

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 17 March 2008

terminating the anti-dumping proceeding concerning imports of polyvinyl alcohol originating in the People's Republic of China and Taiwan and releasing the amounts secured by way of the provisional duties imposed

(2008/227/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

- (1) On 19 December 2006, the Commission published a notice⁽²⁾ initiating an anti-dumping proceeding on imports into the Community of polyvinyl alcohol (PVA) originating in the People's Republic of China (PRC) and Taiwan. On 17 September 2007, the Commission, by Regulation (EC) No 1069/2007⁽³⁾ (the provisional Regulation) imposed a provisional anti-dumping duty on PVA originating in the PRC. With regard to Taiwan, no provisional measures were imposed.
- (2) As set out in recital 13 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2005 to 30 September 2006 (IP). With

respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 2003 to the end of the IP (period considered).

B. SUBSEQUENT PROCEDURE

- (3) Following the decision to impose provisional anti-dumping duties on imports of PVA originating in the PRC and not to impose such measures on imports from Taiwan, several interested parties submitted comments in writing. The parties who so requested were also granted the opportunity to be heard. The Commission continued to seek and verify all information it deemed necessary for its definitive findings.
- (4) The Commission intensified the investigation with regard to Community interest aspects and exceptionally allowed users pertaining to the paper industry, an important users sector which had not cooperated so far, to file a users' questionnaire reply.
- (5) All parties were informed of the essential facts and considerations on the basis of which it was intended to terminate the proceeding concerning imports of PVA originating in the PRC and Taiwan and to release the amounts secured by way of the provisional duty. They were also granted a period within which they could make representations subsequent to this disclosure.
- (6) The oral and written comments submitted by the interested parties were considered and, where appropriate, the findings have been modified accordingly.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ C 311, 19.12.2006, p. 47.

⁽³⁾ OJ L 243, 18.9.2007, p. 23.

C. PRODUCT CONCERNED AND LIKE PRODUCT

- (7) The same Community user as referred to under recital 16 of the provisional Regulation reiterated and elaborated further its arguments for the exclusion from the product scope of a certain grade (the contested grade) which it called 'low ash NMWD PVA' and which it purchased, *inter alia*, from the PRC. This user alleged (i) that the Commission had not given sufficient reasons for considering that the contested grade shared its basic physical and technical characteristics with the other grades falling within the product definition and it further insisted (ii) that this grade had very specific end-uses. Moreover, it submitted (iii) that the contested grade, according to this user, was a co-polymer and hence would not fall under the product scope.
- (8) Before going into the detail of this user's claims, it is first to be noted that the ash content in PVA is an impurity; the lower the ash level, the purer the PVA is. Secondly, the notion of 'low ash PVA' is subjective. There is no generally agreed standard for it, which means that each producer has its own ceiling for establishing whether a PVA is low ash or not. It was found that in practice, this amounts to significant differences: amongst the producers subject to the investigation the ceiling for low ash PVA could vary from a maximum ash content of 0,09 % to 0,5 %. The user concerned would not be amongst the most restrictive, i.e. its ash ceiling would probably be considered by other interested parties as rather high.
- (9) As concerns the issues raised by this party and mentioned under recital 7, they have been seriously considered and can be summarised as follows.
- (i) **The contested grade would have different basic physical and technical characteristics**
- (10) It is to be recalled that the basic physical and technical characteristics of the product concerned were provisionally defined in recital 14 of the provisional Regulation. The product concerned is therein defined as a specific kind of resin with certain technical parameters. The parameters mentioned in this product definition and used to distinguish between product concerned and other grades of PVA refer to viscosity (3 mPas -61 mPas, measured in 4 % solution) and hydrolysis (84,0 mol % -99,9 mol %).
- (11) All grades falling under the product definition are sometimes referred to as standard grades, which means that they can all be produced on a standard PVA production line and the production costs of these grades are similar. The opposite is true for the grades which fall under the same CN-code but outside the product definition: they cannot be produced on a standard PVA production line, require a different production technology and additional equipment, and the production cost can therefore be very different. The grades not covered by the product definition have also very different properties when compared to those covered by the product definition. As concerns the degree of viscosity and hydrolysis: (i) the low viscosity grades are low molecular weight PVA which are difficult to handle, *inter alia*, resulting in a low production yield, whereas (ii) the high viscosity grades, which are also difficult to handle, are used for high-end glossy paper coatings, a very special type of application where unwanted cracks which are usually formed have to be avoided; (iii) high degree hydrolysis grades are also mainly used for that application and (iv) PVA grades with a low degree of hydrolysis are not soluble in water or form unstable solutions with water. Such products are essentially used for the production of suspension PVC and at elevated temperatures such products will fall out of solution.
- (12) The user submitted that to produce the PVB resin it would need for producing its PVB-film, six characteristics of the PVA were of absolute importance. The combination of the parameters for these six characteristics would make the contested grade unique as compared to all other PVA grades on the market. Whilst analysing this claim, it was indeed found that for some applications the technical specifications can be more stringent than for others. At the same time, however, it was established that as a matter of fact all grades, including the commodity grades falling under the product scope and sometimes referred to as 'standard grades', have a unique combination of characteristics. Depending on the desired application, one or another grade would be chosen. This is valid not only for the application of the user concerned, but for other applications too. Consequently, the claim had to be dismissed.
- (ii) **The contested grade would have very specific end-uses**
- (13) The user concerned also contested the Commission's appreciation of the PVA user market and specifically alleged that the PVB user market would be very diverse. In this respect, as already indicated in the provisional Regulation, the user used this grade of PVA for the production of PVB which is the largest application in the Community, accounting for 25 % to 29 % of PVA consumption, and also the fastest growing application because of the strong increase in demand for PVB-film. Further down-stream, the investigation has also shown that close to 90 % of the PVB produced in the Community is consequently used for the production of PVB-film, which is also the eventual application by the user concerned (but it is not the only PVB-film producer in the Community). It is therefore confirmed, as mentioned in recital 17 of the provisional Regulation, that the specific use of this interested party is one of the main applications which, in view of its market importance, cannot be characterised as not standard.

(14) As concerns its alleged specific use, the user concerned also argued that the contested grade could not be substituted by other models which would illustrate this specific end-use. In this respect, it was firstly established that this user was not buying exclusively from the Chinese producer concerned and already had several alternative sources. In fact, during the IP it sourced less than 5 % of its purchases of PVA for which it claimed exclusion from the producer in the PRC. The remaining purchased volumes were sourced from three other producers in different countries. Moreover, it was established that although most of the other grades sold on the Community market indeed could indeed not be used as an alternative to the contested grade, the contested grade itself could be used in other applications, too, and it was made available on the Community market at prices similar to those of other grades imported from the PRC. In view of the above, the argument that the contested grade could not be substituted had to be dismissed.

(iii) ***The contested grade would be a co-polymer, not a homopolymer***

(15) Following the imposition of provisional measures, the user claimed that low ash PVA would be a co-polymer and not a homopolymer. This claim was based on the fact that it would contain two building blocks. This issue was investigated and it was found that PVA is the result of an initial homopolymeric polymerisation. However, the subsequent hydrolysis process is always incomplete (between 84,0 mol % and 99,9 mol %) and to that extent, it could also be argued that PVA contains two building blocks and can be referred to as co-polymer.

(16) In order to avoid any confusion, it was therefore deemed appropriate to clarify the product scope definition determined in the provisional Regulation. Therefore, the product concerned is definitively defined as certain copolymeric polyvinyl alcohols (PVA) based on a homopolymeric polymerisation with a viscosity (measured in 4 % solution) of 3 mPas or more but not exceeding 61 mPas and a degree of hydrolysis of 84,0 mol % or more but not exceeding 99,9 mol % originating in the People's Republic of China and Taiwan and normally declared within CN code ex 3905 30 00.

D. DUMPING

1. Taiwan

(17) With regard to Taiwan, no provisional measures were imposed, because, as stated in recitals 29 and 30 of the provisional Regulation, no dumping was provisionally found regarding imports of the product concerned originating in Taiwan.

(18) As mentioned in recital 30 of the provisional Regulation, the sole cooperating Taiwanese company, Chang Chun

Petrochemical Co. Ltd. (CCP) is the only exporting producer of the product concerned in Taiwan, and it accounted for 100 % of the Taiwanese exports to the EC during the investigation period as reported by Eurostat.

(19) Both Community producers, Kuraray Europe GmbH and Celanese Chemicals Ibérica S.L. claimed that CCP was in fact dumping during the IP, and requested the Commission to reconsider its findings with regard to the dumping determination for CCP.

1.1. Raw material costs

(20) Both Community producers claimed that CCPs cost of production was much higher than what was found by the Commission, because the costs for vinyl acetate monomer (VAM), which is the main raw material used in the production of PVA, had been underestimated. They stressed in this respect that CCPs VAM supplier is a related company. In support of its arguments, one Community producer submitted a study on CCPs PVA business carried out by a consultancy firm, as well as publications on international VAM prices.

(21) The information submitted was examined. A comparison between the VAM prices listed in the abovementioned publications and the prices verified in the course of the proceeding both in Asia and in Europe clearly shows that the prices published in those publications are overstated. In addition, the publications themselves state that the published prices are estimates, that actual prices in the market may be either higher or lower and that the best use of the published prices is as indices. Indeed, even though such prices may be used to monitor trends over time, they do not appear to represent actual prices.

(22) Moreover, the investigation has shown that the VAM sales made by the related supplier to CCP were made at prices in line with those charged to this supplier's unrelated customers and that the prices paid for VAM by CCP were consistent with those paid by other producers in Asia, notably in Japan.

(23) In addition, the VAM costs contained in the study mentioned above were based on a higher VAM consumption rate than the actual CCP one. Considering that VAM consumption rate depends on the mix of fully and partially hydrolysed PVA, CCPs actual VAM consumption rate was found to be consistent with that of other producers, as verified, both in Asia and in the Community, taking into account the respective product mixes.

(24) For the reasons detailed in recitals 20 to 23, it was therefore concluded that CCP's VAM costs had not been underestimated and the claims concerning this issue were therefore rejected.

1.2. *Other costs*

(25) On the basis of the costs contained in the abovementioned study, one of the two Community producers claimed that in addition to the VAM, other cost elements of CCP's cost of production of PVA, such as those related to utilities, other manufacturing overheads and SG&A, had been underestimated. However, no specific evidence was submitted to support the cost estimates made in the study.

(26) The actual data verified for CCP on the spot was re-examined and it was confirmed that the correct costs have been used in the dumping calculations. The claim was therefore rejected.

1.3. *Calculation of normal value*

(27) One Community producer claimed that for CCP, the normal value should have been constructed for all product types, because there is a particular market situation on the Taiwanese PVA market due to artificially low prices particularly as compared to price ranges published for Asia, and also because most of the Taiwanese domestic sales were made to related customers during the IP.

(28) There is in fact no evidence on the basis of which Taiwanese domestic sales prices could be considered as artificially low. The published PVA prices are only price ranges of a very general nature given for Asia (excluding China) as a whole, without specifying the actual grades or product types in question, and therefore cannot be used in any price comparison for Taiwan. On this basis, Taiwanese domestic sales prices cannot be considered as artificially low. As concerns the alleged absence of sufficient domestic sales to independent customers, it is confirmed that sales to independent customers were found to be made in sufficient quantities to determine normal value.

(29) The same Community producer also claimed that, because of an alleged particular market situation due to artificially low PVA prices on the Taiwanese market, the profit used in the constructed normal values for CCP should not be based on the chapeau of Article 2(6) of the basic Regulation.

(30) For the reasons mentioned in recital 28, there is no reason why the profit based on the chapeau of Article 2(6) of the basic Regulation would not be appropriate for the constructed normal values. The claim was therefore rejected.

priate for the constructed normal values. The claim was therefore rejected.

(31) The interested parties were informed of the above findings and given a period within which they could make comments. No additional information was received from the Community producers or any other interested party which would alter the Commission's provisional dumping determination for Taiwan.

(32) In view of the above, it is confirmed that the dumping margin determined for Taiwan is less than 2 %, expressed as a percentage of the export price, as mentioned in recital 29 of the provisional Regulation. Therefore, in accordance with Article 9(3) of the basic Regulation, the present proceeding should be terminated in respect of imports of the product concerned originating in Taiwan.

2. **People's Republic of China (PRC)**

2.1. *Market Economy Treatment and Individual Treatment*

(33) In the absence of comments in respect of the MET and IT determinations, recitals 31 to 39 of the provisional Regulation are hereby confirmed.

2.2. *Analogue country*

(34) Both Community producers, Kuraray Europe GmbH and Celanese Chemicals Ibérica S.L. reiterated that Japan should be selected as analogue country for the PRC instead of Taiwan.

(35) They claimed that Japan would be a more suitable analogue country than Taiwan because competition in the Japanese PVA market is far more vigorous than in the Taiwanese market as: (i) the Taiwanese market is dominated by the sole Taiwanese producer, CCP, whereas in Japan there are four producers; (ii) imports of PVA falling under the scope of the investigation into Taiwan are limited, and (iii) the domestic demand for the like product in Taiwan is low.

(36) Regarding the alleged market dominance of CCP in Taiwan, it has to be recalled that the level of competition is also influenced by imports and in this respect, as already stated in recital 46 of the provisional Regulation, Taiwan has in fact a higher proportion of imports in terms of domestic consumption (15 %) than Japan (3 %).

(37) As for the claim that imports of PVA would mainly refer to products falling outside the product scope of the investigation, this allegation was not supported by sufficient evidence and thus could not be accepted.

- (38) As concerns the allegedly limited demand for the like product in Taiwan, it has to be emphasised that the Taiwanese domestic market of PVA exceeds 15 000 tonnes, most of which being the like product. In addition, although one Community producer claimed that there is actually limited demand because most of CCP's sales are made to related customers, the contrary was confirmed by the investigation. For these reasons, the claim regarding limited demand for the like product was dismissed.
- (39) For the reasons set out in recitals 36 to 38, the claim regarding insufficient competition on the Taiwanese market was rejected.
- (40) One Community producer claimed that both in terms of production and sales, the Japanese PVA market is far more representative of the PRC market than Taiwan. However, even if Taiwanese production and domestic sales are lower than production and domestic sales in Japan, they are still sufficiently substantial to make a comparison to Chinese PVA and its exports to the EC appropriate.
- (41) The same Community producer also stated that Japan would be a more suitable analogue country than Taiwan as in Japan both integrated and non-integrated PVA producers exist, like in the PRC. However, it is important to note that, whilst it is true that in the PRC both types of producers exist, the Taiwanese producer and the sole cooperating and verified Japanese producer have both integrated PVA production processes. Therefore, this aspect cannot be relevant in preferring Japan to Taiwan.
- (42) The same Community producer also claimed that the product mix and the applications of PVA on the Japanese market are more comparable to those in the PRC. In this respect, it is confirmed that the product mix and the applications on the Taiwanese market are such as to guarantee a proper comparability between the Taiwanese and the Chinese PVA, whilst there is no evidence that Japanese PVA would have ensured a better comparability.
- (43) Finally, the level of cooperation in the selected country is an important element for establishing a reliable normal value. In Japan only one of the four producers of the like product cooperated in the investigation, whereas in Taiwan all the necessary data was available for the whole country, given that Taiwan was subject to the investigation. Indeed the Taiwanese company represented a much wider market share on its domestic market than the sole cooperating Japanese producer, thereby allowing better assessment of the normal value.
- (44) In view of the reasons detailed in recitals 36 to 43, the claim of both Community producers that Japan is the

most appropriate analogue country for the PRC was rejected and recitals 40 to 46 of the provisional Regulation are hereby confirmed.

2.3. Normal value

- (45) One Community producer claimed that the normal value of the analogue country, Taiwan, should have been constructed for all product types, and the profit used in the constructed normal value should not have been based on the chapeau of Article 2(6) of the basic Regulation, because there is a particular market situation in Taiwan due to artificially low prices.

- (46) However, for the reasons detailed in recitals 28 to 30, these claims were rejected. In the light of this, recital 47 of the provisional Regulation is hereby confirmed.

2.4. Export price

- (47) In the absence of comments in respect of the export price, recitals 48 to 50 of the provisional Regulation are hereby confirmed.

2.5. Comparison

- (48) In the absence of comments in respect of the comparison, recital 51 of the provisional Regulation is hereby confirmed.

2.6. Dumping margin

- (49) In the absence of comments in respect of the dumping margin, recitals 52 and 53 of the provisional Regulation, according to which the country-wide dumping margin for the PRC is 10 %, are hereby confirmed.

E. INJURY

1. Community production and Community industry

- (50) In the absence of any new and substantiated information or argument in this respect, recitals 54 to 60 of the provisional Regulation are hereby confirmed.

2. Community consumption

- (51) In reviewing the statistical information available from Eurostat and cross-checking it with information available through other sources, it appeared that the imports from the USA as set out in the provisional Regulation were understated, notably as concerns 2003 (see recital 80). It was therefore decided to replace these data by data from the USA export database. After final disclosure it was further established that the figures concerning Chinese PVA imports reported by Eurostat were erroneous and needed to be corrected (see recital 56).

- (52) The consumption figures were accordingly revised as follows:

	2003	2004	2005	IP
Consumption in tonnes	143 515	154 263	166 703	166 755
Index (2003 = 100)	100	107	116	116

- (53) This shows that the demand for the product concerned during the period considered increased by 16 %. The other conclusions, as summarised in recital 64 of the provisional Regulation, remain valid.
- (54) In the absence of any other new and substantiated information or argument in this respect, recital 61 to 64 of the provisional Regulation are hereby confirmed, with the exception of the changes made to recital 61 and recital 64 as set out above.

3. Imports from the countries concerned

- (55) As it is confirmed that the dumping margin for Taiwan is *de minimis*, imports originating in Taiwan are definitely excluded from the injury assessment.
- (56) After final disclosure, certain interested parties expressed serious doubts as concerns the reliability of the Eurostat figures on PVA imports from the PRC in 2003. The matter was investigated and it was found that there had been a significant misreporting concerning those imports. Consequently, the volumes of PVA imports from the PRC were corrected as follows:

Imports	2003	2004	2005	IP
PRC tonnes	16 197	14 710	21 561	21 513
Index (2003 = 100)	100	91	133	133

- (57) Instead of a decrease of Chinese imports during the period considered, as established at the provisional stage based on the erroneous 2003 data, imports from the PRC increased by 33 % over the period considered, whereas they dropped by 9 % in 2004 as compared to 2003.
- (58) In view of this and the revised Community consumption data (see recital 51), the market share of the imports from the PRC is accordingly modified over the period considered as follows:

Market share PRC	2003	2004	2005	IP
Community market	11,3 %	9,5 %	12,9 %	12,9 %
Index (2003 = 100)	100	84	115	114

- (59) The market share held by imports from the PRC increased by 1,6 percentage points during the period considered. During the IP, Chinese imports accounted for 12,9 % of the whole Community market.
- (60) In view of the revised 2003 import data, the import prices originating from the PRC as described in recital 68 of the provisional Regulation have been modified accordingly. The average price of the imports thus decreased by 3 %.

Unit prices	2003	2004	2005	IP
PRC (EUR/tonne)	1 162	1 115	1 164	1 132
Index (2003 = 100)	100	96	100	97

- (61) Subsequent to definitive disclosure, the complainant submitted that the Commission should not have excluded any matching models from the undercutting calculation. It alleged that by doing so, the Community prices of imports from the PRC would have been dramatically overstated. With regard to this matter, in recital 70 of the provisional Regulation it is indeed stipulated that a limited number of models (PCNs) was excluded from the undercutting comparison as it was considered that the comparison per model had to be meaningful and fair and, therefore, no comparison between a standard grade and a special grade falling within the product definition should be allowed.
- (62) The PCNs concerned accounted for 34 % of Chinese imports during the IP, but the Community industry (not the complainant) produced them in very small volumes, representing 0,1 % to 0,5 % of its sales of the like products during the IP. Whereas the imports from the PRC of PVA within these PCNs concerned a standard grade PVA, the Community producer of these PCNs had submitted to the Commission that in its case the PCNs in question concerned high-end speciality products for use in niche applications which cannot be substituted by standard PVA. Furthermore, they had not been produced on its standard production line but in its

speciality plant through a batch manufacturing process. It was also specifically reported by the Community producer concerned that this PVA did not compete with standard PVA. Accordingly, it was concluded by the Commission that for these PCNs imported from the PRC, which were standard PVA, there were no matching grades sold by the Community industry. In view of the fact that the undercutting calculation could then still be based on representative volumes (i.e. 54 % of the imports concerned), it was decided to exclude these PCNs from the comparison.

- (63) On that basis, and as the submission of the complainant did not contain any evidence to the contrary, it is confirmed that the exclusion of these PCNs from the undercutting calculations is justified and the claim is, therefore, dismissed.
- (64) In the absence of any other new and substantiated information or argument in this respect, recitals 65 to 71 of the provisional Regulation are hereby confirmed, with the exception of the Chinese import and market share data, which issues have been addressed above.

4. Situation of the Community industry

Market shares in the Community

- (65) Given the revised figures for Community consumption (see recital 51), the market share of the Community industry is accordingly modified over the period considered as follows:

Market share Community Industry	2003	2004	2005	IP
Index (2003 = 100)	100	101	96	103

- (66) As concluded in recital 76 of the provisional Regulation, the Community industry has, in terms of sales volumes, benefited from the increasing demand on the Community market.

5. Conclusion on injury

- (67) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several parties claimed that most injury indicators had developed positively, therefore there would be no material injury. It was even submitted by one interested party that the Commission had concluded that the Community industry had suffered material injury on the basis of the decline in Community industry sales prices only.
- (68) In this respect, it should be recalled that, as indicated in recital 90 of the provisional Regulation, indeed a number

of indicators developed positively during the period considered, due to the strong and increasing demand on the Community market. However, the price depression on the Community market coupled with the worldwide strong increase of main raw material costs has lead to a negative development of all financial indicators such as profitability, return on investment and cash flow. This is explained in detail in recitals 84 and 85 of the provisional Regulation. Although, as stated in Article 3(5) of the basic Regulation, not one or more of the relevant economic factors which are evaluated in this respect necessarily give decisive guidance, it is obvious that the financial indicators are amongst the key indicators. The argument, therefore, has to be dismissed.

- (69) In the absence of any further new and substantiated information or argument on the situation of the Community industry, recitals 72 to 92 of the provisional Regulation are hereby confirmed, with the exception of recitals 75 and 76 which have been addressed above.

F. CAUSATION

1. Effects of the dumped imports

(70) Several interested parties pointed at the provisional finding that Chinese imports dropped strongly between 2003 and 2004. They claimed that in view of the fact that in the same period, the profitability of the Community industry deteriorated dramatically by 62 %, the price depression could not have been caused by the Chinese imports.

(71) In this respect it is to be recalled that the investigation had established that imports from the PRC undercut the Community industry prices by 3,3 % during the IP and

(72) The investigation had further established that there was a significant price depression on the market. This price depression was injurious in view of the strong increase in the main raw material costs throughout the same period, as elaborated in recitals 78 and 79 of the provisional Regulation. In view of the comments received and mentioned in recital 70, the development of raw material prices during the period considered was analysed on a year-by-year basis. As mentioned in recital 78 of the provisional Regulation, vinyl acetate monomer (VAM) is PVAs key raw material. It accounts for approximately 65 % of the manufacturing cost of PVA. The table below displays the cost of VAM per tonne of PVA during the period considered:

Community industry	2003	2004	2005	IP
Cost of VAM per tonne PVA				
Index	100	107	119	130

(73) The analysis showed that in 2004, the increase in raw material costs was moderate as compared to the increase of these costs in 2005 and the IP. In view of this development of raw material prices, which is best illustrated by the development of VAM-costs above and which did not closely correspond with the trend in profitability, it can be concluded that the sharp decrease in profitability during 2004 was caused more by the 7 % decrease in Community industry's sales prices, as indicated in recital 79 of the provisional Regulation, than by the increase in raw material costs.

(74) Following the above, the market shares in 2004 were analysed further in absolute terms as well as compared to 2003 to establish whether the dumped imports, taken in isolation, have had a material impact on the injury. It was established that during 2004 the Community industry increased its market share by 1 %. At the same time, Chinese imports lost 16 % of their market share. The result was that during 2004, the market share of the Community industry accounted for more than fourfold the market share of the PRC. In these circumstances, it is indeed considered difficult to attribute the price depression in the pivotal year 2004

that imports from the PRC have, throughout the period considered, been declared at the Community frontier at prices lower than those obtained by the Community industry. The difference between Eurostat import prices from the PRC and Community industry sales prices appears to be more significant in 2003 than during the IP. However, on the basis of such analysis no conclusion can be drawn as regards the undercutting in the years preceding the IP; an accurate and reliable undercutting margin can only be calculated for the IP as it should be made on the basis of a model-by-model comparison and whilst making the appropriate adjustment for (post-) importation costs and differences in level of trade. Such data were only available for the IP. No conclusion can therefore be drawn as to whether imports from the PRC have undercut the Community industry prices throughout the period considered.

to the imports from the PRC, as its quantities were relatively low and strongly declining.

(75) Following definitive disclosure, the Community industry argued that even with a low market share the dumped imports managed to cause severe disruption on the market, due to the nature of the business. It claimed that the Commission would have argued that PVA is a commodity, and that the lowest price quoted on the market determines to a large extent the market price, which other producers have to adapt to, if they wish to keep their orders. It should be clarified that the Commission had, in the definitive disclosure document, only cited a claim of the complainant without endorsing it. The complainant further argued that this alleged influence of imports from the PRC on the Community industry sales prices would be demonstrated by the decreasing trend in the Community industry's sales prices over the period considered, while prices of the main raw material, VAM, soared. The Community industry maintained that it was not in a position to pass on the increase in raw material prices to its customers due to the strong price pressure of the dumped imports which would have led to a pronounced decrease in profitability, return on investments and cash flow.

- (76) Nevertheless, when looking at the development in more detail, it appears that the considerable deterioration of the Community industry's financial situation occurred mainly as from 2004 until the IP. In 2003, when imports from the PRC had a market share of 11,3 % and sales prices did not vary much from the subsequent years, the Community industry was performing satisfactorily, in particular in terms of profitability. This evaluation is supported by the fact that even the Community industry had characterised (2002 and 2003 as a year 'before the major import penetration by the dumped imports on the Community market'. This was corroborated by the findings of the investigation and it was thus considered in recital 131 of the provisional Regulation, that 2003 was indeed a year in which there was a normal competitive situation on the Community market. This had not been contested by any of the interested parties and it would suggest that during 2003, trade distortions, if any, were limited. In 2004, on the contrary, when imports from the PRC decreased while its sales price remained fairly stable, the Community industry's financial situation suddenly deteriorated dramatically.
- (77) Following definitive disclosure, the Community industry claimed that the Commission would erroneously require the dumped imports to be the principal cause of injury. In this respect, it is noted that the Commission did not require the dumped imports to be the principle cause of injury. Indeed, Article 3(6) of the basic Regulation stipulates that 'volumes and/or price levels (...) are responsible for an impact on the Community industry (...) and that this impact exists to a degree which enables it to be classified as *material* (emphasis added).'
- (78) A further analysis of the facts as established during the investigation has shown that the dumped imports, taken in isolation, have had an impact on the injurious situation of the Community industry, but given its overall limited market shares in relation to the increasing market shares of the Community industry and a missing clear coincidence in time between the dumped imports and the most injurious situation of the Community industry, this impact is not considered to be material.
- (79) Based on the above considerations, it cannot be concluded that the dumped imports have had an impact on the injury suffered by the Community industry that can be classified as material.

2. Effects of other factors

- (80) Subsequent to the imposition of provisional measures, information was obtained which pointed at the incompleteness of the Eurostat data as regards imports from the USA. The volumes reported appeared to be too low if compared to export data from the USA export database but also to other sources. The data concerning these imports therefore had to be revised and it was found most appropriate to replace them by the data acquired from the USA export database, whereby the values, converted into Euro, were duly adjusted to CIF Community frontier level. The impact of the revised import volumes from the PRC in 2003 on the calculated Community consumption also affected the market shares of other countries in that year. The tables in recital 97 of the provisional Regulation have therefore been amended as follows:

Imports originating in other third countries (quantity)

Import (tonnes)	2003	2004	2005	IP
USA	19 804	26 663	25 771	26 298
Index (2003 = 100)	100	135	130	133
Japan	13 682	11 753	12 694	14 151
Index (2003 = 100)	100	86	93	103
Taiwan (ranges)	11 000-14 000	13 000-16 500	10 000-13 000	9 000-12 000
Index (2003 = 100)	100	118	88	83

Imports originating in other third countries (average price)

Average price (EUR)	2003	2004	2005	IP
USA	1 308	1 335	1 446	1 416
Index (2003 = 100)	100	102	111	108
Japan	1 916	1 532	1 846	1 934
Index (2003 = 100)	100	80	96	101
Taiwan	1 212	1 207	1 308	1 302
Index (2003 = 100)	100	100	108	108

Market shares

Market share (%)	2003	2004	2005	IP
USA	13,8	17,3	15,5	15,8
Japan	9,5	7,6	7,6	8,5
Taiwan (index)	100	109	76	71

- (81) Compared to the provisional Regulation, the main difference consists in the quantities of USA imports and the trend that can be observed as regards those imports. Indeed, during the period considered, there was a slight increase of imports of PVA from the USA only, i.e. an increase by 2 percentage points in terms of market share whereas it was erroneously concluded in the provisional Regulation that they had doubled during that period. Furthermore, the CIF Community frontier prices of these imports appear to be generally higher than provisionally concluded, with prices that were 4,3 % higher during the IP. The other conclusions with regard to these imports, as summarised in recital 98 of the provisional Regulation, remain valid.
- (82) Referring to recitals 97 and 99 of the provisional Regulation, several interested parties expressed serious doubts as to the reliability of the Eurostat prices on Japanese imports, as the average unit prices of these imports were significantly higher than the unit prices of PVA from other sources. One interested party claimed that the high average sales price could stem from an erroneous inclusion of other more expensive products, such as PVB. In this respect, it is important to underline that these data had been investigated in detail and that on the basis of that analysis it had been concluded, as indicated in recital 99 of the provisional Regulation, that Japanese imports could not have contributed to the negative price trend which led to the serious deterioration of the Community industry's financial situation. For the sake of completeness and clarity, a summary of this analysis follows.
- (83) A further examination of the Eurostat data concerning imports from Japan confirmed that it did not include any products other than PVA and that, hence, the data were not inflated by more expensive products. Further, as was already indicated in the complaint, the Japanese PVA imports included certain limited quantities of PVA other than the like product, with probably significantly higher unit prices. In the average value computed for Japanese imports, based on the statistical data, the price influence of these other PVA-grades could not be neutralised as these data do not distinguish the like product from other PVA-grades. However, taking into account the approximate volumes of such imports, based on the data in the complaint, and in view of the average price computed for all Japanese PVA imports during the IP, it had been established that it would be very unlikely that the exclusion of the PVA grades not falling under the product definition would result in an average CIF Community frontier price of the like product,
- which would undercut the Community sales price level during the IP. Moreover, around 25 % of the Japanese imports during the IP could be verified and they concerned PVA grades falling under the product scope. These sales were made to related parties, i.e. at transfer prices, and it had been found that the resale prices of these purchases to the first independent customers in the Community were on average 8 to 10 % above the prices that the Community industry could obtain. It was consequently concluded and it is maintained that there are no indications that Japanese imports of PVA, during the IP, have undercut the Community industry prices and, therefore, they are not considered to have contributed to the injury suffered by the Community industry.
- (84) It was also questioned by several interested parties how Japanese imports managed to maintain a strong market share with such high prices, if there was a fierce price competition on the Community market. In this respect, it should first be noted, as mentioned in recital 83 above, that the inclusion of other and more expensive grades of PVA certainly has inflated the Eurostat average values of Japanese import prices. Based on verified data pertaining to around 25 % of Japanese imports, average prices of these imports to the first independent customer in the Community appear rather to be 8 to 10 % above the Community industry prices. This is not the result of a precise comparison between identical grades; it is rather the likely and approximate price difference between the average sales prices of a part of Japanese imports and the average sales price obtained by the Community industry. On that basis, the result of the analysis of the Japanese import prices does not contradict the conclusion that market prices in the Community were indeed depressed, and the argument is dismissed.
- (85) One interested party claimed that the volumes of Taiwanese imports had increased from 2003 to 2006, contrary to the Commission's findings of a market share decrease, and that the average prices of these imports increased less than what the Commission had found. This claim was based on an analysis of Eurostat data. In this respect, it should be noted that, as indicated in recital 100 of the provisional Regulation, the actual figures of the sole Taiwanese producer have been used as it fully cooperated in the investigation. These verified data were considered more reliable than Eurostat data, especially as this producer also sold, throughout the period considered, significant quantities of PVA which were covered by CN code ex 3905 30 00 but did not fall under the product definition. The claim of this interested party, therefore, had to be dismissed.

- (86) Another interested party claimed, in view of the Commission's analysis of USA import prices that Taiwanese imports would have contributed to the price depression on the Community market. It alleged that for the purpose of computing average prices to first independent customer, the Commission had adjusted Eurostat's USA import prices, which were already above Taiwanese prices, upwards and so adjusted, these prices were at the same general level as Community industry prices. Therefore, Taiwanese prices, which would not need any adjustment, would be undercutting the Community industry prices and contribute to the injury suffered by the Community industry.
- (87) This claim had to be rejected. In fact, the prices of Taiwanese imports in recitals 97 and 100 of the provisional Regulation are the prices at cif Community frontier level. For the purpose of the undercutting calculations, a number of adjustments have been made to those prices (import duty, post importation costs, level of trade). In this case, the level of trade adjustment was significant as virtually all sales were done via traders/distributors in the Community. The subsequent undercutting calculations could then be done at PCN-level, thus resulting in very precise figures which did indeed not show undercutting.
- (88) Several interested parties claimed that the drop in profitability was caused by the Community industry itself. They claimed that because of the creation of extra production capacity in 2004, the Community industry found itself confronted with large additional quantities of produced PVA which it had to sell. It was argued by these parties that the complainant itself would therefore have engaged in an aggressive policy of undercutting all other PVA suppliers with a view to maximising its sales volumes and excluding other competitors from the market. According to these parties, this would explain the decline in PVA prices during the period considered. They considered that the Chinese producers were price followers rather than price setters.
- (89) With regard to this argument, the investigation has indeed shown that the investments made by the Community industry to increase production capacity have enabled the Community industry to sell significant additional quantities on the Community market. This fact demonstrates, on the one hand, that the decision to make this investment had been a sound decision in terms of expected market growth. The consumption of PVA on the Community market had increased strongly during the period considered, as explained in recitals 51 to 53, and this had led to increasing sales overall. Furthermore, an analysis of post-IP data (July 2006 until September 2007) concerning Community consumption and sales based on Eurostat data and figures provided by parties subject to the investigation has confirmed that consumption increased significantly and that the Community industry further increased its sales volumes by 10 %.
- (90) At the same time, however, it was established by the investigation that a PVA plant should produce continuously in order to maximise efficiency. This was also the case for the Community industry. The investigation showed that due to the expansion of capacity which took place from 2004 to 2006, the production volumes increased significantly as from 2004. The Community industry, following definitive disclosure, argued that the additional PVA production line was only available as of 2005 and that, thus, there was no additional capacity in 2004. However, the investigation has shown that during 2004 the production capacity was 7 % higher as compared to 2003. At the same time, the Community industry decreased its sales prices by 7 %, and in 2005, when the production capacity had reached 129 % of the capacity during 2003, prices were still 5 % below the 2003 level, in spite of strongly increasing raw material costs as indicated in recital 72 (+ 19 % for VAM). In the meantime, the Community industry had increased its sales volumes to independent customers by 12 % and it further increased those sales by another 10 percentage points in 2005. On this basis, it appears that there might be a relation between the sales prices of the Community industry and the quantity of PVA produced.
- (91) Two interested parties argued that the investment in production capacity had caused the negative development of the key financial indicators, as the cost of it would have weighed heavily on the Community industry's profitability. In this respect, the investigation has established, as stated in recital 103 of the provisional Regulation, that the costs involved with the production capacity expansion could be identified and that they did not significantly influence the dramatically negative trend observed in the development of the financial position of the Community industry. The claim that these costs had caused the strong deterioration of the Community industry's most important financial indicators, therefore, has to be dismissed.
- (92) One interested party claimed that pricing of the sales for captive use would have negatively influenced the profitability figures of the complainant. In this respect it is to be noted that the sales of PVA to related parties have been verified in depth. Firstly, these sales were isolated from the sales to unrelated parties. They are therefore not included in the financial indicators provided in recitals 84 and 85 of the provisional Regulation, as specifically mentioned in recital 84. Secondly, the verification of the sales for captive use showed that the pricing of these sales, which represented less than 20 % of the Community industry total sales during the IP, did not have a negative impact on the reported result on the Community industry's PVA sales to unrelated parties. The claim was therefore dismissed.

- (93) Another interested party claimed that the allegedly depressed construction market in Germany during the first years of the period considered would have caused the negative development of the key financial indicators of the Community industry. However, no evidence to demonstrate this was submitted and the statistical data clearly show a trend of increasing consumption for PVA and an even more marked trend of increasing consumption of PVB. The argument, therefore, had to be dismissed.
- (94) Following definitive disclosure, the Community industry claimed that by focussing on 2003 and 2004, no sufficient causation analysis of the years 2004 until 2006 was performed. In this respect it is firstly to be noted that 2003 and 2004 are the first two years of the period considered and as such they can certainly not be regarded as outdated. Furthermore, as summarised in recital 91 of the provisional Regulation, the group of indicators showing injury are the financial indicators whilst most of the other indicators show a positive development. In such a situation it is only reasonable that the investigating authority pays more attention to the period where the financial indicators deteriorated the strongest, which happened to be 2004 when the Community industry's profitability decreased by 62 %, its ROI decreased by 83 %, and its cash flow decreased by 45 %. Finally, as recitals 70 to 93 demonstrate, it is considered that the causation analysis is not limited to the years 2003 and 2004 and it covers the complete period considered, i.e. from 2003 to the end of the IP (September 2006). The claim is, therefore, dismissed.

3. Conclusion on causation

- (95) In conclusion, following a further analysis triggered by the comments received after the imposition of provisional measures, it cannot be confirmed that the dumped imports have had a material impact on the injury of the Community industry. Given (i) the relatively limited and only slightly increasing market share of the dumped imports from the PRC (from 11,3 % to 12,9 %) and the much more important and slightly increasing market share of Community industry sales (during the IP more than threefold the market share of the PRC) and (ii) the limited, even if not insignificant, undercutting practiced by imports from the PRC, it can be concluded that the low prices on the Community market in a context of increasing raw material prices, which have strongly contributed to the injury suffered by the Community industry, can not be attributed to the dumped imports from the PRC. The causal link within the meaning of Articles 3(6) and 3(7) of the basic Regu-

lation between the dumped imports from the PRC and the material injury suffered by the Community industry could therefore not be sufficiently established.

G. CONCLUSION

- (96) The proceeding should therefore be terminated, as the dumping margin determined for Taiwan is less than 2 % and due to the lack of evidence for a causal link between dumping and injury insofar as imports originating in the PRC are concerned,

DECIDED AS FOLLOWS:

Article 1

The anti-dumping proceeding concerning imports of copolymeric polyvinyl alcohols (PVA) based on a homopolymeric polymerisation with a viscosity (measured in 4 % solution) of 3 mPas or more but not exceeding 61 mPas and a degree of hydrolysis of 84,0 mol % or more but not exceeding 99,9 mol %, falling within CN code ex 3905 30 00 and originating in the People's Republic of China and Taiwan, is hereby terminated.

Article 2

Amounts secured by way of provisional anti-dumping duties pursuant to Commission Regulation (EC) No 1069/2007 on imports of certain polyvinyl alcohols in the form of homopolymer resins with a viscosity (measured in 4 % solution) of 3 mPas or more but not exceeding 61 mPas and a degree of hydrolysis of 84,0 mol % or more but not exceeding 99,9 mol %, falling within CN code ex 3905 30 00 (TARIC code 3905 30 00 20) and originating in the People's Republic of China shall be released.

Article 3

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

Done at Brussels, 17 March 2008.

For the Commission
Peter MANDELSON
Member of the Commission