries.

(2) Subsequent to the imposition of the provisional anti-dumping duties, the interested parties who so requested were granted an opportunity to be heard and to submit observations in writing.

(3) The Commission's services have considered all the arguments and they have taken them into account where appropriate.

(4) The further investigation has established that the imports originating in Turkey should not be cumulatively assessed with the imports from the other countries concerned. This conclusion has been reached in view of differences in the conditions of competition between imports from Turkey and those of the other five countries, i.e. continuous decline in the volume of imports, low price undercutting and a share of total imports from third countries that in the 12-months before the opening of the investigation was below the 3% threshold established in Article 5.8 of the WTO Anti-dumping Agreement, which would require the immediate termination of a proceeding.

Furthermore, when taken in isolation, it was found that these imports do not contribute in any material way to the injury suffered by the Community industry. Therefore, it is proposed that the proceeding concerning imports of the product concerned originating in Turkey be terminated.

(5) With respect to the imports originating in the other five countries concerned, the provisional findings regarding the existence of injurious dumping and the Community interest aspects were confirmed.

(6) The Commission's services suggested undertakings to the exporters from the countries concerned.

- These undertakings would apply to a limited number of constructions (i.e. models), which represent the bulk of the imports from each of the five countries concerned (around 50%).

- The undertaking would consist in minimum prices based on the average import prices, increased by the dumping/injury margins of the sampled exporters, as appropriate.

- In order to avoid circumvention through constructions not covered by the undertaking, a country-wide quantitative ceiling would be set per construction. Once this quantitative ceiling reached, the applicable ad valorem duty will enter into force.

- Within the undertaking, for unbleached fabrics weighing less than 100 gr./m², which represent a small percentage of total imports (around 5%), a specific minimum price would be established, without a quantitative ceiling. Those fabrics represent a marginal segments of the market and enjoy specific product characteristics.

- The undertakings signed by exporters would be underpinned by agreements concluded with the associations/authorities in the countries concerned in order to assist to monitor the prices and quantities specified in the undertakings.

- Monitoring: the classical monitoring (i.e. reporting by the exporters) will be reinforced by the SIGL, an on-line computer program which is used by the Commission in co-ordination with national agencies to manage the existing textile quotas.

(7) Discussion are currently being held with the exporters concerned which are likely to continue until the month of September. Should the undertakings be accepted by the Commission, this shall be reported to the Council and will be an integral part of the definitive solution of this case.

(8) For the rest of the fabrics, for exporters not signing the undertakings and for the best-selling constructions exceeding the quantitative ceilings, it is proposed to adopt ad valorem anti-dumping duties, as a complement to the system of undertakings as described above.

(9) On this basis, it is proposed that the Council adopts the attached proposal for a Council Regulation to impose definitive anti-dumping duties on imports of unbleached cotton fabrics originating in the People's Republic of China, India, Indonesia, Pakistan and Egypt and to terminate the proceeding as concerns Turkey.

Commission Declaration to the minutes of the Council

In the framework of the present investigation, the Commission has come to the conclusion that the proceeding should be terminated as regards imports of unbleached cotton fabrics originating in Turkey. This decision was taken, *inter alia*, in view of the low and declining volume of imports from Turkey and its low share of the Community market.

Should these trends be reversed in the coming years, and should a duly substantiated complaint be lodged by the Community industry, showing the existence of injurious dumping of imports from Turkey, the Commission will expeditiously examine this complaint.

Proposal for a

COUNCIL REGULATION (EC) NO ...../98

imposing a definitive anti-dumping duty on imports of certain unbleached cotton fabrics originating in the People's Republic of China, Egypt, India, Indonesia and Pakistan, definitively collecting the provisional duty imposed and terminating the anti-dumping proceeding in respect of imports of these fabrics originating in Turkey

THE COUNCIL OF THE EUROPEAN UNION,

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 by Regulation (EC) No 905/98[3], and in particular Articles 8, 9 and 10(2) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) By Regulation (EC) No 773/98 (hereinafter referred to as the "provisional duty Regulation") the Commission imposed provisional anti-dumping duties on imports into the Community of certain unbleached cotton fabrics originating in the People's

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1 OJ No L 56, 6.3.1996, p. 1.

2 OJ No L 317, 6.12.1996, p.1.

3 OJ No L 128, 30.04.1998, p. 18.

Republic of China (hereinafter referred to as "the PRC"), Egypt, India, Indonesia, Pakistan and Turkey.

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the imposition of provisional anti-dumping duties, the interested parties who so requested were granted an opportunity to be heard by the Commission's services. Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection, at the level of these duties, of amounts secures by way of provisional duties. They were also granted a period within which to make representations subsequent to this disclosure.

(3) The oral and written comments submitted by the interested parties were analysed and, where deemed appropriate, taken into account for the definitive findings.

(4) Some producers/exporters have argued that the opening of the proceeding is illegal, since the publication took place 46 days after the lodging of the complaint, thus contravening Article 5(9) of Regulation (EC) No 384/96 (hereinafter referred to as the "basic Regulation").

(5) The objective of the time limit of the 45 days is to give the complaining Community industry the benefit of an expeditious examination of its complaint and, should the necessary requirements be fulfilled, for the Commission to initiate a proceeding without undue delay. In this respect it would not appear that any interested party is prejudiced by the initiation one day later than the 45 days time limit. The Community industry has not objected about the date of initiation of the proceeding.

(6) Some producers/exporters have further argued that the opening of the proceeding contravened the principle *non bis in idem,* since a former proceeding concerning the same product had not been formally closed.[4]

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[4] This proceeding was opened by a Notice of Initiation published in the OJ No C50, 21.02.1996. Provisional anti-dumping duties were imposed by Commission Regulation (EC) No 2208/96, OJ No L 295, 20.11.1996, p.3.

(7) In the former proceeding, the Council declined to adopt the proposal of the Commission to impose definitive measures within the statutory time limits, i.e. 15 months from the initiation of the proceeding, without setting out formal reasons for this refusal.

(8) In this respect, firstly and by comparison to the previous proceeding, it should be noted that in the current proceeding, the investigation relates to economic data stemming from a different investigation period and to a product concerned which is somewhat different from that covered by the past proceeding. This as such precludes any possible contravention against the principle *non bis in idem.* Secondly, according to Article 5(9) of the basic Regulation, if there is sufficient *prima facie* evidence of injurious dumping to justify initiating a proceeding, the Commission is obliged to do so. Since this was the case in the present proceeding, the Commission opened a new investigation. Thirdly, Article 6(9) provides that an investigation shall be concluded within 15 months of initiation. While no mechanism is provided for by the basic Regulation for the formal termination of a proceeding, once this period has passed without imposition of measures, since no measures can thereafter be imposed, a proceeding must in such circumstances be deemed to be terminated by operation of law.

For these reasons, the above argument concerning the illegality of the proceeding has to be rejected.

(9) Some parties have argued that the Commission has failed to demonstrate the existence of a clear separation between the captive and the non-captive market and that, therefore, the representativity of the Community industry and the analysis of injury should relate to both the captive and the non-captive market.

Furthermore, some parties have argued that even if such a clear separation existed, the standing of the complainants should always be assessed by reference to the Community production destined for both the non-captive and the captive market.

(10)The Commission further examined both markets in the light of the evidence submitted by all interested parties. The analysis has focused on the interrelations between sales of unbleached cotton fabrics from downstream integrated weavers

(captive weavers) operating in the captive market, from non-captive weavers and imported fabrics.

(11)Regardless of the producers, unbleached cotton fabrics are an intermediate product subject to further manufacturing steps. The structure of the textile industry is such that the unbleached fabrics are either produced by a downstream integrated company which after weaving finishes the fabrics without putting them on sale, or they are produced by non-integrated weavers and sold on the non-captive market.

(12)The investigation has shown that, based on the situation of the complainant Community producers, around 92% of the unbleached cotton fabrics sold on the non-captive market are produced by non-integrated weavers. These weavers operate exclusively in the non-captive market. An additional 3% of the sales in the non-captive market is produced by a company which belongs to a group that is active in the downstream markets (finishing and making-up). However, this company acts independently in the non-captive market and not in the captive market. It has also been found that the complainant Community producers represent around 90% of total non-captive Community production. Furthermore, no information is available that could indicate that the situation for the non-complainant non-integrated producers differs from the one of the complainant industry. In view of the above mentioned considerations, it can be estimated that not more than around 5% of total non-integrated Community production of unbleached cotton fabrics is sold in the non-captive market by downstream integrated producers who mainly operate in and produce for the captive market. This limited amount is generally accounted for by remnants of fabrics initially produced to be transformed in their downstream activity and is therefore not representative of the main activity of these companies.

(13)In this respect it is also worth nothing that unbleached cotton fabrics in the captive market are generally sold at transfer prices within the company, excluding a profitability element. In addition, a number of these integrated companies do not even have a separate corporate structure for the company divisions carrying out the different activities, but are divided into departments within the same company. A price difference between markets is not sufficient to change the source of supply.

(14)As to the sales of unbleached fabrics from the sampled Community producers in the non-captive market, these have been found to be generally destined for finishers, converters and/or makers-up.

(15)Furthermore, the cooperating producers/exporters have been found to export the great majority of their fabrics through importers and traders in the Community and not directly to integrated weavers.

(16)In view of the above mentioned it is concluded that fabrics produced by the complaining Community producers and sold on the non-captive market are not generally in competition with fabrics produced and transformed internally by downstream integrated weavers. Since a clear separation exists between the captive and the non-captive market, and since the captive market is not directly supplied to any significant extent by the imports concerned, the assessment of injury to the Community industry has been carried out by reference to the non-captive market only.

(17)Furthermore, since the analysis of injury relates to the Community industry as defined according to Article 4(1) of the basic Regulation, and since Article 4(1) refers to Article 5(4) which establishes the rules on standing, the requirements of standing should also be assessed by reference to the production of the non-integrated producers.

Even if the standing of the complainants were to be assessed with reference to the total Community production, i.e. that destined for the captive and for the non-captive market, the complainant Community producers still represent more than the 25% of total Community production, thus fulfilling the requirements of Article 5(4) of the basic Regulation.

(18) Therefore, the above arguments had to be rejected.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Request for exclusions from the product under consideration

(19)In the provisional duty Regulation, it was provisionally decided to exclude grey handloom fabrics from the scope of the proceeding and to exempt those fabrics from the payment of the duties if accompanied by a certificate of handloom origin issued by the appropriate authorities of the exporting countries. In view of the absence of substantiated comments against the exclusion of handloom fabrics, the provisional findings are hereby confirmed.

(20)Following the disclosure of provisional findings, several requests were presented or repeated for the exclusion of specific types of grey cotton fabrics from the scope of the proceeding.

(a) Fabrics for industrial applications (industrial fabrics)

(21)One exporter claimed that industrial fabrics should be excluded from the scope of the proceeding, since they had different physical characteristics as compared to the other unbleached cotton fabrics. These differences allegedly rendered the industrial fabrics unsuitable for applications other than industrial ones. The different characteristics and uses allegedly resulted in a different consumer perception. The distribution channels were alleged to be different, and it was furthermore claimed that there was no Community production of those fabrics.

It has been found that fabrics for industrial applications are produced in a wide variety of constructions, widths, qualities and weight, depending on their intended use. No clear dividing line was found between industrial fabrics and other fabrics. Even if some of the constructions of industrial fabrics are only used for certain applications, the general physical characteristics of the fabrics, overall, remain the same as those of fabrics for other uses (e.g. furniture). The distributors of industrial fabrics also trade in fabrics for other uses and applications. The exclusion of industrial fabrics from the scope of the proceeding cannot, therefore, be accepted.

(b) Stretch fabrics

(22)One exporter repeated the request for exclusion of stretch unbleached cotton fabrics. These are fabrics woven with a yarn incorporating an elastic filament that gives elasticity to the woven fabric. The exporter claimed that those fabrics are produced with different production methods, that they were sold at relatively high prices and

that they had a different consumer perception, since the end-use of the fabric was limited to clothing.

The Commission found that stretch fabrics are manufactured according to the same production methods used to manufacture the other fabrics concerned. In any event, neither differences in production methods nor a different pricing policy are elements that determine *per se* the existence of a different product. Furthermore, it has been found that despite the differences between stretch fabrics and non-stretch fabrics which are the result of the use of elastic yarn, the essential physical characteristics and uses remain the same as those of other unbleached cotton fabrics concerned. Furthermore, the consumer perception of those fabrics remain basically the same as in other unbleached cotton fabrics. Therefore, the exclusion of stretch fabrics from the scope of this proceeding cannot be granted.

(c) Unbleached cotton fabric used for embroidery and fabrics weighing under 100 gr/m²

(23)As announced in the provisional duty Regulation, the Commission further investigated the issue of fabrics used for embroidery and those weighing under 100 gr/m². In this respect, it is concluded that since their essential physical characteristics and uses remain similar to those of the other fabrics concerned, no exclusion from the scope of the proceeding can be granted.

2. Like product

(24)Some parties have argued that unbleached cotton fabrics manufactured in the Community are not like products to imported unbleached cotton fabrics, in view of the differences in production methods, quality and constructions.

Firstly, it is the practice of the Community institutions, to consider that quality and production methods are not elements that determine the existence of a different product. Indeed, the determination of a like product is based on the essential chemical, technical and/or physical characteristics, the use or functions and the consumer's perception of the product. In the current case, the differences in production methods and quality do not detract from the validity the observation that

imported unbleached cotton fabrics are interchangeable with Community produced ones.

As to differences in constructions, it should be noted that cotton fabric is manufactured in a great variety of constructions, defined by a combination of two pairs of numbers (count of yarn in warp and weft and number of threads in warp and weft). The constructions manufactured in the Community by the complainant Community producers closely resemble the imported constructions, thus fulfilling the requirements of Article 1(4) of the basic Regulation. Indeed, the producers/exporters concentrate on a limited number of constructions representing the bulk of their exports and export smaller quantities of many other constructions. It is worth noting that both the best selling constructions and the rest of the constructions are not necessarily the same for the different countries concerned.

Furthermore, the investigation has shown that there is a high degree of interchangeability between adjacent constructions which are manufactured by the Community industry. For these reasons, the argument cannot be accepted.

(25)The provisional conclusions reached by the Commission on this point are therefore confirmed.

D. DUMPING

1. Indonesia

(a) General

(26)The four companies selected in the sample were found to have provided information which did not satisfy the Commission at the provisional stage. However, comments made following disclosure of the provisional findings led the Commission to consider that although the information submitted by these companies was not ideal in all respects, it should nevertheless not be disregarded for three out of four companies, since the deficiencies were not such that no reasonably accurate findings could be reached at the definitive stage. Only PT Daya Manunggal did not come forward with sufficient explanations, leaving too much of the information received from that company unsatisfactory. Consequently, the findings for this company continue to be

based on facts available, in accordance with Article 18 of the basic Regulation, as described in more detail in recital (68) of the provisional duty Regulation.

(b) Allowance for domestic credit costs

(27)For the provisional determinations, the domestic allowance for credit costs was based on the interest rates mentioned in the audited accounts rather than the percentage presented by the companies concerned.

(28)Two companies claimed that the interest rates on short-term loans mentioned in the audited accounts are not appropriate since credit costs are an opportunity cost and not a real cost and that accordingly the interest rates indicated in the questionnaire responses should be applied.

The claim was rejected as an adjustment for credit costs could only be granted at the level of the normal bank rates applicable during the investigation period. The interest rates mentioned in the audited accounts were considered to be a reliable source to establish the market rate prevailing during the investigation period.

c) Cost of manufacturing

(29)In the case of one company, manufacturing costs were allocated for raw materials at the provisional stage on an average cost basis.

The company expressed its concerns about the allocation of raw material costs and provided satisfactory explanations for its claim. The allocation of raw material costs was amended accordingly for definitive determinations.

(d) Dumping margins

(30)Concerning the companies forming part of the same group, the methodology set out in recitals (44) and (45) of the provisional duty Regulation was used. For the producers/exporters or groups of companies in the sample, the definitive dumping margins expressed as a percentage of the CIF import price at the Community border are:

- Group Argo Pantes (P.T. Argo Pantes+ P.T. Daya Manunggal): 13.7%

- P.T. Apac: 11.8%

- P.T. Eratex Djaja: 12.7%

The definitive dumping margin for cooperating producers/exporters which were not investigated was based on the weighted average of the sample. Expressed as a percentage of the CIF import price at the Community border, the margin is 12.2%.

It should be noted that the level of cooperation of Indonesian companies was very high (the cooperating exporters accounted for practically 100% of exports to the Community during the investigation period). Furthermore, the cotton fabric sector is of an unusually dynamic character which makes it very likely that there will be in future a continuous and substantial number of new exporters. It was therefore decided to depart from the approach outlined in the provisional duty Regulation according to which the residual dumping margin was set at the level of the highest dumping margin found. Instead, the residual dumping margin was established at the same level as for cooperating companies not in the sample, i.e. at 12.2%

2. Turkey

(a) General

(31) It was found at a provisional stage that one of the selected companies, Söktas, did not fully cooperate in the proceeding, because the conversion factor used for determining the quantities manufactured and exported had proved erroneous. The matter was further investigated and it was found that the mistake was due to a clerical error. The Commission corrected that mistake and was therefore able to reach reasonably accurate findings at the definitive stage.

The Commission revised its position towards Söktas, and determined an individual dumping margin for this company. The dumping margin for cooperating companies not in the sample was definitively established by also taking into account the margin for Söktas.

Although the overall level of cooperation in Turkey remained the lowest among the countries concerned, the representativeness of the sample was considered satisfactory as it covered 46% of the volume exported by Turkey during the investigation period.

(b) Allowances

(i) Transport cost

(32)One company contested the transport cost found on export sales, which was calculated to be 4.31% of the value of the product. It was later discovered that the basis for this calculation was erroneous. This resulted in a reduction of the inland transport cost to a level of 0.6% of the value of the exports.

(ii) Credit cost

(33)At the provisional stage, the Commission concluded that for one company, domestic sales were made on the basis of an open account system and that this system did not allow the Commission to determine that prices were also a function of payment terms. However, comments received on the provisional disclosure highlighted the fact that payment terms were stated on the invoice and a due date was agreed with the customer. If that payment term was not respected, the price to be paid was modified on the basis of the number of days between the due date and the actual payment date. On this basis, it was considered that an allowance for the credit cost should be granted according to the number of days stated on the invoice.

(c) Dumping

(34)For the producers/exporters selected in the sample the definitive dumping margins, expressed as a percentage of the CIF import price at the Community border, are the following:

- Teksmobili: 1.6%
- Birlik Mensucat Ticaret ve Sanayi Isletmesi AS Kayseri': 9.5%
- Söktas: 12.8%
- Tureks: 7.1%

Cooperating companies not selected in the sample receive the weighted average dumping margin of the sample. Expressed as a percentage of the CIF import price at the Community border, the margin is 10.8%.

By considering Söktas as a cooperating party, the level of cooperation with regard to imports from Turkey increased to 53%, which was still much lower than the level of cooperation of the other countries concerned, which were all close to 100%. As a consequence, the method for establishing the residual dumping margin for Turkey should remain the same as in the provisional duty Regulation , i.e. based on the highest dumping margin for a model with representative sales, i.e. 13.7%.

3. Egypt

(a) Normal value

(35) When constructing the normal value at provisional stage, the Commission had included all costs incurred, including financing costs as they appeared in the records of the company. One company claimed however that long-term loans, totally devoted to activities not related to production or sales of cotton fabrics, should not have been included in the Selling General and Administrative expenses (hereafter SGA) when constructing the normal value and provided sufficient evidence to this effect. Therefore, it was decided to correct the SGA and to decrease the normal value accordingly.

(b) Dumping

(36)The methodology set out in recital (64) of the provisional duty Regulation is hereby confirmed.

(37)The definitive dumping margin for Egypt, expressed as a percentage of the CIF import price at the Community border, is 18.5%.

4. Pakistan

(a) Normal value: inclusion of stretch fabrics in the determination of the domestic profit

(38)One exporter producing stretch fabrics argued that, should stretch fabric be considered as a like product, sales of this type should not be accounted for in the determination of the domestic profit margin because the characteristics of this type of fabric meant that they were commanding a higher profit margin than the usual cotton

fabrics. In addition, it was claimed that since stretch fabrics were only sold domestically, they could not have injured the Community industry.

As explained above, it was found that stretch fabrics belong to the product under consideration. In accordance with Article 2(6) of the basic Regulation, the amount for profit has to be determined on the basis of all domestic sales of the like product made in the ordinary course of trade. Therefore, the fact that stretch fabrics were not exported during the investigation period is not relevant in this context.

(b) Cost of production

(i) cost of yarn

(39)At the provisional stage, it was decided for one company not to rely on the monthly costs statements specially prepared for the investigation because these reports could not be linked with the audited accounts of that company. Instead, the company's normal cost sheets were used. On the spot, the company did not clarify that the cost sheet provided only referred, as far as yarn costs are concerned, to those of the month of September while all other cost items contained yearly averages. The company claimed after the provisional disclosure that the cost of production should be corrected and that the cost of the yarn prevailing in the month of sale should be used instead of those contained in the cost sheet, i.e. those prevailing in September. The request was found to be justified and the cost of production was corrected accordingly.

The company also claimed that the yarn costs used for the purpose of determining cost of production wrongly included the mark-up of the spinning department belonging to the same company. The Commission based itself on the cost of the yarn found in the cost sheets of the company. Since the company could not demonstrate on the spot that there was a mark-up between the spinning and the weaving department, no modification was made to the cost sheets of the company.

(ii) Recovery of waste

(40)As far as the income from waste product was concerned, several companies claimed that this income should be off-set against the cost of production. The treatment of

any income generated by sales of waste products was based on the accounting methods kept by the companies concerned.

(c) Export price

(i) Exchange rates used and credit costs

(41)Some producers/exporters contested the fact that the Commission refused to accept each lump sum provided by the banks as a normal payment reflecting the exchange rate and the credit cost offered by these financial institutions. It should be noted that the exchange rate used by the banks was not transparent since the conversion rate included the fee for converting the US$ in Rupees and the discount for cashing the credit letter before the agreed term. Since the producers/exporters were not able to indicate for each transaction the actual exchange rate used by the bank, it was decided to use the monthly average exchange rate of the questionnaire, in accordance with the consistent practice of the Commission.

The credit cost was therefore calculated on the basis of the payment terms agreed and the interest rate reported by the producers/exporters .

(d) Allowances

(i) Withholding tax

(42)All Pakistani producers/exporters had to pay an 'export tax' of 0.75% which was deducted by the bank when payment for export sales was received. The companies claimed that this export tax should not be deducted from the export price since it could be off-set against any income tax payable. Since the companies were able to prove that they had indeed off-set this tax, the request was granted.

(ii) Duty drawback

(43)According to the Pakistani producers/exporters, the allowance made to the normal value for import charges should have been increased. For the purpose of the provisional duty Regulation , an allowance was only granted for the duty on the chemicals included in the sizing material. The issue was reconsidered. It was found that a further allowance could be granted with regard to excise duty paid on the yarn

to the extent that the actual refunding of the duty was proven during the on-the-spot verification.

(e) Dumping

(44)For the producers/exporters or groups of companies in the sample, the definitive dumping margins expressed as a percentage of the CIF import price at the Community border are:

- Amer Fabrics Ltd and Diamond Fabrics Ltd: 3.5%
- Nishat Fabrics Ltd and Nishat Mills Ltd: 10.5%
- Kohinoor Group (Kohinoor Raiwind Mills Ltd, Kohinoor Weaving Mills Ltd): 9.8%

The definitive dumping margin for cooperating producers/exporters which were not investigated was based on the weighted average of the sample. Expressed as a percentage of the CIF import price at the Community border, the margin is 9.5%.

For the same reasons found for Indonesia, it was decided to set the residual dumping margin at the same level as the cooperating companies not in the sample, i.e. 9.5%

5. India

(a) General

(45) The Cotton Textiles Export Promotion, hereafter 'the Indian association', argued that the sample of companies for India was not representative because it did not reflect the variety of looms used in India and because it included a company which had exported its production on the basis of master contracts. Therefore no valid calculation of an anti-dumping duty could be based on it. However, the Commission had accepted the selected producers/exporters proposed by the Indian association itself, and had also added their largest exporter to the sample. The above arguments advanced by the Indian association could not, therefore, put into question the representativity of the sample.

(b) Normal Value

(i) Models used for comparison

(46)Indian producers claimed that normal value had been incorrectly determined because domestic sales of second quality products had not been used for the determination of the normal value of certain constructions.

For the purpose of using domestic prices in comparing normal value and exports to the Community, the Commission had to ensure that the constructions sold both domestically and in the Community had identical characteristics. It was found however that second quality products had characteristics which made them different from the first quality products.

As exports to the Community were first quality products, normal value had to be calculated on the basis of the comparable product in accordance with Article 2(1) of the basic Regulation, i.e. first quality products sold on the domestic market of the exporting country. The request could not, therefore, be accepted.

(ii) Profit margin used for constructed normal value

(47)With regard to the profit margin used in the construction of normal value, some producers/exporters argued that domestic profitability should have been assessed only on the basis of those constructions sold both domestically and on the Community market.

In accordance with Article 2(6) of the basic Regulation, the amount for profit has to be determined on the basis of all domestic sales of the like product made in the ordinary course of trade. The fact, that a particular type of the like product is not sold for export, is consequently irrelevant in this context. Therefore, the request could not be accepted.

(48)One Indian company argued that the Commission wrongly refused to use the company's own profit when constructing normal values. Article 2(6) of the basic Regulation states that the amount for profits shall be based on actual data pertaining to production and sales, in the ordinary course of trade, of the like product. As less than 10% of the company's total domestic sales of the like product were made in the ordinary course of trade, in accordance with Article 2(6)(a) of the basic Regulation, the weighted average of the actual amounts of profit determined for other exporters or

producers subject to the investigation in respect of production and sales of the like product in India were used.

(c) Export price

(49)No further comments have been received with regard to the determination of the export price. Therefore, the conclusions reached in the provisional duty Regulation are confirmed.

(d) Allowances

(i) Exchange rates

(50)Four Indian companies argued that the Commission ought to have applied Article 2(10)(j) by using the actual exchange rates utilised by them when booking their export sales. The general principle laid down in Article 2(10)(j) of the basic Regulation states that the conversion of currencies shall be made using the rate of exchange on the date of sale. The only exception is that, when a sale of foreign currency on forward markets is directly linked to the export sale involved, the rate of exchange in the forward sale shall be used. The investigation has shown that there was no such direct link between the forward sale of currencies and the export sales involved. Furthermore, none of the companies demonstrated that the sale of forward currencies had affected prices and price comparability, as required by Article 2(10) of the basic Regulation.

(51)The same companies also argued that the Commission should have used the exchange rate prevailing on the date of sale, rather than average monthly exchange rates. However, it is the Institutions' consistent practice to use average monthly exchange rates. It would be unduly burdensome to apply daily exchange rates, which would in any event lead to practically the same result.

(52)These companies also argued that, if the Commission did not accept the exchange rates they used, the Commission should grant an automatic allowance for currency conversions. Due allowance, in the form of adjustments, can, in accordance with Article 2(10), only be made in each case, on its merits, for differences in factors, which are claimed, and demonstrated, to affect prices and price comparability. As none of the companies has demonstrated this type of effect, the Commission did not

grant an allowance for currency conversions. Therefore, the request could not be accepted.

(ii) Costs linked to the export price: Payment processing costs

(53)All Indian companies claimed that the Commission had wrongly deducted from the export prices as ancillary costs, on the basis of Article 2(10)(e) of the basic Regulation, costs for the processing of payment documents, which they considered to be general costs.

The cost for processing a letter of credit, is directly linked to each specific transaction, as it is a part of each sales transaction for which payment is made on that basis. Therefore, it was concluded that such costs should indeed be deducted from the export price.

(iii) Discounts, rebates and quantities

(54)The Indian producers also argued that an allowance should be granted for differences in quantities. In this respect, it should be noted that the requests were neither properly quantified nor directly linked to the sales under consideration. Moreover, the claims were not made within the deadlines for replying to the questionnaire and therefore could not be accepted.

(e) Dumping

(i) Method

(55)Three companies argued that the Commission incorrectly decided to compare average normal values to individual export prices to the Community. One company argued that the difference in dumping was not substantial as opposed to the result obtained by a comparison of a weighted average normal value with a weighted average export price. The second company argued that there was no pattern of significantly different export prices, and the third company argued that the Commission should have used the 'master contracts' of that company rather than the 'dispatch invoices' for the reason that the importers calculate their mark-up on the basis of the average price mentioned in the master contract.

It was found for each of the three companies that there was a pattern of export prices which differed significantly among different purchasers, regions and time periods. It was also found that, taking into account the level of dumping found for each of the companies, the differences in dumping between a comparison of normal values and export prices on an average-to-average basis and on an average to a transaction-by-transaction basis were considerable. The Commission concluded that a comparison on an average-to-average basis would not reflect the full degree of dumping. Therefore, the request to compare weighted average export prices with weighted average normal values could not be accepted.

Concerning the third company, the Commission used the dispatch invoices rather than the master contracts because only the prices on the dispatch invoices reflected the amounts actually paid or payable for the product when sold for export. This is also in conformity with its consistent practice as mentioned in Article 2(8) of the basic Regulation.

(ii) Dumping margins

(56)For the producers/exporters selected in the sample the definitive dumping margins, expressed as a percentage of the CIF import price at the Community border, are :

- Century Textiles and Industries Ltd: 14.7%
- Coats Viyella India Ltd: 15.5%
- Mafatlal Industries Ltd: 16.1%
- Vardhman Spinning & General Mills Ltd: 4.1%
- Virudhunagar Textile Mills and Thiagarajar Mills Ltd: 5.3%

Cooperating companies not selected in the sample receive the weighted average dumping margin of the sample. Expressed as a percentage of the CIF import price at the Community border, the margin is 12.8%.

For the same reasons given with regard to Indonesia, which were also found to apply for India, it was decided to set the residual dumping margin at the same level as for the cooperating companies, which is a margin of 12.8%

6. The People's Republic of China

(a) Normal value

(i) Non-market economy

(57)Chinese producers/exporters argued that the PRC was now a market economy country and that therefore the use of an analogue country to determine normal value was inappropriate as Chinese domestic prices and/or production costs should be considered reliable.

While recognising the continuing process of economic reforms in the PRC from a planned, fully State-controlled economy towards a market-oriented economy, the Commission, in accordance with Article 2(7) of the basic Regulation, could not agree to this request and the conclusions of recital (160) of the provisional duty Regulation are therefore confirmed.

(ii) Choice of analogue country

(58)Chinese producers/exporters argued against the choice of India as an appropriate analogue country because only a limited number of constructions were found to be comparable to Chinese exports.

The Commission used all the Chinese products which were found to have a comparable construction type sold in the Indian domestic market. This provided a fair and reliable basis for comparison since 67.7% of total exports of the sampled Chinese producers/exporters had been included in the dumping calculation. It was also considered that this constitutes a representative portion of total Chinese exports of the product concerned and that therefore India, in this respect, was an appropriate analogue country. Moreover, no other analogue country was proposed by any Chinese exporter or by the Chinese authorities.

(b) Dumping

(59)The methodology set out in recital (168) of the provisional duty Regulation is hereby confirmed.

(60)The definitive dumping margin for the PRC, expressed as a percentage of the CIF import price at the Community border, is 10.9%

E. INJURY

1. Preliminary remark: the "investigation period"

(61)Some parties have contested that, at the provisional stage, the Commission had examined trends in injury, causation and Community interest on yearly basis and that it has used a period covering July 1996-June 1997, (the injury investigation period, hereinafter referred to as "IIP") instead of the 18-month investigation period.

In this respect, it is recalled that the existence of dumping, price undercutting and price underselling has been examined by reference to a period of 18 months covering 1 January 1996 to 30 June 1997. For the analysis of those aspects of injury requiring the examination of trends, such as, *inter alia*, production, sales, market shares, stocks, profitability and employment, the period 1 January 1993-30 June 1997 has been examined. In this respect, and in order to enable yearly comparisons, instead of the 18-month investigation period, a 12-month period has been used (IIP) to be compared with the calendar years 1993 to 1996.

2. Cumulative assessment of the effects of the imports concerned

(62)In the provisional duty Regulation the issue of the cumulative assessment of imports from all countries concerned was examined. It was provisionally decided to assess imports from Turkey cumulatively but to investigate the issue further.

After the imposition of provisional measures, Pakistani producers/exporters also claimed that imports from Pakistan should not be cumulated with those from the other countries concerned. It was claimed that imports from Pakistan were made under different conditions of competition, because between 1993 and the IIP, imports from Pakistan and their share of the Community market had decreased, while prices had increased.

Indonesian producers/exporters also argued that imports from Indonesia should not be cumulated, in view of the low share of the Community market held by these imports in 1996 and their decreasing trend between 1996 and the IIP, and given that prices

from Indonesia were allegedly increasing at a rate higher than the other countries concerned.

(a) Turkey

(63)Concerning Turkey, the request to exclude it from the cumulative assessment was provisionally rejected on the grounds of the doubts existing on the representativity of the sample of producers/exporters, as this might have had an impact on the conclusions reached.

(64)The Commission has reassessed the cumulation of Turkish imports further to the reconsideration of Söktas as cooperating company, as mentioned in recital (34). It has particularly assessed the conditions of competition.

In this respect, it is recalled that Article 3(4) of the basic Regulation stems from Article 3(3) of the WTO Anti-dumping Agreement, which provides that *"Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigating authorities may cumulatively assess the effects of such imports only if they determine that (a) [...] the volume of imports from each country is not negligible and (b) a cumulative assessment of the effects of the imports is appropriate in the light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product."*.

In addition, according to Article 5(8) of the WTO Anti-dumping Agreement, *"There shall be immediate termination in cases where the [...] volume of dumped imports, actual or potential, is negligible. The volume of dumped imports shall normally be regarded as negligible if the volume of imports from a particular country is found to account for less than 3% of imports of the like product in the importing Member State."*.

(65) In this respect, the Commission found that imports from Turkey sharply declined from around 16.500 tons in 1994 to around 9.700 tons in 1996, i.e. by 41%. Between 1996 and the IIP, imports further decreased by 43% to around 5.500 tons. Their share of the Community market decreased from 5.3% in 1994 to 3.2% in 1996 and

represented the lowest market share of all countries concerned. In the IIP, the share of Turkish imports decreased to 1.9%.

While during the 18-month investigation period Turkish imports represented 3.4% of total imports into the Community, during the IIP, Turkish imports represented only 2.6% of total imports in to the Community.

As to the prices of Turkish imports into the Community, they increased by 9% between 1993 and 1996; in 1996 the prices of Turkish imports were the highest of all countries concerned. As for price undercutting, the definitive average price undercutting found for Turkey amounts to 5.1%.

(66)It is the established practice of the Community institutions that, when there is clearly different market behaviour between the different countries concerned in terms of e.g. evolution of imports, market share and prices, which therefore demonstrate the existence of different conditions of competition, the effects that the imports have on the Community industry is assessed separately.

As to the differences in market behaviour, the decrease in imports from Turkey has taken place over a period of around 4 years starting well before the period of application of provisional anti-dumping duties in the previous anti-dumping proceeding concerning unbleached cotton fabrics. Given this extended time period and the importance of the decrease, it would appear that this decrease is structural and not ephemeral. By contrast, the decrease in the imports from Pakistan and Indonesia fully coincides with the period of imposition of provisional measures in the previous proceeding.

(67)This assessment is corroborated by the low level of price undercutting found for Turkey, the lowest of all countries concerned.

(68)In view of all the above mentioned factors on balance, it is considered that imports from Turkey should be assessed separately from the other imports subjected to the present investigation.

(b) Pakistan

(69)With respect to Pakistan, the Commission found that between 1993 and 1996, imports from Pakistan increased by 10% and their share of the Community market remained stable at around 8%. Between 1994 and 1996 imports from Pakistan increased by around 27% and their share of the Community market increased from around 6% to around 8%. Between 1996 and the IIP, imports from Pakistan decreased and their share of the Community market decreased to 5%. The decrease in the volume of imports and the share of the Community market observed between 1996 and the IIP partly coincides with the period of application of provisional anti-dumping duties in the previous anti-dumping proceeding. As to the prices of Pakistani imports into the Community, they increased by 24% between 1993 and 1996 and remained stable between 1996 and the IIP. In 1996, the prices were the lowest of all countries concerned. Price undercutting amounted to 9.1% in the investigation period.

In view of the above, it is considered that there are no grounds to depart from the conclusions of the provisional duty Regulation, as the trends in the volume of imports and market share are not such as to show that the conditions of competition are different from the other countries concerned. The cumulative assessment made in the provisional duty Regulation is therefore confirmed.

Furthermore, even if imports from Pakistan were to be assessed separately, the volume and price level of the dumped imports and their effect on the prices in the Community market are such that, taken in isolation, would have to be considered as to have caused material injury to the Community industry.

(c) Indonesia

(70)Concerning Indonesia, between 1993 and 1996 imports have continuously increased from around 9.200 tons to around 13.800 tons. The share of the Community market held by imports from Indonesia increased from 3.4% in 1993 to 4.5% in 1996. In the IIP it decreased to 3.7%. As concerns the prices of imports from Indonesia, they decreased by 15% between 1993 and 1996. Furthermore, the average price undercutting found for Indonesia amounts to a significant margin of 24.7%.

In view of the above mentioned, the provisional conclusions with respect to the cumulation of imports from Indonesia are confirmed. In addition, even if considered

in isolation, imports from Indonesia would have to be considered as to have caused material injury to the Community industry.

3. Volume and market share of the dumped imports

(71)In view of the separate analysis of Turkey, the volume and market share of the imports concerned have been assessed as follows: the PRC, Egypt, India, Indonesia and Pakistan (hereinafter referred to as the "five cumulated countries"), on the one hand, and Turkey, on the other hand.

(a) Volume and market share of the dumped imports

(i) Cumulated volume and market share of dumped imports

(72)The volume of imports from the five cumulated countries increased by 13% between 1993 and 1996, from around 108.000 tons in 1993 to around 122.000 tons in 1996. Between 1996 and the IIP (during part of which provisional anti-dumping measures were in force), imports from the five cumulated countries decreased by 22%, from around 122.000 tons to around 94.800 tons.

The share of the Community market held by imports from the five cumulated countries remained stable between 1993 and 1996, at around 39%. In the IIP the share of the Community market held by imports from the five cumulated countries amounted to around 32%.

(ii) Volume and market share of imports from Turkey

(73)Imports from Turkey increased between 1993 and 1994, from around 9.200 tons in 1993 to around 16.500 tons in 1994. Between 1994 and 1996 imports showed a sharp decline from around 16.500 tons to around 9.700 tons. Their share of the Community market decreased from 5.3% to 3.2%.

Between 1996 and the IIP, imports from Turkey further decreased by 43%, from around 9.700 tons to around 5.500 tons, and their share of the Community market further decreased to around 1.9%.

(b) Comments from interested parties

(74)One interested party alleged that the Commission analysis of the evolution of the volume of the imports from the countries concerned was flawed:

-- firstly, because the Commission tried to explain the decrease in the volume of imports in 1997 by speculating as to the existence of a stocking policy in 1996 followed by a destocking in 1997;

-- secondly, because the above mentioned stocking/destocking behaviour would necessitate a degree of freedom over import volumes which does not exist in the current framework of quota restrictions.

(75)On the first point, the Commission has confirmed that the decrease in the volume of imports in 1997 followed a stocking policy in 1996. The stocking/destocking policy of companies importing from the five cumulated countries has been observed at a total level (all five cumulated countries). Indeed, between 1995 and 1996 imports of the product concerned increased by 25%, whereas the maximum increase in the period between 1993 and 1995 amounted to 2%. Between November 1995 to May 1996 and the same period in 1996 to 1997, (period of imposition of provisional measures in the previous proceeding) imports decreased by 39%, whereas the maximum decrease in the period between 1993 to 1995 amounted to 11%. Similarly, information provided by the sampled unrelated importers shows that, between 1995 and 1996, their imports from the countries concerned increased by 26%, whereas between 1996 and 1997, imports decreased by an estimated 2%. It appears, thus, that the decrease in 1997 is partly attributable to and compensated for by the increase observed in 1996.

(76)On the second point, the Commission found that the existence of quotas does not impede the stocking of the product concerned. Indeed quotas provide for a certain flexibility (annual increases, carry forwards, anticipated use of quotas). In addition, the quota covering the product concerned also covers other products. Therefore, a certain margin of flexibility exists in the allocations of the quota to the different products.

(77)One interested party has claimed that the analysis of the volume of imports concerned and their share of the Community market carried out in the provisional duty Regulation is inconsistent since it diverges from the data quoted by the

Commission in Regulation No 2208/96 imposing provisional duties in the previous proceeding concerning unbleached cotton fabrics[5] and in the complaint presented by Eurocoton in the current proceeding.

(78)It should be noted that, firstly, Commission Regulation (EC) No 2208/96 had a different product coverage than the present proceeding, since gauze, which was included in that past proceeding, is not part of the product coverage in the present proceeding.

As to any difference between the volume of imports found in the investigation and that alleged in the complaint on which the present proceeding is based, the source of the data on volume of imports quoted in the provisional duty Regulation originated from Eurostat. These statistics are constantly updated to take into account import figures arriving late as well as any corrections based on rectified import declarations.

It is therefore considered that the differences specified, which in any event are minor, do not invalidate the analyses of the volume of imports and their share of the Community market.

(79)In view of the above, the provisional findings concerning the volume and the market share of the imports are therefore confirmed.

4. Price of dumped imports

(a) Evolution of the prices of the dumped imports

(i) Cumulated evolution of the prices of the dumped imports

(80)According to information provided by Eurostat, the weighted average export prices from the five cumulated countries increased from 2.9 ECU/kg in 1993 to 3.2 ECU/kg in 1994. Prices further increased to 3.6 ECU/kg in 1995 and they decreased to 3.4 ECU/kg in 1996. In the IIP, weighted average export prices increased to 3.5 ECU/kg.

(ii) Evolution of prices of imports from Turkey

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5 Commission regulation (EC) No 2208/96 of 18 November 1996, imposing a provisional anti-dumping duty on imports of unbleached (grey) cotton fabrics originating in the People's Republic of China, Egypt, India, Indonesia, Pakistan and Turkey, OJ No L 295, 20.11.96, p.3.

(81)Concerning Turkey, export prices remained stable between 1993 and 1994 at 3.3 ECU/kg. Prices increased to 3.8 ECU/kg in 1995 and they decreased to 3.6 ECU/kg in 1996. In the IIP, export prices from Turkey increased to 3.7 ECU/kg.

(b) Price undercutting

(82)Following the comments made by interested parties with respect to the price undercutting margins found at the provisional stage, those have been amended where appropriate. The average price undercutting margins definitively found per country, expressed as a percentage of the Community producer's prices are as follows.

(i) Five cumulated countries

--	People's Republic of China:	22.3%
--	Egypt:	29.1%
--	India:	19.1%
--	Indonesia:	24.5%
--	Pakistan:	9.1%

(ii) Turkey

--	Turkey:	5.1%

(c) Comments made by interested parties

(83)Interested parties have contested the price undercutting determination.

-- Firstly, because the product concerned should not have been grouped into categories according to the count of yarn and number of threads, but rather there should have been a direct comparison of each exported model with the corresponding model sold in the Community;

-- Secondly, because the Commission did not make an adjustment for quality differences or for differences in the width;

-- Thirdly, because the Commission did not make an adjustment for the provisional anti-dumping duties paid in the context of the previous anti-dumping proceeding.

(84)As to the first point the Commission found that the product concerned originating in the countries concerned is imported in many diverse constructions. For the purpose of the examination of price undercutting, it was provisionally considered appropriate to group the construction according to certain criteria having the greatest impact on the cost of the fabrics. This was done in view of the fact that certain imported constructions did not have an exact matching Community produced construction and because competition was found to exist between products of adjacent constructions. As the above approach results in a broad coverage of both the imported and Community produced products, it is considered that such a grouping reflects better the true extent of the price undercutting.

As to the second ground, the Commission considered this claim but could not accept it. Indeed, account should be taken of the fact that the Commission examined price undercutting on the basis of constructions grouped according to the count of yarn and number of threads in warp and weft. Any quality or width differences within each product group were compensated by a price comparison carried out on an average per kilo basis.

As to the third argument, it should be noted that the provisional anti-dumping duties imposed in the previous proceeding were not paid, since the Council never decided that they should be collected. They were only guaranteed temporarily and as such did not have a direct and immediate impact on import prices. In any event any costs borne by importers and relating to the guarantees are already included in the cost accounts of importers. When comparing the import prices and the Community producers prices, import prices have been adjusted upwards for level of trade to take into account the costs borne by importers between importation and the resale of those fabrics. These costs have therefore already been taken into account.

(85)One interested party has claimed that the adjustment made for differences in level of trade between import prices and resale prices of the Community producers is insufficient.

The Commission used an adjustment upward for level of trade of 8% on the CIF import price duty unpaid. It includes the average profit margin of the importers as well as all weighted average costs incurred between importation and delivery to customer, that is to converters and finishers. These costs have been calculated on the basis of verified information submitted by the cooperating unrelated importers, which, account for around 13% of all imports from the countries concerned.

For these reasons, this claim has to be rejected.

5. Situation of the Community industry

(86)In the provisional duty Regulation (recitals (193) to (212)) the Commission found that the situation of the Community industry was one of material injury.

(87)Certain interested parties have claimed that the sample of Community producers selected for the analysis of the injury is not statistically valid since between 1993 and 1996 its indicators concerning production, sales and employment have decreased more than those of the total Community industry.

It is standard practice of the Commission that in cases in which sampling is applied, global indicators, e.g. production, sales, employment, are established for the whole Community industry, whereas performance indicators such as prices and profitability are established by reference to the sampled Community producers. In the present case, the investigation has confirmed that the total Community industry suffered from a decrease in production, sales and employment during the period 1993 to 1996. Between 1996 and the IIP production and sales increased. At the same time the sampled Community producers were found to be suffering from increasing stocks, price suppression and decreasing profitability.

(88)Some interested parties have alleged that the Community industry is not suffering injury, since indicators concerning production, sales, stocks and profitability improved between 1996 and the IIP.

It has also been alleged that the overall figures on employment relating to the Community industry lack validity since they relate to unbleached cotton fabrics as a whole and not to the product concerned by the present proceeding, i.e. unbleached cotton fabrics containing more than 85% cotton.

(89) In recitals (194) to (210) of the provisional duty Regulation, the Commission established that, on the one hand, between 1993 and 1996 the situation of the Community industry worsened.

On the other hand, between 1996 and the IIP, the situation of the Community industry improved. However, this improvement, at a time where imports of unbleached cotton fabrics from the countries concerned were subjected to provisional anti-dumping measures, has nevertheless not prevented the Community industry from continuing to be in a very weak position.

Secondly, pursuant to Article 3(8) of the basic Regulation, employment pertaining to the total Community industry has been calculated for the narrowest group of products for which information was available to the Commission's services, i.e. unbleached cotton fabrics containing more than 50% of cotton.

(90)One interested party has questioned the Commission's analysis of the two main factors affecting the costs of the Community industry, namely, the evolution of prices of raw cotton and the costs arising as a result of making frequent changes in constructions and weaving shorter series of the same construction. Concerning the evolution of prices of raw cotton, this party objects to the use of the ECU to assess that evolution, given that world market prices of raw cotton are expressed in US$ and that not all European countries in which weaving companies are present were part of the ERM between January 1996 and June 1997. As concerns costs arising from frequent changes in constructions and weaving shorter series, this party claimed that the constructions manufactured by the Community industry are more complicated, they have a higher value added and therefore command a higher price, which the customers are willing to pay. The same would apply to weaving shorter series.

(91)Regarding the evolution of prices of raw cotton, it is an established practice of the Community institutions to use the ECU as the currency for the calculation and examination of all elements regarding dumping, injury and causation. The use of the US$ cannot, therefore, be accepted.

As to the costs incurred by frequent changes in constructions and shorter runs thereof, the Commission found that the Community industry manufactures both standard and more specific constructions. In this respect, the pressure of the imports on certain bulk

constructions obliges the Community industry to diversify on adjacent constructions, with the result of an increase in the costs. As far as prices are concerned, even if certain constructions may command higher prices, the evolution of the prices of the Community industry and its profitability shows that Community producers have not been able to obtain such higher prices in order to cover their costs.

(92)It is therefore concluded that the provisional findings regarding the evolution of the two main factors affecting the costs of Community industry should be confirmed.

6. Conclusion

(93)The further investigation has confirmed that the Community industry has suffered from a decrease in sales, production, employment and profitability and the Council considers that the arguments presented by the interested parties do not justify a departure from the provisional findings. For the reasons stated above, it is confirmed that the Community industry has suffered material injury within the meaning of Article 3(1) of the basic Regulation.

F. CAUSATION

1. Effects of the dumped imports from the countries concerned

(a) Cumulated effect of imports from PRC, Egypt, India, Indonesia and Pakistan,

(94)The increase of imports of the product concerned between 1993 and 1996 coincided with a deterioration of the financial situation of the Community industry, whose market share decreased. The substantial price undercutting found exerted a suppression of the prices of Community producers leading to losses. Since the market for unbleached cotton fabrics is highly price sensitive and transparent, the pressure exerted by the imports concerned in the form of price undercutting caused price suppression for the Community producers leading to financial losses.

(95)It is, therefore, considered that dumped imports from the five cumulated countries have, taken in isolation, caused material injury to the Community industry. These findings are confirmed.

(b) Effect of imports from Turkey

(96)As far as Turkey is concerned, limited price undercutting has been found. However, this price undercutting did not lead to an increase of the market share of Turkish imports. On the contrary, Turkish imports have sharply decreased and, in the IIP, only had a 1.9% share of the Community market. Given this decrease, the small market share and the fact that price undercutting is relatively small, it is considered that imports from Turkey have not had an impact to a degree such as to be classified as material, within the meaning of Articles 3(5) and 6 of the basic Regulation.

(97)It is therefore considered that protective measures are unnecessary as regards Turkey.

2. Effects of other factors

(98)In the provisional duty Regulation the Commission examined factors other than the dumped imports in order to ensure that possible injury caused by those factors were not attributed to the dumped imports. The Commission found that the effects of those factors, if any, were not such as to break the causal link between the dumped imports and the material injury suffered by the Community industry.

(99)Some interested parties have argued that any injury suffered by the Community industry is to be attributed to imports of the product concerned from third countries other than the countries concerned. In particular it was mentioned that while imports from other third countries have increased their share of the Community market, those from the countries concerned have remained stable between 1993 to 1996 and have decreased in the IIP. Furthermore, export prices from other third countries, e.g. Russia, were substantially lower than those from the countries concerned. Therefore those countries should also be covered by the investigation. Failure to do so would contravene Article 12(2) of the WTO Anti-dumping Agreement and Article 9(5) of the basic Regulation.

In addition, some interested parties have also alleged that the negative economic situation of the Community industry is correspond to that of the textile industry as a whole and was thus not the result of any dumped imports. In support of these evidence, global figures for 1997 and corresponding to the textile industry as a whole have been presented.

Finally, it has been argued that imports from the countries concerned could not be the cause of the injury since the imported constructions and those manufactured in the Community were different and therefore did not compete with each other.

(100)In this respect it should be recalled that the imports concerned do not need to be the sole or the principal cause of the difficult situation of the Community industry. It is sufficient that, taken in isolation, imports from the countries concerned have caused material injury.

(101)The Commission, firstly, found that imports from the five cumulated countries increased from around 108.000 tons in 1993 to around 122.000 tons in 1996. Although between 1996 and the IIP, imports from the countries concerned decreased, account should be taken that this period coincided with the past period of imposition of provisional measures. The resulting market share of the five cumulated countries has remained stable at the significant level of 39%. Furthermore, it has been established that these imports were made at prices which significantly undercut those of the Community industry. It cannot therefore be argued that the impact of the imports from other countries has been such as to break the causal link between the imports from the five cumulated countries and the injury suffered by Community industry.

Secondly, while it may be true that prices of imports from other third countries are in some instances lower than those from the countries concerned, no indication was given that they were made at a dumped level, i.e. that they were lower than the normal value in the respective country.

Thirdly, while it may also be true that the recession has contributed to the difficult situation of the Community industry, this has not prevented the dumped imports from the countries concerned from causing injury to the Community industry in by further worsening its situation.

(102)As to the lack of competition between imported constructions and those manufactured by the Community industry, the investigation has shown that, the imports are concentrated on a limited number of constructions. It has also been found that those constructions are nevertheless produced by the Community industry. In this respect, account should further be taken of the high degree of interchangeability

between fabric belonging to adjacent constructions. As to the rest of the imports from the countries concerned, they are spread over many constructions imported in small quantities. These constructions also compete with the corresponding ones manufactured by the Community industry.

(103)Finally, the imposition of anti-dumping duties cannot be contested on the grounds that the imposition of duties in the present proceeding would not protect the Community industry against competition from imports from other third countries, which are not dumped. The fact that the Community industry is experiencing difficulties attributable in part to causes other than the dumped imports is not a reason for depriving that industry from the protection against the injury caused by dumping. It should be mentioned that between 1993 and 1996 the imports concerned increased, that their market share remained stable and that during the investigation period, substantial price undercutting was found for the producers/exporters in the five cumulated countries. At the same time the Community producers were found to be suffering injury in the form of a decrease in production, sales, market share and profitability.

(104)In view of the above mentioned, the provisional findings concerning causation are therefore confirmed.

G. COMMUNITY INTEREST

1. The Community industry

(a) Effects of the past imposition of measures on the Community industry

(105)In the provisional duty Regulation, the Commission concluded that anti-dumping measures would benefit the Community industry in terms of increased production, sales and profitability. This had been confirmed by the developments during the past period of imposition of provisional measures.

(106)Some parties have disputed the Commission's conclusions as to the effectiveness of the imposition of provisional measures in the previous proceeding on the following grounds:

-- Firstly, provisional duties were not directly collected and therefore could not account for any improvement of the Community industry.

-- Secondly, the examples given in the provisional duty Regulation on the effectiveness of the measures lacked validity since they constituted selective examples.

-- Finally, even if measures were to be imposed, the Community industry would not produce or would be unable to produce the product concerned for commodity types of lower specification fabrics, since it concentrated on higher value added fabrics. Therefore, measures would unduly burden importers, without benefiting the Community industry. As supporting evidence parties submitted the results of a survey carried out among Community producers seeking price quotations for certain volumes of specific constructions, which resulted in a number of negative responses.

(107)Firstly, experience shows that even if provisional duties are not directly collected but only provisionally guaranteed, economic operators take them into account when deciding whether to import or to purchase from the Community industry. This happened also in the previous proceeding. Indeed, users of the product concerned increased their purchases from Community producers. This demonstrates that the provisional duties imposed were directly beneficial to Community producers. This beneficial effect was ascertained at the level of the sampled Community producers as well as at the level of the Community industry as a whole (recitals (194) to (210) of the provisional duty Regulation). It cannot therefore be argued that the beneficial effects have been established by reference to certain selected companies.

(108)As to the results of the survey carried out among a certain number of Community producers, it appears that this survey was cursory, and therefore cannot be considered as representative of the position of the Community industry. Therefore, the argument has to be rejected.

(b) Import substitution: finished products

(109)Some parties have argued that the Commission's analysis in the provisional Regulation of the effect of quotas on imports of finished fabrics and unbleached fabrics is inconsistent and therefore invalid. It has been argued that if existing quotas on imports of finished fabrics would prevent any significant shift towards imports of such fabrics from third countries, the same argument should be valid *mutatis*

mutandis for unbleached cotton fabrics. It has also been argued that the Commission's findings with regard to quota category 2 and 2a were irrelevant since this category also included finished fabrics, as well as fabrics containing less than 85% cotton.

(110)Some parties have also questioned the economic analysis of the surge in imports of bleached fabrics during the past period of imposition of provisional measures. While these parties do not question the correctness of the cost of bleaching in the Community quoted in the provisional duty Regulation, doubts have been raised as to the prices quoted for bleached fabrics imported from third countries. In support of this position information concerning prices of bleached fabrics imported by one cooperating unrelated importer from Pakistan has been presented showing a price level, i.e. 3.8 to 3.9 ECU/kg, lower than that quoted by the Commission.

(111)With respect to finished fabrics, the issue to be analysed is whether the imposition of duties on the product concerned could cause a surge in the volume of imports of finished fabrics. It is in this context that the existence of imports quotas has been analysed.

(112)Concerning subquota category 2a, it covers printed and dyed fabrics as well as dyed yarn of both more and less than 85% cotton. However, the maximum possible margin of expansion of the utilisation of this quota, on the basis of the unused quantities of category 2a products, has been estimated at 20.000 to 25.000 tons. Given the stable trend in imports of fabrics made of dyed yarn coinciding with a stable consumption for this product in the Community, and the small share represented by finished fabrics of less than 85% cotton (around 7% of total imports category 2a fabrics), no further margin of expansion of category 2a fabrics is likely. The argument that quota category 2a cannot act as an effective break to a surge in imports of printed and dyed fabrics, on the grounds that this subcategory covers products other than the product concerned, must therefore be rejected.

As to the analysis of the imports of bleached fabrics, in the provisional duty Regulation prices were specified on the basis of Eurostat for imports of bleached fabrics from third countries. These statistics correspond to the total exports of bleached fabrics from the all exporting countries and as such accurately reflect the product mix of that country. The prices of bleached fabrics imported from Pakistan,

were 4.5 ECU/kg in 1996 and in the IIP, it increased to 4.7 ECU/kg in 1997. A further investigation of this issue by reference to the period January-March 1998 shows that prices of bleached fabrics further increased to 5.3 ECU/kg in the period January-March 1998. Average prices of bleached fabrics from India and Pakistan amounted to 4.7 ECU/kg in 1996, 4.6 ECU/kg in the IIP, 4.8 ECU/kg in 1997 and 5.4 ECU/kg in the period January-March 1998.

The analysis in the provisional duty Regulation showed that it was not economically justified to import bleached fabrics as a means to avoid the anti-dumping duties. The further investigation has confirmed this analysis.

(c) Limited capacities available in the Community

(113)One interested party claimed that the Commission's finding that the Community industry had sufficient flexibility to increase capacities in order to prevent supply shortages was incorrect, since it was not reasonable to expect that the Community industry could supply 72% of the market.

(114)The Commission, in the provisional duty Regulation, found that capacity would not be an impediment for Community producers to benefit from any anti-dumping measure imposed. Indeed, the increase in production by Community producers at the time where provisional measures were in place shows that a certain flexibility as regards the capacity of Community industry does exist.

(d) Import substitution: made-up articles

(115)Some parties have alleged that the imposition of duties on imports of unbleached cotton fabrics will not only cause a shift in imports towards finished fabrics, but will also ultimately result in a surge of imports of made-up articles. This would have as a consequence that the Community industry would ultimately not benefit from any anti-dumping measure imposed.

(116)The Commission examined the evolution of imports of made-up articles between 1993 and the IIP. For the purpose of that examination a number of made-up articles, constituting the bulk of the made-up articles incorporating unbleached cotton fabrics of more than 50% cotton, were considered: curtains, bed linen, table linen and shirts.

(117)It was found that imports of curtains and bed linen have continuously increased since 1993, at a time where no anti-dumping measures were in place. Between 1993 and 1996, total imports of curtains have increased by around 199%, whereas the increase in imports of curtains from the countries concerned was lower, at around 136%. As regards bed linen, total imports increased by 21% between 1993 and 1996.

Regarding imports of table linen, these remained stable between 1993 and 1995 and increased in 1996 (by 9.7%), whereas imports of shirts increased by 30% between 1993 and 1996.

Between 1996 and the IIP, partly coinciding with the past period of imposition of provisional measures, imports of curtains, bed linen and table linen from the countries concerned continued to increase, although at a lower rate: 23% with respect to curtains, 10% with respect to bed linen and 10% with respect to table linen. Between 1996 and the IIP, imports of shirts decreased by 2%.

(118)Imports of made-up articles continuously increased between 1993 and 1996. The imposition of provisional anti-dumping duties on unbleached cotton fabrics in November 1996 did not cause a surge in the imports of made-up articles. In addition, made-up articles are also subject to import quotas, as are the imports of the product concerned and of finished fabrics. Furthermore, any such surge would necessitate the setting-up of production facilities in the exporting countries for made-up articles which, since it also involves the finishing of the fabrics, would require significant investments.

(119)For all these reasons, a surge in imports of made-up articles due to the imposition of anti-dumping measures is unlikely.

2. Other considerations

(120)According to Article 21 of the basic Regulation, special consideration should be given to the need to eliminate the trade distorting effects of injurious dumping and the need to restore effective competition.

In this context, the access of Community manufactured unbleached cotton fabrics to the five countries subject to this investigation has been examined.

(121)Exports of the product concerned to the PRC, Egypt, India, Indonesia and Pakistan amounted to a mere 164 tons in 1996 and 134 tons in the IIP, compared to a total volume of exports of the product concerned of 13.000 tons in 1996 and 13.100 tons in the IIP, i.e. around 1% of total Community exports.

The market access of Community produced unbleached cotton fabrics is rendered almost meaningless due to the existence of customs duties on imports of the product concerned manufactured in the Community amounting to the following: 19% in the PRC, 60% in Egypt, 40% in India, 15% in Indonesia and 45% in Pakistan where imports of the product concerned are not permitted without specific authorisation.

The situation is similar as concerns finished fabrics and made-up articles. Indeed, exports of finished fabrics to the five countries countries concerned amounted to around 1% of total Community exports of those fabrics. In the case of made-up articles, exports to the five cumulated countries amounted to around 0.2% of total Community exports of those made-up articles.

(122)It can therefore be argued that there is a significant impediment to Community exports of the product concerned, and of downstream products incorporating it, constituting therefore a trade distorting effect.

3. Conclusion on Community Interest

(123)Some parties have questioned the conclusions reached by the Commission in the provisional duty Regulation that no compelling reasons were found on Community interest grounds against the imposition of anti-dumping measures. These parties argued that the Commission analysed the likely effects of any anti-dumping measure in the current proceeding to the downstream industry, only by reference to the past period of imposition of provisional measures, six months. They argued that if definitive measures, lasting five years, were imposed, the negative effects on the downstream industry would be such as to constitute a compelling reason against the imposition of measures.

(124)In the provisional duty Regulation, the effects on the downstream industry of imposing any anti-dumping measure was examined. While certain aspects, such as cost and price increases were analysed by reference to the past period of imposition of

provisional anti-dumping duties, some other more structural aspects of trade in cotton fabrics, such as the existence of quotas on imports of finished fabrics and made-up goods, the comparative advantages enjoyed by Community finishers and the low import penetration of finished fabrics, militated against considering that compelling reasons existed against the imposition of anti-dumping measures.

(125)The arguments presented by interested parties subsequent to the imposition of provisional duties on the Community interest aspects of the proceeding as set forth in recitals (240) to (371) of the provisional duty Regulation have been examined. Since these arguments do not justify a departure from the assessment made in the provisional duty Regulation, the Council confirms that no compelling reasons have been found against the imposition of anti-dumping measures.

H. ANTI-DUMPING MEASURES

1. Injury elimination level

(126)In accordance with the relevant provisions of the basic Regulation, it was examined whether the measures should be less than the dumping margins found, if such lesser measures would be adequate to remove the injury suffered by the Community industry as a consequence of dumping.

(127)Given the injury found, in particular in the form of lack of profitability and price suppression, it is considered that anti-dumping measures should increase the prices of the dumped imports to attain a non injurious level.

(128)In order to obtain a non injurious price level, at the provisional stage, the weighted average profit shortfall of the sampled Community producers during the investigation period, together with a minimum profit, was added to the Community producers' sales prices.

(129) Several parties argued that the minimum profit margin should not be set at 8%. Information was provided purporting to show that even at times were the Community industry was profitable, such profitability was far below 8%.

(130)The rationale of such a minimum profit margin is to reflect the profit that the Community industry could reasonably be expected to achieve in the absence of

injurious dumping. On the basis of the information submitted by interested parties this profit margin continues to be determined as being 8%. This margin reflects also the fact that the Community industry has to recover from the effects of past dumping. In addition, such a profit margin is in line with the standard practice of the Community Institutions for this type of industry. Furthermore, this is the profit margin that was considered appropriate in the context of a previous proceeding concerning unbleached cotton fabrics. The minimum profit margin used in the provisional duty Regulation is therefore confirmed.

(131)According to Article 9(4) of the basic Regulation, where the margins of dumping found in respect of a particular exporting producer were below the corresponding increases in import prices necessary to remove injury, as calculated above, the definitive duties have been limited to the dumping margin established.

These duties, expressed as a percentage of the CIF net, free-at-Community-frontier price, before duty amount to:

--	The PRC:	
	All producers/exporters:	10.9%
--	Egypt:	
	All producers/exporters:	18.5%
--	India:	
	Coats Viyella India Ltd.:	5.3%
	Vardhman Spinning & General Mills Ltd:	4.1%
	Mafatlal Industries Limited:	16.1%
	Century Textiles and Industries Ltd:	14.7%
	Virudhunagar Textile Mills and Thiagarajar Mills Ltd:	5.3%
	Cooperating companies not in the sample:	12.8%
	Non-cooperators:	12.8%
--	Indonesia:	
	P.T. Apac Inti Corpora:	11.8%
	P.T. Argo Pantes+ P.T. Daya Manunggal:	13.7%

	P.T. Eratex Djaja:	12.7%
	Cooperating companies not in the sample:	12.2%
	Non-cooperators:	12.2%
--	Pakistan:	
	Amer Fabrics Ltd and Diamond Fabrics Ltd and:	3.5%
	Nishat Fabrics Ltd and Nishat Mills Ltd:	10.5%
	Kohinoor Group (Kohinoor Raiwind Mills Ltd and Kohinoor Weaving Mills Ltd):	9.8%
	Cooperating companies not in the sample:	9.5%
	Non-cooperators:	9.5%

2. Undertakings

(132)In accordance with Article 8 of the basic Regulation, the possibility of price undertakings was discussed with the producers/exporters in the five cumulated countries. Further to these discussions, undertakings were offered by the producers/exporters and accepted by the Commission in Commission Decision No....

(133)These undertakings are based on a minimum price valid for a limited number of constructions (i.e. combination of pair of count of yarn and number of threads in warp and weft), which represent a large proportion of the exports to the Community of the producers/exporters in each of the five cumulated countries as well as for fabrics weighing less than 100 gr/m². The minimum prices have been calculated on the basis of the CIF net, free-at-Community-frontier price, increased by the dumping or injury margins, which ever is the lowest, as appropriate.

(134)In order to avoid circumvention by the export of constructions not included within the undertakings, a country-wide quantitative ceiling is set per construction subject to the undertaking. Once this quantitative ceiling is reached, imports of these constructions will not be subject to the minimum prices, but will be subject to the applicable anti-dumping duty.

To ensure that the quantity of imports exempted from the *ad valorem* duty does not exceed the quantitative ceilings fixed by the undertakings, the exemption should be conditional on the presentation to Member States' customs services of valid import

licences clearly identifying the producer, the construction concerned and the import volume. [6]

Fabrics weighing less than 100 gr/m² will not be subject to quantitative ceilings given that the risk of circumvention for those fabrics is limited: they represent a marginal segment of the market and are easily identifiable at customs level by their weight.

3. Definitive duties

(135)Notwithstanding the acceptance of the undertakings offered by the producers/exporters from the countries concerned, the producers/exporters not signatories to undertakings, the constructions not covered by the undertakings and the constructions subject to the undertaking but exceeding the volumes established, will be subject to the *ad valorem* anti-dumping duties on imports of the product concerned to the Community. This will also underpin the undertakings by discouraging their circumvention.

(136)Fabrics weighing less than 100 gr/m² constitute a marginal market segment. Such fabrics are imported in two distinct qualities; one woven with ordinary yarn and imported at low prices, the other woven using thin high quality, resistant yarn, imported at high prices, which are not generally a cause of injury to the Community industry. The specific characteristics of these fabrics mean that on the one hand, imposing an *ad valorem* duty would be disproportionate in that the high quality segment would be subject to high duties, whereas on the other hand a straightforward minimum price duty would not be appropriate in respect of the low priced segment.

(137)It was decided therefore to set a minimum price duty, subject to the limitation that imports made below the minimum price will only pay the relevant *ad valorem* duty. The impact of the *ad valorem* duty on imports of the low quality segment should mean that imports of such fabrics can continue to be made at below the minimum price. Where the ad *valorem* duty would raise the price above the minimum price, the duty will be limited to the difference between the import price and the minimum price.

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6 Under Council Regulation (EEC) No 3030/93, import licences are delivered for the importation of unbleached cotton fabrics into the Community. This system will be used in the context of the current anti-dumping proceeding.

(138)In establishing minimum prices for those fabrics, it is considered that, in the absence of representative information available from the sampled producers/exporters, these minimum prices should be based on import prices as reported by Eurostat. Information from Eurostat reflects the product mix within imported fabrics weighing less than 100 gr/m² and adding the anti-dumping duty applicable to the cooperating producers/exporter in each country concerned to the import prices per country reported by Eurostat, results in a minimum price which would sufficiently remove the injury to the Community industry.

(139)The minimum prices thereby established are as follows:

Country	Minimum price ECU/kg
The PRC	4.7
Egypt	6.0
India	5.6
Indonesia	4.9
Pakistan	4.2

I. COLLECTION OF PROVISIONAL DUTIES

(140)In view of the magnitude of the dumping margins found for the exporting producers and countries, and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties under Regulation (EC) No 773/98 should be definitively collected at the rate of the duty definitively imposed. This decision also applies to the companies which are signatories to the undertakings.

(141)As concerns fabrics weighing less than 100 gr/m², the amounts secured by way of provisional duties shall be released. Indeed, in view of the fact that the distinction between fabrics weighing more and less than 100 gr/m² has only been introduced at the definitive stage, the collection of the provisional duties for those fabrics appears inappropriate.

(142)As concerns imports of the product concerned originating in Turkey, amounts secured by way of provisional anti-dumping duties should be released.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of unbleached cotton fabrics, falling within ex CN codes 5208 11 90 to 5208 19 and 5209 11 to 5209 19 (TARIC codes 5208 11 90 90, 5208 12 11 90, 5208 12 13 90, 5208 12 15 90, 5208 12 19 90, 5208 12 91 90, 5208 12 93 90, 5208 12 95 90, 5208 12 99 90, 5208 13 00 91, 5208 13 00 99, 5208 19 00 91, 5208 19 00 99, 5209 11 00 90, 5209 12 00 90, 5209 19 00 90) and originating in the People's Republic of China, Egypt, India, Indonesia and Pakistan.

2. Subject to paragraph 3, the rate of the anti-dumping duty applicable to the CIF net, free-at-Community-frontier price, before duty, shall be as follows for products originating in:

Country	**Rate of duty**	**Taric additional code**
The People's Republic of China	10.9%	
Egypt	18.5%	
India	12.8%	8900
Indonesia	12.2%	8900
Pakistan	9.5%	8900

3. The products manufactured and sold for export by the companies listed below shall be subject to the following rates of anti-dumping duty:

Country: India	**Rate of duty**	**Taric additional code**
Century Textiles & Industries Limited	14.7%	8913
Coats Viyella India Limited	5.3%	8914

Vardhman Spinning & General Mills Limited	4.1%	8915
Mafatlal Industries Limited	16.1%	8917
Virudhunagar Textile Mills and Thiagarjar Mills Ltd.	5.3%	8916

Country: Indonesia	**Rate of duty**	**Taric additional code**
Group Argo Pantes (P.T. Argo Pantes and PT Daya Manunggal)	13.7%	8919
Apac Inti Corpora	11.8%	8918
Eratex Djaja	12.7%	8922

Country: Pakistan	**Rate of duty**	**Taric additional code**
Amer Fabrics Ltd and Diamond Fabrics Ltd.	3.5%	8923
Nishat Mills Ltd and Nishat Mills Ltd	10.5%	8928
Kohinoor Group (Kohinoor Raiwind Mills Ltd and Kohinoor Weaving Mills Ltd)	9.8%	8925

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

Article 2

1. Import of unbleached cotton fabrics weighing not more than 100 gr/m² (Taric codes 5208 11 90 90, 5208 13 00 91 and 5208 19 00 91) shall be exempt from the duty imposed by Article 1, when imports of such fabrics are made above the following minimum CIF net, free-at-Community-frontier prices, before duty:

Country	*Minimum price ECU/kg*
The People' Republic of China	4.7
Egypt	6.0
India	5.6
Indonesia	4.9
Pakistan	4.2

2. Other imports of unbleached cotton fabrics weighing not more than 100 gr/m² shall be subject to the relevant duty imposed by Article 1. In cases where the application of the relevant duty would increase the import price above the level of the relevant minimum price in paragraph 1, only the difference between the import price and the minimum price shall be imposed

Article 3

Imports of the product classified under the CN codes mentioned in Article 1(1) above, produced and sold for export to the Community by the companies which offered undertakings accepted by Commission Decision No , shall be exempted from the anti-dumping duties imposed by Articles 1 and 2, provided that such imports are made in conformity with the system laid down in that Decision.

Article 4

1. Products classified under the CN codes mentioned in Article 1(1) above and woven on looms operated exclusively by hand or foot are exempted from the duty imposed in Article 1 of this Regulation (TARIC codes 5208 11 90 10, 5208 12 11 10, 5208 12 13 10, 5208 12 15 10, 5208 12 19 10, 5208 12 91 10, 5208 12 93 10, 5208 12 95 10, 5208 12 99 10, 5208 13 00 10, 5208 19 00 10, 5209 11 00 10, 5209 12 00 10, 5209 19 00 10).

2. The exemption referred to in paragraph 1 shall be granted only to products accompanied on their release for free circulation in the Community by either

   a) a certificate from the competent authorities of the country of origin which conforms to the model attached as Annex I; or

b) a certificate issued pursuant to Article 3 of Council Regulation (EEC) 3030/93[7].

3. Certificates issued pursuant to paragraph 2(a) shall only be valid if the countries of origin have informed the Commission of the names and addresses of the governmental authorities situated in their territory which are empowered to issue these certificates, together with specimens of stamps used by those authorities and the names and addresses of the relevant governmental authorities responsible for the control of the certificates. The stamps shall be valid as from the date of receipt by the Commission of the specimens.

4. Certificates issued pursuant to paragraph 2 shall only be valid if presented with options (b) and (c) in box 11 deleted and if they certify that the products concerned fulfil the description in option (a).

The appropriate provisions implementing the Community Customs Code, and notably the provisions concerning administrative co-operation contained in Article 93, 93 bis and 94 of Regulation (EEC) 2454/93[8], as amended in particular by Commission Regulation (EC) 12/97[9], shall apply *mutatis mutandis*.

Article 5

1. As regards imports of the product described in Article 1(1) above originating in The People's Republic of China, Egypt, India, Indonesia and Pakistan, the amounts secured by way of the provisional anti-dumping duty imposed by Regulation (EC) No 773/98 shall be collected at the rate of the duty definitively imposed. This provision also applies to the companies signatories of the undertakings, as regards the provisional duties secured.

2. As regards imports of fabrics weighing less than 100 gr/m² originating in The People's Republic of China, Egypt, India, Indonesia and Pakistan, the amounts secured by way of provisional duties shall be released.

3. As regards imports of the product described in Article 1(1) above originating in Turkey, the amounts secured by way of provisional duties shall be released.

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7 OJ No L 275, 8.11.93, p.1

8 OJ No L 253, 11.10.93, p. 1

Article 6

The proceeding is hereby terminated as concerns imports of the product described in Article 1(1) above originating in Turkey.

Article 7

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

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

Done at Brussels, 1998.

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9 OJ No L 9, 13.1.97, p. 1.

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