

# The International Practice of the European Communities: Current Survey

## Commercial Defence Actions and Other International Trade Developments in the European Communities VII: 1 July 1993 – 31 December 1993

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This is the seventh in the series of reports on developments in the field of EC international trade law.<sup>1</sup> This report will cover developments that occurred during the six months period 1 July 1993 to 31 December 1993.

### **1. Dumping**

#### **1.1. General Developments**

##### *Annual Anti-Dumping Report for 1992*

The Commission has released the draft annual report for 1992 to be approved by the European Parliament. The report provides an across the board overview of all EC developments regarding anti-dumping in 1992. The report is more detailed and complete than usual, and provides overview tables which contain statistics. Unfortunately, a long period of time has lapsed since the events that are described in the report occurred, rendering it less interesting than it otherwise may have been.

##### *Uruguay Round in General*

The most critical developments relating to the Uruguay Round occurred during the first two weeks of December, and culminated in a successful conclusion to the negotiations on 15 December. That same day, the EU Council of Ministers endorsed the accord, although only after several Member States had won major concessions from their EU partners. These Member States included France, which won concessions from Germany on revisions of the EU's trade instruments, and Portugal, which won a commitment for a substantial

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1 The first report was published in 1/2 *EJIL* (1990) 337-364. The second report was published in 1 *EJIL* (1991) 166-199. The third report was published in 2 *EJIL* (1991) 146-176. The fourth report was published in 3 *EJIL* (1992) 372-421. The fifth report was published in 4 *EJIL* (1993) 283-304. The sixth report was published in 4 *EJIL* (1993) 588-606.

compensation package to offset any damage to Portugal's textile sector resulting from the Uruguay Round accord.

On 16 December the European Parliament gave a preliminary endorsement to the Uruguay Round accord. The Parliament had previously considered attempting to force a resolution on the question of which legal basis would be used for the accord, and whether – as a result of the Maastricht Treaty – the Parliament has an actual right of assent to the accord. However, the Parliament chose not to force this issue for the time being.

Instead, the Parliament indicated that it would reserve the right to raise this issue at some point in the future. In his presentation to the Parliament, Commissioner Karel Van Miert acknowledged that the question of the appropriate legal basis was a highly delicate one, and one which was still under consideration by the Commission and the Council.

#### *Uruguay Round Anti-Dumping Code<sup>2</sup>*

The revised Code provides for greater clarity and more detailed rules in relation to the method of determining that a product is dumped, the criteria to be taken into account in a determination that dumped imports cause injury to a domestic industry, the procedures to be followed in initiating and conducting investigations, and the implementation and duration of anti-dumping measures. In addition, the new agreement clarifies the role of dispute settlement panels in disputes relating to anti-dumping actions taken by domestic authorities.

On the methodology for determining that a product is exported at a dumped price, the new agreement adds relatively specific provisions on such issues as the criteria for allocating costs when the export price is compared with a 'constructed' normal value, and rules have been added to ensure that a fair comparison is made between the export price and the normal value of a product, so as not to arbitrarily create or inflate margins of dumping.

The agreement strengthens the requirement for the importing country to establish a clear causal relationship between dumped imports and injury to the domestic industry. The dumping investigation must include an evaluation of all relevant economic factors bearing on the industry concerned. The agreement confirms the existing interpretation of the term 'domestic industry'. Subject to a few exceptions, 'domestic industry' refers to the domestic producers of like products, or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products.

Clear-cut procedures have been established under the Uruguay Round Anti-Dumping Code on how anti-dumping cases are to be initiated and how such investigations are to be conducted. Conditions for ensuring that all interested parties are given an opportunity to present evidence are set out. Provisions on the application of provisional measures, the use of price undertakings in anti-dumping cases, and on the duration of anti-dumping measures have been strengthened. The addition of a new provision under which anti-dumping measures shall expire five years after the date of imposition, unless dumping and injury would be likely to continue or recur, is a significant improvement on the previous rules. This latter provision however will have no impact on EC Anti-Dumping law where this provision has already been a feature of the basic Regulation since 1984.

A new provision requires the immediate termination of an anti-dumping investigation in cases where the authorities determine that the margin of dumping is *de minimis* (which is defined as less than 2 per cent, expressed as a percentage of the export price of the product) or that the volume of dumped imports is negligible.

2 For more detailed discussion of the new Anti-Dumping Code please refer to Waer, Vermulst, 'EC Anti-Dumping Law and Practice after the Uruguay Round: A New Lease of life?', to be published in 27 *Journal of World Trade* (June 1994).

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The agreement calls for prompt and detailed notification of all preliminary or final anti-dumping actions to a Committee on Anti-Dumping Practices. The agreement will afford parties the opportunity of consulting on any matter relating to the operation of the agreement, or the furtherance of its objectives, and request the establishment of panels to examine disputes.

### *GATT Panel*

The Community and Japan reached an agreement on the terms of reference for the work of the GATT panel set up to examine the anti-dumping duties imposed by the Community on audio-cassettes imported from Japan. Following the decisions of the US authorities to impose countervailing and anti-dumping duties on various European steel products, the Community asked that a GATT panel be set up to examine the validity of such decisions.

### *Changes to the Basic Anti-Dumping Regulation*

Certain changes have been proposed during the period under investigation.<sup>3</sup> We recall that the proposals concern the streamlining of various aspects of the Regulation, in particular with regard to time limits and the decision-making procedure. All the changes should be adopted by 30 June 1994, and we will discuss them in our next report. More generally, in view of the successful conclusion of the Uruguay Round, a major overhaul of the Basic Regulation is expected towards the end of 1994 to take account of the new GATT Anti-Dumping Code.

## 1.2. Administrative Determinations

### *Tapered roller bearings from Japan, OJ (1993) C 179/5 (Notice); OJ (1993) L 244/1 (repeal with retroactive effect)*

With this Notice the Commission made it publicly known that the request for review had been withdrawn.

This rather bizarre case was the result of a complaint lodged by the EC industry in December 1988 and was essentially a mixed Article 14/15 review. In March 1993 the EEC industry withdrew its request for a review. The Commission consequently decided to terminate the proceedings. For no discernible reason, the review proceeding had already taken four and a half years, so the Commission decided to have the duties expire retroactively as of 29 June 1990.

### *Certain watch movements from Malaysia and Thailand, OJ (1993) C 183/10*

The products allegedly being dumped are watch movements, battery or accumulator powered, with mechanical display only, or with a device to which a mechanical display can be incorporated, complete and assembled.<sup>4</sup>

<sup>3</sup> See also our fourth *EJIL* report, 1992, where we first signalled these proposals for changes.

<sup>4</sup> The products allegedly fall within CN code 9108 11 00.

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*Oxalic acid from Korea and Taiwan, OJ (1993) C 186/14 (expiry)*

*Daisywheel printers from Japan, OJ (1993) C 187/3 (Notice of impending expiry)*

*Low carbon ferro-chrome from Kazakhstan, Russia, and Ukraine, OJ (1993) L 187/51 (extension provisional)*

*Electronic typewriters from Japan, OJ (1993) C 191/5 (expiry)*

*Copper sulphate from Bulgaria and the former Soviet Union, OJ (1993) C 205/3 (impending expiry)*

*Furfuraldehyde from China, OJ (1993) C 208/8 (initiation)*

This complaint was launched by Furfural Espagnol S.A., the only Community producer of furfuraldehyde. The Spanish producer based its dumping allegation by comparing export prices of the Chinese producers with export prices of Argentinean producers.

*Ethanolamines from the United States, OJ (1993) L 195/5 (provisional)*

On the normal value side, captive use sales and sales to associated companies were not considered to be made in the ordinary course of trade because the buyers were not free in their choice of suppliers and the prices of these sales were influenced by the relationship between buyer and seller. As these sales comprised, for each of the companies concerned, no more than 15% of sales, remaining sales on which normal value was based were considered representative. On the export side, export prices were reconstructed. Cost deductions included certain sales costs which were incurred by companies associated to US producers, situated in a third country (Switzerland), which normally would be borne by an importer in the Community. The profit margin of 5% was also deducted. Dumping margins varied between 62% and 91%. The Commission decided to impose anti-dumping duties in the form of minimum import prices 'given the determination of the US producers to defend their increased market shares and the possibilities for them to absorb to a large extent high anti-dumping duties, and given the vulnerability of the Community industry'.

*Synthetic hand-knitting yarn from Turkey, OJ (1993) C 210/4 (initiation)*

*Ferro-silico-manganese from Russia, Ukraine, Georgia, Brazil and South Africa, OJ (1993) C 210/5 (initiation)*

*Sodium carbonate from the USA, OJ (1993) C 213/12 (initiation)*

*Woven polyolefin sacks from China, OJ (1993) L 215/1 (amendment)*

This was an anti-absorption proceeding. As the Commission found that absorption took the form of lowering export prices, it calculated the extent of absorption of the anti-dumping duty by comparing the prices of woven polyolefin sacks from China during the period 1 January to 31 December 1988, with the prices during the period following imposition of the anti-dumping duties i.e. the period from 1 August 1990 to 30 April 1991. The level of absorption was found to be 97.6% when expressed as a percentage of the amount of duty paid on the reduced export price. As a result, the duty of 43.4% was increased to 85.7%

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*Compact disc players from Taiwan, Singapore, and Malaysia, OJ (1993) L 185/51 (termination); Compact disc players from Japan and Korea, OJ (1993) L 215/4 (repeal)*

The decision to repeal the anti-dumping duties in force and to terminate the review followed a communication from the two major Community producers, comprising 97% of the EEC's output of the product, to the Commission advising them of their intention to cease production of compact disc players in the Community. The producers advised the Commission that the discontinuation of production within the Community would be completed by the end of 1993, and that consequently in their opinion there was no longer any justification for the continued existence of protective measures. Furthermore, the complainant Compact, representing all producers in the EEC industry, formally withdrew its complaints on 6 April 1993 and requested the Commission to propose to the Council to repeal the anti-dumping measures in force. In these circumstances the Commission considered that protective measures were no longer necessary and the Council agreed.

For Taiwan, Singapore, and Malaysia the case could simply be terminated since no duties were yet in force.

*Urea from the USA, Austria, Hungary, Kuwait, Malaysia, Romania, and former Yugoslavia, OJ (1993) C 231/4 (Notice of impending expiry)*

*Video cassette recorders from Japan and Korea, OJ (1993) C 235/3 (Notice of impending expiry)*

*Monosodium glutamate from Indonesia, Korea, Taiwan, and Thailand, OJ (1993) L 225/1 (amendment)*

This was an Article 14 review limited to a reconsideration of the injury situation. The Commission found that the prices of imports were, in US dollar terms, in line with the prices set in the undertakings accepted by the Commission, while in Ecu terms they were lower by up to 20% over the period examined. In other words, the Commission made it clear that there had not been any violations of the undertakings previously accepted. Nevertheless injury had occurred, and it was deemed necessary to revise the undertaking prices and the residual duties imposed accordingly.

*Monosodium glutamate from Indonesia, Korea, Taiwan, and Thailand, OJ (1993) L 225/35 (acceptance undertakings)*

See above.

*Fluorspar from China, OJ (1993) L 226/3 (provisional)*

South Africa was used as the reference country.

Normal value was based on domestic selling prices. Salient features with regard to the normal value determination were that the Commission on its own initiative (it seems) adjusted the South African selling prices downwards to reflect the fact that access to raw materials in South Africa is more difficult in South Africa than in China. It was considered that downward adjustment would take care of the Chinese natural advantage. On the other hand, the Commission rejected the claim of two Chinese exporters who had argued that account should be taken of the less refined quality of the Chinese product. The Commission was of the view that end users in the EC do not distinguish the products from the two countries from a quality point of view.

Due to insufficient cooperation from Chinese exporters, export prices were based on the best information available, i.e. Eurostat data. Needless to say, this practice tends to decrease the export price because importers are inclined to understate their prices for customs purposes. On this basis a 13.2% dumping margin was found. Nevertheless, the export prices proved to be immaterial after all – apart for the dumping finding – because the Commission established a minimum (floor) price based on the normal value. A minimum floor price was set to prevent price decreases by the Chinese exporters that could, in the Commission's view, not be redressed by a specific duty. The floor price was established at 93.4 Ecu per tonne.

*Bicycles from Taiwan, OJ (1993) L 227/21 (termination)*

The proceeding against Taiwan was terminated on the basis of negligible dumping.

*Bicycles from China, OJ (1993) L 228/1 (definitive)*

With regard to the like product definition, a request made by Chinese producers to separate mountain bikes from other bikes was rejected by the Commission. An interesting issue arose with respect to the standing of the EEC industry. The Commission initially only sent questionnaires to the Community producers listed as complainants in the anti-dumping complaint, in conformity with its standard practice. However, the Commission found that the Community industry which had replied to the questionnaires represented only an estimated 40% of total Community production of bicycles. The Commission then sent out further questionnaires to widen the basis of the injury investigation. The Community producers which fully cooperated in the investigation accounted for 54.3% of total Community production. Producers representing a further 10% of Community output supplied some basic information on their production, and expressed support for the complaint. Apparently, therefore 54.3% was deemed to be sufficient. The Commission again applied the one-country-one-duty rule for China and refused to grant individual treatment to producers. Although there were only 14 Chinese producers, the Commission nevertheless decided to resort to sampling in view of the large number of models and exporters. For this purpose the Commission took the models manufactured by a representative selection of manufacturers. This selection included two state-owned organizations, two joint venture companies and one company which sold via a company in Hong Kong. In order to increase the representativity of its sample for its definitive conclusion, the Commission included in the sample the fully foreign-owned company which was the most important in terms of volume of exports. The six companies included in the sample represented 88% of all exports to the Community by the companies which replied to the questionnaire. With respect to the dumping margin calculation the Commission based normal value on prices in Taiwan.

On the export side, the Commission was faced with the situation that one Chinese exporter sold to the Community via a related company in Hong Kong. The Commission applied Article 2(8)(b) of the Regulation and made an allowance for an estimated margin of 5% to take account of the fact that the sales were made via Hong Kong. This 5% presumably covered both costs and profit of the Hong Kong entity. One may question whether this methodology is correct in view of previous cases where the Commission has generally held that such companies located closely to the exporting country are to be treated as part of the exporting network, and not as part of the importing network. The practical consequences of the distinction is that if a company is treated as part of the exporting network, only its direct selling costs are deducted. The Commission further found that the companies which replied to the Commission's questionnaire constituted only 73% of proto-exports from China to the EEC. The Commission deemed it appropriate for the remaining 27% to use best information available and *in casu* considered that the dumping margins of the models of the company in

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the sample with the highest margins should be used to calculate the dumping margin for this 27%. The weighted average dumping margin for China was 30.6% and an anti-dumping duty of the same percentage was imposed. One exporter requested that the Commission take account, in accordance with Article 13 of the GATT Anti-Dumping Code, of the fact that China is a developing country. The Commission replied quite appropriately that it should be borne in mind that China is not a signatory to the GATT Anti-Dumping Code and refused to apply constructive remedies.

### *Photo albums from China, OJ (1993) L 228/16 (provisional)*

The Commission again refused to apply individual treatment and applied the one-country-one-duty rule. Normal value was based on constructed value in Korea. Export prices were constructed on the basis of Article 2(8)(b), and on the basis of the price at which the product concerned was resold by the Hong Kong company to independent Community producers, with a deduction of a reasonable profit margin (note the discrepancy in treatment between the previous case and this case). A duty of 19.4% was imposed.

### *Potassium permanganate from China, OJ (1993) C 248/9 (initiation review)*

### *Thermal paper from Japan, OJ (1993) L 232/1 (amendment)*

This concerned a partial Article 14 review because two Japanese companies had merged. One of the two merged companies previously was not dumping. The other merged company previously did not export. As a result of the review, the new company arising from the merger had been excluded by the Council from the anti-dumping duties.

### *Ball bearings from Japan and Singapore, OJ (1993) L 235/3 (amendment)*

This concerned a sunset review of anti-dumping measures. However it concerned only Singapore, because the situation of Japanese imports had been reviewed earlier. As a result of the sunset review, the Council excluded Singapore from the anti-dumping measures. The reason was that imports from Singapore account for only 0.6% of the EC market and were considered not to have contributed to the injury of the EC industry.

The striking feature of the case was that the Commission decided to make the anti-dumping duty expire with three years' retroactive effect. This followed representations of the Singapore producers, which had pointed to the unusual length of the review investigation which had been initiated in September 1989.

### *Ball bearings exceeding 30 mm from Japan, OJ (1993) L 235/7 (correction)*

This Regulation has been amended to remove contradictory provisions which had the potential to generate conflicting rules on customs valuations.

### *Artificial corundum from China, the Russian Federation, and Ukraine, OJ (1993) L 235/1 (definitive)*

In 1991 the Commission had accepted undertakings from China and the Soviet Union. Secondly, the USSR exporter V/O Stanko Import lost its monopoly on exports. Exports are now carried out by a number of new exporters located in the Russian Federation and the Ukraine. With respect to China, undertakings were accepted from six trade organizations

authorized by the Chinese Chamber of Commerce to export the product from China. However, the Commission found that exports were being made from China by other exporters and trade organizations previously unknown to the Commission. The Commission also established that exports of artificial corundum from China, the Russian Federation and the Ukraine had taken place in substantial quantities and at prices well below the prices specified in the undertaking. As the Commission had forgotten in 1991 to impose residual duties, it was now deemed necessary to impose residual duties. These were 30.8% with respect to China and 9.8% with respect to the Russian Federation and the Ukraine.

*Ferro-silicon from South Africa and China, OJ (1993) L 237/2 (provisional)*

With respect to China, normal value was based on the constructed value of Norwegian producers with an addition of a profit margin of 6%. Where South African producers sold through related importers in the EEC, prices were constructed and a 3% margin deemed reasonable was deducted. Dumping margins found were as follows:

South Africa Samancor	47.4%
Highveld-Randcarbide	34.7%
China	49.7%

For injury purposes imports from South Africa and China were accumulated. As the injury margins found were higher than the dumping margins, anti-dumping duties were established by reference to the dumping margins.

*Unwrought manganese from China, OJ (1993) L 244/32 (termination)*

The termination followed findings by the Commission, which were made in the course of its investigation, that the sole Community producer of unwrought manganese had decided to discontinue production and was in the process of gradually phasing out its manufacturing operations. Accordingly, since the Community production of the product concerned by the present proceeding was discontinued, protective measures were deemed unnecessary.

*Low carbon ferro-chrome from Kazakhstan, Russia, and Ukraine, OJ (1993) L 246/1 (definitive)*

For the provisional determination the Commission had based normal value on the data of a South African producer (the analogue country). However, after imposition of provisional duties, the Commission received further information from a producer in Zimbabwe. The Commission considered this data to be more reliable, despite the fact that the producer did not allow verification. The cost of production in Zimbabwe plus a 5% profit margin was used to establish normal value. In view of the enormous devaluation of the Zimbabwe dollar, two normal values were established for the first and second part of the investigation period.

After the imposition of provisional duties, one Russian producer still provided information on its export prices. The Commission *did* take this information into account, in view of the extraordinary economic and social situation in the exporting countries and because these exports accounted for more than 80% of the Community imports of the product concerned.

In order to avoid possible price manipulation the Commission proposed, and the Council imposed, a *specific* duty of Ecu 0.31 per kg.



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### *Isobutanol from the Russian Federation, OJ (1993) L 246/12 (provisional)*

The Commission based normal value on domestic sales prices of a sample of US producers representing about 69% of sales volume in their domestic market. The dumping margin found amounted to 46.1%. On the injury side an interesting question arose because approximately 41% of total production in the EEC was consumed by the EEC producers themselves. The Commission examined whether the captive and free markets could be considered distinct for the assessment of injury. The Commission referred to the *Gimelec* case<sup>5</sup> which held that only the free market should be considered for the purpose of establishing injury if the volumes of the product used for intra-company consumption do not enter into direct competition with the sales on the free market, and consequently do not suffer from the effects of dumping. As this was the situation in the present case, the assessment of injury was based exclusively on data referring to the free market. Injury margins were higher than dumping margins. The Commission decided to impose an anti-dumping duty in the form of a fixed amount of Ecu per tonne in order to avoid the consequences of manipulation of the invoice price, and to secure the correction of the necessary amount of the duty.

### *Binder and baler twine from Brazil and Mexico, OJ (1993) L 251/28 (acceptance undertakings Brazil; termination Mexico)*

This was an Article 15 sunset review. It was also a combined anti-dumping and countervailing duty investigation. With respect to the countervailing duty investigation, it was found that neither the Mexican government nor the Brazilian government had granted any subsidies. With respect to dumping, it was found that with respect to Mexico no imports had been made for Mexico to the EEC since 1989. With respect to Brazil, the Brazilian producers did not cooperate on the dumping side but indicated their willingness to offer new undertakings. These were accepted. The proceeding with respect to Mexico was terminated since there had been no indications of dumping.

### *Seamless pipes and tubes of iron or non-alloy steel from the Czech and Slovak Republic, OJ (1993) L 252/39 (termination)*

Following decisions of the EEC-Czech Republic and Slovak Republic Joint Committee of 28 May 1993, acting in accordance with the interim agreement concerning the export of certain steel products from the Czech Republic and Slovak Republic to the Community, the Council had opened and provided for the administration of tariff quotas in respect of certain steel products covered by the EEC Treaty, including the products subject to this proceeding. The Commission considered that the effect of the tariff quota system on imports of the products would be that the injurious consequences of the dumped imports originating in the Czech and Slovak Republics would be eliminated. It was therefore considered appropriate to terminate the proceeding.

### *Polyester yarn from Turkey, OJ (1993) L 261/41 (termination newcomer review)*

By a notice published on 18 March 1993 the Commission had decided to initiate a newcomer review at the request of a Turkish company Korpejs. On 25 August 1993, the Commission was informed by Korpejs that it was withdrawing its request for a review of the Regulation in force because of profound changes in the market place. The Commission considered it unnecessary to further investigate the case and terminated the proceeding.

<sup>5</sup> *Gimelec v. Commission* (1991) ECR 5589.

*Eproms from Japan, OJ (1993) L 262/64 (acceptance undertakings)*

These determinations were the result of a newcomer review for which Nippon Steel Semiconductor (producer) and Intel Corporation (exporter) had applied. On the basis of the findings of this newcomer review the Commission accepted an undertaking offered by Intel. The Commission Decision concerned the acceptance of the undertaking offered by Intel. The amendment by the Council Regulation concerned the resulting technical changes to the original measures.<sup>6</sup> No details were revealed regarding the dumping margin.

*3.5' microdisks from Japan, Taiwan, and China, OJ (1993) L 262/4 (definitive)*

Council Regulation (EEC) No. 2861/93 of 18 October 1993 imposed a definitive anti-dumping duty on imports of certain magnetic disks (3.5' microdisks) originating in Japan, Taiwan, and the People's Republic of China, and collected definitively the provisional duty.

Regarding the dumping, the Council basically confirmed the findings of the Commission. The following final dumping margins were established:

*Japan:*

Memorex Telex Japan Ltd.:	49.0%
Hitachi Maxell Ltd.:	32.8%
TDK Ltd.:	44.8%
Sony Ltd.:	60.1%

*Taiwan:*

CIS Technology Ltd.:	19.8%
Megamedia:	32.7%

*China:*

Hanny Magnetics (Zuhai) Ltd.:	35.6%
Other companies:	39.4%

For Taiwan and China the anti-dumping duties were based on the dumping margins. For Japan, however, the anti-dumping duties were limited by the injury margins. The injury margins for Japan were calculated on the basis of the underselling method, using a 10% profit margin on turnover. This led to the following injury margins, and anti-dumping duties, for Japan:

Memorex Telex Japan Ltd.:	6.1%
Hitachi Maxell Ltd.:	20.6%
TDK Ltd.:	26.7%
Residual (incl. Sony):	40.9%

*Electronic weighing scales from Singapore and Japan, OJ (1993) L 263/1 (definitive)*

For the purpose of the definitive findings, normal value was established on the basis of the same methods as those used in the provisional determination of dumping. Certain calculation

<sup>6</sup> Also some changes were made concerning the change of names of some other companies.

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adjustments were made on the basis of submissions by the parties. With respect to export prices, the Council confirmed the Commission's findings.

The dumping margins for Korean producers amounted to 9.3% for Cas Corporation, 7.2% for Han Instrumentation Technology, and 26.7% for Descom Scales Manufacturing.

The dumping margin for Teraoka Weigh-system PTE Ltd., Singapore, is 10.8%. For non-cooperating producers the Council confirmed the Commission's position and, accordingly, set the definitive residual dumping margin for Singapore at 31%.

Regarding the injury, the Council confirmed the Commission's position that the effects of Korean and Singaporean imports had to be analyzed cumulatively. The Council confirmed the Commission's conclusion that the Community industry had suffered material injury. The Council confirmed that the material injury sustained by the Community producers has been caused by the Korean and Singaporean imports.

The Council confirmed that the imposition of measures is in the interests of the Community industry.

The level of injury exceeding the dumping margins was established. Accordingly, the duties were set at the level of the dumping margins. Therefore, the duties for Korea were: 9.3% for Cas Corporation, 7.2% for Han Instrumentation Technology, and 26.7% for Descom Scales Manufacturing. The residual duty for Korea was set at 26.7%. For Singapore the duties were 10.8% for Teraoka, and 31% for non-cooperating producers.

The amounts secured by way of provisional duty are definitively collected at the rate definitively imposed. Amounts secured in excess of the definitive rate of duty are released.

*Ball bearings not exceeding 30 mm from Thailand, OJ (1993) C 286/6 (initiation)*

*Non-refillable pocket flint lighters from Thailand, OJ (1993) L 267/2 (provisional)*

The Thai producer, Thai Merry Company Ltd. by correspondence dated 18 August 1993 informed the Commission that it withdrew its undertaking. The Commission therefore decided to apply provisional anti-dumping duties on the basis of the facts established before the acceptance of the undertaking. A duty of 14.1% was imposed.

*Television camera systems from Japan, OJ (1993) L 271/1 (provisional)*

Commission Regulation (EEC) No. 3029/93 of 29 October 1993 imposed provisional anti-dumping duties on imports of television camera systems originating in Japan, OJ (1993) L 271/1.

For all exporters normal value was, for the vast majority of models, established on the basis of the comparable price actually paid or payable for the product intended for consumption in the country of origin. For those models not sold domestically, or sold at a loss, normal value was established on the basis of the constructed value. In all cases the export prices were reconstructed, using a 5% profit margin.

For one related importer the Commission determined that it had provided false and/or misleading information regarding SGA expenses. Accordingly, the Commission resorted in this instance to the best information available rule.

The dumping margins that the Commission established were as follows:

- Ikegami Tsushinki Co. Ltd.: 86.4%
- Sony Corporation: 70.8%
- Hitachi Denshi Ltd.: 49.9%

The exporter Matsushita did not reply to essential parts of the questionnaire and its dumping margin was therefore based on the best information available rule. In this instance, the best information available led to a 97% dumping margin. This was also the dumping margin determined for other non-cooperating exporters.

Regarding the injury, the Commission determined that the Community industry was suffering material injury as a result of the dumped imports.

The Commission determined that the imposition of anti-dumping measures was in the interest of the Community industry.

The injury margins calculated by the Commission exceeded the dumping margins. Therefore, the duties were based on the dumping margins:

- Ikegami Tsushinki Co. Ltd.: 86.4%
- Sony Corporation: 70.8%
- Hitachi Denshi Ltd.: 49.9%
- Residual (incl. Matsushita): 97%

*Furazolidone from China, OJ (1993) C 302/2 (initiation)*

*Certain iron or steel sections from Turkey and the former Yugoslavia, OJ C 303/2 (expiry)*

*Light sodium carbonate from Bulgaria, Poland, and Romania, OJ (1993) C 310/5 (Notice of impending expiry)*

*Cotton yarn from Brazil and Turkey, OJ (1993) L 289/1 (amendment)*

This was a newcomer review requested by four Brazilian and one Turkish producer. The dumping margin for the Turkish producer amounted to 8.4% while the dumping margins found for the four Brazilian producers varied between 8.7% and 12.3%. Anti-dumping duties were imposed accordingly.

*Ethanolamines from the USA, OJ (1993) L 299/43 (extension provisional)*

*Ferro-silicon from Russia, Kazakhstan, Ukraine, Iceland, Norway, Sweden, Venezuela, and Brazil, OJ (1993) L 302/1 (amendment)*

This mixed Article 14/15 review followed a request by the EC industry. The investigation period ran from 1 January 1991 to 30 April 1992 (16 months).

#### Dumping

With respect to Norway, the Commission found that Norwegian producers formed part of two separate corporate groups and sold through related sales companies. Normal value was based on constructed value and additional 6% profit margin. Where exports were made to related importers, the export prices were constructed and a 3% profit margin was deducted.

With respect to Iceland, normal value was again constructed. On the export side the sole producer in Iceland channelled its sales to the Community through a Norwegian group. The Commission decided to apply Article 2(8)(b) and deducted an estimated margin of 3% arising from profits realized on sales on the sector concerned.

With respect to Sweden, normal value was based on domestic sales.

With respect to Venezuela, 70% of the sales on the domestic market were sold to related companies for processing. These were held not to have been made in the ordinary course of trade and resort was therefore had to constructed value.

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With respect to Brazil, normal value was based on a monthly basis, either by reference to domestic sales or, where necessary, by reference to the constructed value.

With respect to Kazakhstan, Ukraine and Russia, normal value was based on the constructed value in Norway.

With respect to the former Yugoslav republics of Macedonia, Bosnia-Herzegovina and Slovenia, no dumping determination was made in view of their *de minimis* contribution to injury (see below).

Dumping margins found were the following:

Norway	6.8%
Iceland	6.8%
Sweden	7.4%
Venezuela	20.4%
Brazil (residual)	25.0%
CBCC	9.2%
Ferbasa	22.8%
Rima	20.5%
Compagnia Polista de Ferroligas	20.5%
Compania Ferroligas Minasligas	20.5%

With respect to those Brazilian companies which had cooperated in the investigation and were found not to have exported during the investigation period, the Commission considered that the best evidence available was the weighted average dumping margin found for the companies which did export. This is a deviation from the standard practice of the Commission which holds that if a company does not export during an investigation period it is automatically subjected to the highest duty imposed with respect to any cooperating producer. On the injury side, the Commission decided to accumulate imports from all countries with the exception of the former Yugoslav republics of Macedonia, Bosnia-Herzegovina and Slovenia. It was considered appropriate to decumulate imports from these countries and to terminate the proceeding with respect to them because imports from these countries were minimal and furthermore were unlikely to resume in the future. Although two companies proposed revised price undertakings, the Commission considered this inappropriate in view of the fact that the prices cited in previous undertakings had all been systematically undercut.

*Ferro-silicon from South Africa and China, OJ (1993) L 303/1 (extension provisional)*

*Dead-burned magnesia from China, OJ (1993) L 306/16 (definitive)*

Following the imposition of provisional measures, the Chinese exporters argued that an additional allowance should be made for the fact that in China dead burned magnesite can be extracted and processed more easily than in Turkey. The Commission considered this request appropriate and therefore, taking into account the actual ore/spoil ratio found in Turkey and the level of adjustment suggested by the Chinese exporters, reduced the costs of extraction by 20%, as compared with those established in Turkey. The Commission again rejected requests for individual treatment and applied the one-country-one-duty rule. As the definitive duty took a different form from the provisional duty, the Council considered it inappropriate to collect definitively the provisional anti-dumping duty. The definitive anti-dumping duty was imposed in the form of a difference between Ecu 120 per tonne and the net, free at Community frontier price before Customs clearance, if this price is lower.

*Outboard motors from Japan, OJ (1993) L 310/42 (termination)*

This was the result of an Article 15 (sunset) review. The investigation had shown that no injury would be suffered if the measures were to lapse. The Community industry had informed the Commission that it was intending to transfer its production outside the Community and withdrew its complaint. Accordingly, the European Commission terminated the review procedure and the anti-dumping measures lapsed.

One may question the assumption that the EC industry did not know that they were going to transfer one and a half years ago at the time of filing a complaint. Also the current absence of an expected recurrence of injury raises the suspicion that the EC industry has to a certain extent 'abused' the dumping law by benefiting from the extension possibility under Article 15. Therefore, the EC industry has enjoyed an extended protection from competition for about one year and four months. One suggestion that has been made to prevent such abuses in the future is to only provisionally secure the amounts of duties, if after the five-year period a review is triggered. If after the review it appears that it had actually not been warranted (as in this case) the duties should not be collected.

*Fluorspar from China, OJ (1993) L 312/5 (amendment)*

A provisional anti-dumping duty had been imposed on fluorspar from China (see above). Article 1 of the Regulation concerned specified that the dumping duty applied to fluorspar containing more than 97% of calcium fluoride or containing less than 97% of calcium fluoride. Thus the scope of the dumping duty clearly excluded fluorspar, as it had a content of exactly 97%, although this was not the intention of the Commission. This Regulation amended the previous Regulation by clarifying that fluorspar, with a content of exactly 97% of calcium fluoride is also included and subjected to anti-dumping duties.

*Microwave ovens from China, Korea, Thailand, and Malaysia, OJ (1993) C 341/12*

In the evening of 15 December, just after returning from Geneva, Mr. Brittan unblocked the MWO case and signed the approval. The case was immediately initiated on 18 December. The investigation period ran from 1 October 1992 until 30 September 1993.

*Paracetamol from China, OJ (1993) C 343/9 (intention to carry out review); cancelled by OJ (1993) C 346/9 (cancellation)*

This was a sunset review request. For some bizarre reason it was cancelled by a notice in the official journal published three days later. No reasons for the cancellation were provided.

*Pocket flint lighters from China, OJ (1993) C 343/10 (initiation review)*

This review was made at the request of the EEC industry. The review request is based on allegations of an increase in the dumping margin.

*Video tapes in cassettes from Korea and Hong Kong, OJ (1993) C 344/3 (notice of impending expiry)*

If no review is requested then the measures will lapse on 24 June 1994.

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### *Daisywheel printers from Japan, OJ (1993) C 344/4 (expiry)*

These measures will expire on 9 January 1994. Publication is unusual because normally publication does not take place before the actual date of expiry. However this novelty will not have any legal impact.

### *Welded tubes from Romania, Yugoslavia (except Serbia and Montenegro), Turkey, and Venezuela, OJ (1993) C 344/5 (initiation review)*

This review followed the request from a Romanian producer alleging changed circumstances in the economic system in Romania. The Commission decided to extend the review to imports of the product from former Yugoslavia. However it decided not to extend the review to exports from Serbia and Montenegro in view of the fact that the Community has suspended normal trade relations with these countries, and that the trade embargo is currently in operation. The Commission further decided to extend the review to Turkey and Venezuela 'in the interest of efficiency and sound administration'.

### *Fluorspar from China, OJ (1993) L 321/1 (extension)*

### *Photo albums from China, OJ (1993) L 333/67 (definitive)*

The Commission again refused to grant individual treatment to the Hong Kong exporter Klimax. The Commission made some slight modification in the calculation of the export price which resulted in a decrease in the dumping margin to 18.6%. A dumping duty of 18.6% was imposed accordingly.

## 1.3. Court Cases

### *Case C-104/90, Matsushita Electric Industrial v. Council, Judgment of 13 October 1993 (Sixth Chamber), not yet reported*

The case was brought by Matsushita (hereinafter: MEI). MEI requested the annulment of Council Regulation (EEC) No. 112/90 of 16 January 1990 imposing a definitive anti-dumping duty on imports of certain compact disc players originating in Japan and the Republic of Korea, and collecting definitively the provisional duty (OJ L 13/21 (1990)).

During the investigation period (1 June 1986 to 31 May 1987), compact disc players were sold by the Hi-Fi and Audio Division (HAD) on the Japanese market to 77 related companies and 2 independent companies.

Matsushita maintained that the institutions violated Article 2(3) and (7) of the Basic Regulation by determining normal value on the basis of the sales price charged by related distributors. According to the applicant, normal value had to be determined in accordance with Article 2(3)(a) of the Basic Regulation on the basis of the price paid to it by the sales companies. The sales between MEI and those companies in fact had to be considered as made in the ordinary course of trade.

The applicant maintained that as MEI was not only a production company but also had its own sales departments, the related sales companies constituted *independent regional distributors*. For this reason, sales between MEI and the related companies were actual transactions and Article 2(7) of the anti-dumping regulation had to be applied.

If the Community authorities were of the opinion that those sales did not take place in the ordinary course of trade, no account should be taken of total sales on the domestic market,

and normal value should be determined in accordance with Article 2(3)(b) on the basis of either the export price to a third country or a constructed normal value.

The Council argued that the anti-dumping regulation had not been violated. It had not been proved that the applicant had sold significant quantities of compact disc players to independent customers (disqualification of use of selective normal value). The related sales companies fulfilled the function of a commercial service of the applicant, which led the institutions to treat MEI and those companies as forming a *single economic entity*. The Council considered that the functions exercised by the applicant and the related sales companies were all necessary to make sales to the first independent customer. The products were considered to be sold for the first time in the ordinary course of trade when the related sales companies sold to independent purchasers, and it was those sales which should be used in order to determine normal value in accordance with Article 2(3)(a).

The Court did not accept the argument of MEI and held that the Council had not infringed the above-mentioned rules. The Court considered that the functions performed for the manufacturer by the HAD were merely complementary to the functions performed by the distribution companies. Moreover, the Court held that the intermediary of a distributor, whether related or not, has always been necessary. It followed from the foregoing that 'the sales function performed by the distributors had to be regarded as an *essential factor* in the first sale to an independent buyer'. As a consequence, the institutions were entitled to conclude that

the companies concerned formed a single economic entity, thus allowing normal value to be properly determined on the basis of the price paid to the distributors, since that is the price which may be regarded as actually paid or payable in the ordinary course of trade within the meaning of Article 2(3)(a)...

*Case C-216/91, Rima Eletrometalurgia SA v. Council, Judgment of 7 December 1993 (Fifth Chamber), not yet reported*

Rima, a Brazilian exporter, was one of the companies under investigation in an anti-dumping proceeding concerning ferro-silicon from Brazil. However, no dumping was determined and consequently the company was excluded from the scope of Council Regulation (EEC) No. 3650/87.<sup>7</sup>

At the request of several other Brazilian producers the Commission initiated in May 1990 an Article 14 review in which the applicant was again under investigation. This time the Commission did determine dumping, which culminated in an anti-dumping duty of 12.2% on Rima's exports to the EC.<sup>8</sup>

Rima contested the legality of the Regulation imposing anti-dumping duties (as far as it concerned the company) on four grounds, two of which were important.

Rima's first argument was formal: the original anti-dumping proceeding was terminated within the meaning of Article 7(9)(b) of the Basic Anti-Dumping Regulation. Thus the company argued that the review of anti-dumping duties, where it concerned Rima, should have been carried out on the basis of Article 7(1), i.e., via the initiation of a wholly new proceeding. Instead the review was based on Article 14 (a review based on changed circumstances).

7 OJ (1987) L 343/11.

8 Council Regulation (EEC) No. 1115/91.



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Further, the second investigation had been carried out without 'sufficient evidence of the existence of dumping and the injury resulting therefrom' as demanded by Article 5(1) of the Basic Regulation. Hence the Commission had exceeded its powers.

The Council's reply was that *proceeding* in Article 7(9) of the Basic Regulation concerns countries, whereas *investigations* concern single producers and exporters. Consequently, it would not be possible to conclude a proceeding in respect of one single producer/exporter. The Council considered the second argument to be unfounded, because the initiation of a review does not require new evidence of dumping and injury, but only evidence of changed circumstances.

The Court disagreed and, basing itself on the text of Article 14, concluded that a review must be opened in accordance with Article 7 as well. This Article refers to Article 5(2) which stipulates that sufficient evidence relating to dumping and injury caused thereby must be present to warrant an investigation. The Court found its position confirmed by Article 5(1) of the 1979 GATT Anti-Dumping Code, which makes the opening of any investigation intended to determine dumping, injury and the necessary causal link contingent on the existence of sufficient evidence.

The Court did warn that it is not necessary that evidence is provided against every single company. Since, however, the evidence which was brought forward to initiate the review was intended to show the *absence* of dumping, this was not considered sufficient evidence and hence Rima won its case.

Finally, it should be noted that the Council and the Commission further contended that they had been obliged to include Rima in the review in order 'to avoid subjecting it to unequal treatment'. The Court did, understandably, not agree with that argument. The Court stated that

[w]hilst dictates of equal treatment might justify extending the review to producers and exporters who were affected by the anti-dumping duty and who had not requested that review, they could not justify the opening of a new investigation into the case of the applicant, whose products had, following the initial investigation, been excluded from application of the anti-dumping duty.

The judgment is clear but leaves open the question of what to do with producers who although not 'excluded' from duties, were not really affected by them. This could happen for example when companies subject to a high residual duty request a review while companies with a very low duty do not ask for the review. If companies which pay low duty become involved in the case, independently of their own initiative, one may wonder whether such an inclusion is justified. If an analogy is drawn with the situation of Rima, one may argue that it is not.

## 2. Other Trade Protection Laws

### 2.1. Countervailing Duties

*Certain ball bearings from Thailand, OJ (1993) L 163/35 (acceptance undertaking)*

This was an undertaking accepted by the Commission Decision of 1 July in connection with the imposition of the countervailing duty imposed on 30 June (see our previous report). We recall that direct exports from Thailand are now subject to the undertaking plus a 6.7% anti-dumping duty, whereas indirect exports are subject to the same anti-dumping duty *plus* a 6.7% countervailing duty. In other words, the undertaking does not apply to indirect exports.

*Binder and baler twine from Brazil and Mexico, OJ (1993) L 251/28 (termination)*

The Commission examined possible subsidies granted by the Brazilian and Mexican governments, apparently without having received any allegation to this effect. Both provided sufficient evidence that they had not been granting subsidies.

*Certain ball bearings from Thailand, OJ (1993) C 286/6 (initiation review)*

The Commission had found evidence of the fact that a change had taken place in the amount of subsidy granted by the Thai government (see above discussion and also discussion in previous report). Therefore, the Commission found that the existing findings may no longer be accurate and opened a review.

## 2.2. Safeguards

*Unwrought aluminium from Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Estonia, Latvia, and Lithuania, OJ (1993) L 198/21 (allocating Community quantitative import quotas); OJ (1993) L 321/4 (allocating Community quantitative import quotas)*

After investigating the considerable increase in low-price imports of unwrought aluminium from the Independent States of the former Soviet Union and the Baltic States, the Commission adopted Regulation (EEC) No. 2227/93 limiting until 30 November the volume of such imports into the Community to 60 000 tonnes, allocated on the basis of traditional trade flows. The measure was extended until 28 February 1994 by Regulation (EC) No. 3257/93 covering a further 45 000 tonnes.<sup>9</sup> It will cease to apply as soon as voluntary restraint agreements are reached with the countries in question, and Russia in particular. On 8 November the Council adopted negotiating Directives for such arrangements with Azerbaijan, Russia, Ukraine and Tadjikistan.

## 2.3. Commercial Policy Instrument

*Piracy of sound recordings in Thailand*

There have not been any developments during the period under investigation.

*'Fund levy' and customs duty in Turkey, OJ (1993) C 235/4 (Initiation)*

The Commission initiated an examination procedure following a complaint that Turkey had imposed a substantial charge ['Fund Levy'] in addition to customs duty, plus a higher level of customs duty, on polyester fibre originating in the Community. It is alleged that this practice was causing injury to the Community industry.

Legally speaking the case is only aimed at one product. The political meaning of the case is however broader since more EC products exported to Turkey 'suffer' the same treatment as the polyester fibre.

<sup>9</sup> OJ (1993) L 293.

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### 2.4. Unfair Pricing in Maritime Transport

#### *Hyundai*

The Notice of impending expiry was published.<sup>10</sup> If no request for a review or hearing is submitted within 30 days after publication, the redressive duty will lapse. Conversely, if the Commission intends to carry out a review it will publish a Notice before 14 June 1994, and in such case the redressive duty will remain in force pending the outcome of the review.

We recall that this duty was at the time levied on containerized cargo transported in liner service between the Community and Australia by the Korean company Hyundai Merchant Marine Company.<sup>11</sup>

### 3. Miscellaneous

This section will briefly address developments regarding Customs, GSP, Enlargement, Europe Agreements, and Textiles.

#### 3.1. Customs

##### *General*

The implementing provisions for the Community Customs Code<sup>12</sup> comprise 900 articles and 110 annexes and replace some 75 regulations adopted since 1968 and amended several times; they make Community customs union legislation much clearer. Their implementing Regulation – (EEC) No. 2454/93<sup>13</sup> – has already been adopted, together with a first amendment contained in Commission Regulation (EEC) No. 3665/93.

##### *Harmonization of customs rules on trade with non-member countries*

With a view to strengthening the protection of intellectual property rights at the Community's external frontier, the Commission, on 13 July, adopted a proposal for a Regulation laying down new measures to prohibit the release for free circulation, export or transit of counterfeit and pirated goods. The proposal followed in the wake of the 1991 Commission report on the operation of the system of safeguards set up under Regulation (EEC) No. 3842/86.<sup>14</sup>

#### 3.2. GSP

In the General Affairs Ministers Council of 20 December the GSP scheme for 1994 has finally been formally adopted. The new scheme is essentially a prolongation of the current scheme for the first six months of 1994 with half the amounts of 1993. In other words, the amounts of the preferential limits for the first half of 1994 correspond to half the amounts that are applicable in 1993. The transitional scheme will enter into force for a period of six

10 OJ (1993) C 337/17.

11 See also our first *EJIL* report at 353.

12 OJ (1992) L 302.

13 OJ (1993) L 253.

14 OJ (1986) L 357.

months and therefore applies until 30 June 1994. This transitional scheme will be automatically renewed until the end of 1994 if, at 15 June 1994, the Council has not yet adopted the new GSP scheme.

In fact, the Council has stated that it considers it necessary to proceed as quickly as possible with the 'revision of the GSP-scheme for the 1990's' and has therefore invited the Commission to present the necessary proposals as soon as possible.

Also the Regulation that extended GSP treatment to textile products originating in the countries of the former USSR has been prolonged.

### 3.3. Enlargement: Austria, Finland, Norway, and Sweden

On 13 December the Council, on behalf of the Community, and the Commission, on behalf of the ECSC, concluded the amended Agreement establishing the European Economic Area (EEA) and bilateral agreements on fisheries and agriculture paving the way for the EEA to come into force on 1 January 1994 when all the ratification procedures will have been completed in the EFTA countries and Member States. The EEA is the largest integrated economic area in the world with over 370 million inhabitants. Within it there will be free movement of goods, persons, services and capital and vast scope for cooperation in many areas such as R&D, environment, social policy, and consumer policy.

### 3.4. Europe Agreements and Other Agreements

To enable the Europe Agreements concluded in December 1991 with Hungary and Poland to enter into force on 1 February 1994, the Council adopted Regulations (EC) No. 3491/93 and No. 3492/93,<sup>15</sup> laying down implementing rules for safeguard and trade-protection measures, on 13 December.

The other Europe Agreements that were signed with Romania (1 February) and Bulgaria (8 March), received Parliament's assent on 27 October. The agreements combine areas of Community and Member-State responsibility and are valid indefinitely. In addition to trade, they cover approximation of legislation, economic cooperation, financial and technical assistance and political and cultural cooperation. Each agreement contains a clause on observance of democratic principles and human rights and a clause enabling either party to suspend the agreement at short notice if the obligations attached to it are not complied with. Interim Agreements with Romania (Decisions 93/186/EC and 93/187/ECSC) and Bulgaria (Decisions 93/690/EC and 93/691/ECSC) will ensure that the trade provisions come into effect as anticipated. Moreover, on 20 December the Council adopted Regulations 3641/93/EC and 3642/93/EC<sup>16</sup> laying down implementing rules. They came into force on 1 May and 31 December respectively.

Following the dissolution of the Czech and Slovak Federal Republic, separate Europe Agreements with the Czech Republic and the Slovak Republic were signed on 4 October and received Parliament's assent on 27 October. Additional protocols to the Interim Agreement with the Czech and Slovak Federal Republic<sup>17</sup> were concluded on 20 December and signed on 21 December with each of the new Republics assuming the rights and obligations associated with that Agreement.

15 OJ (1993) L 319.

16 OJ (1993) L 333.

17 OJ (1992) L 116.

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### 3.5. Textiles

#### *General*

With the completion of the internal market for textiles on 1 January 1993, quantitative restrictions previously negotiated on a bilateral basis are now set exclusively at Community level. The national restrictions imposed in bilateral agreements were either abolished or, in a limited number of cases, transformed into Community quotas.

Completion of the internal market for textiles has also meant major changes in the procedures for the administration of bilateral agreements. On 12 October the Council adopted Regulation (EEC) No. 3030/93<sup>18</sup> updating the rules governing imports of textiles under the Multifibre Arrangement, or preferential arrangements. The administrative procedures associated with the previous system of national quotas were abolished in favour of centralized quota administration, made possible by the coming on stream of an integrated licensing system which provides computerized control of import licences issued by the Member States. The new Regulation also confirmed the role of the Textile Committee set up in 1978 to help the Commission administer Community quotas.<sup>19</sup>

In order to implement the internal market, the Commission, on 13 July, put before the Council a proposal for a Regulation amending Regulation No. 636/82 on economic outward processing arrangements in the textile sector.

At the initiative of the European Parliament, budget resources were earmarked for the purpose of curbing, at Community level, fraud in imports of textile products, enabling the textiles anti-fraud initiative (TAFTI) to be launched.

#### *Bilateral Agreements*

Pending the conclusion of the Uruguay Round negotiations, the 1986 protocol extending the Multifibre Arrangement, which was due to expire on 31 December 1993, was again extended for 12 months. At the same time all the bilateral agreements negotiated under the MFA at the end of 1992 were concluded by the Council this year (Argentina, Bangladesh, Brazil, China, Colombia, Guatemala, Hong Kong, India, Indonesia, Macao, Malaysia, Mexico, Pakistan, Peru, Philippines, Singapore, South Korea, Sri Lanka, Thailand and Uruguay), as well as the agreement with Vietnam and the textile protocols to the Europe Agreements with Poland and Hungary.

New arrangements were negotiated this year with the 12 Independent States of the former Soviet Union (Belarus, Ukraine, Moldova, Uzbekistan, Russia, Tadjikistan, Armenia, Azerbaijan, Kyrgyzstan, Turkmenistan, Georgia and Kazakhstan), and with Latvia, Lithuania, Albania, Mongolia and Slovenia.

Unless the outcome of the Uruguay Round is given effect at an earlier date, the bilateral agreements negotiated in 1992 and 1993 will remain in force until the end of 1994, with the option of automatic renewal for a further year.

In the context of the Europe Agreements, the Commission, on 21 and 30 April respectively, signed new protocols on trade in textiles with Bulgaria and Romania. The protocols provide for the abolition of quantitative restrictions by 1 January 1999 and immediate and significant improvements in the areas of customs duties and the volume of exports to the Community (in addition to the tariff concessions granted by the Europe Agreements). Also in the context of the Europe Agreements, additional protocols were signed on 17 September acknowledging the separation between the Czech Republic and the Slovak

18 OJ (1993) L 275.

19 OJ (1978) L 365.

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Republic. On 20 December the Council rounded off the measures on interim application adopted in 1992 with a decision to apply provisionally all the agreements and protocols negotiated in 1993.<sup>20</sup>

*Preferential agreements with certain countries*

The consultations opened with Turkey in 1992 culminated in June with an agreement to renew for two years the arrangement governing the export of Turkish clothing products. The Commission also opened negotiations with Morocco, Tunisia and Egypt on exports to the Community of textile and clothing products, and with Turkey on textile products, with a view to renewing for two years the agreements concluded. Two-year arrangements were negotiated with Morocco, Tunisia and Egypt. Negotiations with Turkey will resume in 1994.

<sup>20</sup> OJ (1992) L 410.

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4. Appendix: Anti-Dumping Decisions and Regulations

Table Anti-Dumping: July 1993 – December 1993							
Product	Exporting Country	Investigation	Initiation Review	Provisional Duty	Definitive Duty	Undertaking	Termination Expiry
Tapered roller bearings	Japan						OJ (1993) C 179/5 (Notice)
Certain watch movements	Malaysia Thailand	OJ C 183/10					
Oxalic acid	Korea Taiwan						OJ C 186/14
Daisywheel printers	Japan						OJ C 187/3 (Notice of impending expiry)
Compact disc players	Taiwan, Singapore, and Malaysia						OJ L 185/51 (termination)
Low carbon ferro-chrome	Kazakhstan Russia, and Ukraine			OJ (1993) L 187/51 (extension provisional)			
Electronic typewriters	Japan						OJ C 191/5
Copper sulphate	Bulgaria and the former Soviet Union						OJ C 205/3 (impending expiry)
Furfural-dehyde	China	OJ C 208/8					
Ethanolamines	United States			OJ L 195/5			
Synthetic hand-knitting yarn	Turkey	OJ C 210/4					

Table Anti-Dumping: July 1993 – December 1993							
Product	Exporting Country	Investigation	Initiation Review	Provisional Duty	Definitive Duty	Undertaking	Termination Expiry
Ferro-silico-manganese	Russia Ukraine Georgia Brazil South Africa	OJ C 210/5					
Sodium carbonate	USA	OJ C 213/12					
Woven polyolefin sacks				OJ L 21/51 (amendment)			
Compact disc players	Japan Korea						OJ L 215/4 (repeal)
Urea	USA Austria Hungary Kuwait Malaysia Romania Former Yugoslavia						OJ C 231/4 (notice of impending expiry)
Video cassette recorders	Japan Korea						OJ (1993) C 235/3 (notice of impending expiry)
Monosodium glutamate	Indonesia Korea Taiwan Thailand				OJ L 225/1 (amendment)		
Monosodium glutamate	Indonesia Korea Taiwan Thailand					OJ L 225/35 (acceptance undertakings)	
Fluorspar	China			OJ L 226/3			
Bicycles	Taiwan						OJ L 227/21
Bicycles	China						OJ L 228/1



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Table Anti-Dumping: July 1993 - December 1993							
Product	Exporting Country	Investigation	Initiation Review	Provisional Duty	Definitive Duty	Undertaking	Termination Expiry
Photo albums	China			OJ L 228/16			
Potassium permanganate	China	OJ C 248/9 (initiation review)					
Thermal paper	Japan				OJ L 232/1 (amendment)		
Ball bearings	Japan Singapore				OJ 235/3 (amendment)		
Ball bearings exceeding 30 mm	Japan				OJ L 235/7 (correction)		
Artificial corundum	China Russian Federation Ukraine				OJ L 235/1		
Ferro-silicon	South Africa China			OJ L 237/2			
Unwrought manganese	China						OJ L 244/32
Tapered roller bearings	Japan						OJ L 244/1 (repeal with retroactive effect)
Low carbon ferro-chrome	Kazakhstan Russia Ukraine				OJ L 246/1		
Isobutanol	Russian Federation			OJ L 246/12			
Binder and baler twine	Brazil Mexico					OJ L 251/28 (Brazil)	OJ L 251/28 (Mexico)
Seamless pipes and tubes of iron or non-alloy steel	Czech Slovak Republics						OJ L 252/39

Table Anti-Dumping: July 1993 - December 1993							
Product	Exporting Country	Investigation	Initiation Review	Provisional Duty	Definitive Duty	Undertaking	Termination Expiry
Polyester yarn	Turkey						OJ L 261/41 (termination newcomer review)
Eproms	Japan					OJ L 262/64	
3.5" microdisks	Japan Taiwan China				OJ L 262/4		
Electronic weighing scales	Singapore Japan				OJ L 263/1		
Ball bearings not exceeding 30 mm	Thailand	OJ C 286/6					
Non-refillable pocket flint lighters	Thailand			OJ 267/2			
Television camera systems	Japan			OJ 271/1			
Furazolidone	China	OJ C 302/2					
Certain iron or steel sections	Turkey and the former Yugoslavia						OJ C 303/2 (expiry)
Light sodium carbonate	Bulgaria Poland Romania						OJ C 310/5 (Notice of impending expiry)
Cotton yarn	Brazil Turkey				OJ L 289/1 (amendment)		
Ethanolamines	USA			OJ L 299/43 (extension provisional)			

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Table Anti-Dumping: July 1993 - December 1993							
Product	Exporting Country	Investigation	Initiation Review	Provisional Duty	Definitive Duty	Undertaking	Termination Expiry
Ferro-silicon	Russia Kazakhstan Ukraine Iceland Norway Sweden Venezuela Brazil				OJ L 302/1 (amendment)		
Ferro-silicon	South Africa China			OJ L 303/1 (extension provisional)			
Dead-burned magnesia	China				OJ L 306/16		
Fluorspar	China				OJ L 312/5 (amendment)		
Microwave ovens	China Korea Thailand Malaysia	OJ C 341/12					
Paracetamol	China		OJ C 343/9 (intention to carry out review)				OJ C 346/9 (cancellation)
Pocket flint lighters	China		OJ C 343/10				
Video cassettes	Korea Hong Kong						OJ C 344/3 (notice of impending expiry)
Daisywheel printers	Japan						OJ C 344/4
Welded tubes	Romania Yugoslavia (except Serbia and Montenegro) Turkey Venezuela		OJ C 344/5				
Fluorspar	China						OJ L 321/1 (extension)
Photo albums	China				OJ L 333/67		
Outboard motors	Japan						OJ L 310/42

