COMMISSION DECISION

of 6 May 1980

accepting an undertaking given in connection with the anti-dumping proceeding concerning certain acrylic fibres originating in Japan and terminating this proceeding

(80/488/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 10 thereof,

After consultations within the Advisory Committee set up under Article 6 of Regulation (EEC) No 3017/79,

Whereas on 11 May 1979 the Commission received a complaint submitted by CIRFS, the International Rayon and Synthetic Fibres Committee, on behalf of the quasi-totality of the Community producers of acrylic fibres, setting out evidence as to the existence of dumping of the like product originating in Greece, Japan, Spain, Turkey and the United States of America and of material injury resulting therefrom ;

Whereas, since there was sufficient evidence to justify initiating a proceeding, the Commission published in the *Official Journal of the European Communities* of 12 June 1979 a notice of the initiation of an anti-dumping procedure concerning imports of certain acrylic fibres originating in Greece, Japan, Spain, Turkey and the United States of America (2), so advised the exporters and importers known by the Commission to be concerned, as well as representatives of the countries concerned and the complainants, commenced an investigation at Community level and gave the parties directly concerned the opportunity to make known their views in writing and to be heard orally and to meet, so that opposing views might be presented and rebuttal arguments put forward ;

Whereas, for the purposes of a preliminary determination of dumping and injury, the Commission made on-the-spot investigations of the offices of the Japanese exporters whose operations were deemed to require investigation, namely Mitsubishi Corporation, Osaka, Japan ; Mitsubishi Rayon Limited, Tokyo, Japan ; C Itoh & Co. Ltd, Osaka, Japan, and Diafibers Co. Ltd, Osaka, Japan ; whereas the Commission also carried out on-the-spot investigations at the offices of the main Communiy producers involved, namely the Italian companies ANIC SpA, Milan ; Montefibre SpA, Milan ; Societa Italiana Resina SpA (SIR), Milan and SNIA Viscosa SpA, Milan ;

Whereas it emerged from the investigations carried out in Greece and Turkey that no dumping existed in the case of the exports of these producers to the Community and the investigation was consequently closed in so far as they were concerned ;

Whereas, moreover, in the course of the investigations with the main Spanish exporter a price undertaking was received which was considered satisfactory by the Commission and the procedure was consequently terminated as regards imports from Spain (3) ;

Whereas, since it emerged from the preliminary examination with American exporters that dumping existed and resultant injury, the Commission, by Regulation (EEC) No 2712/79 (4), as amended by Regulation (EEC) No 61/80 (5), imposed a provisional anti-dumping duty on certain acrylic fibres originating in the United States of America ; whereas, moreover, the subsequent examination completed after the imposition of the provisional duty showed dumping and material injury resulting therefrom ;

Whereas, for the purposes of a preliminary examination of the existence of dumping by Japanese producers, the Commission compared their export prices to the Community of continuous filament tow of acrylic fibre with those ruling on the Japanese market ;

Whereas weighted averages were used for these comparisons, which were made at the ex-factory level for sales during the period 1 June 1978 to 31 May 1979 made by Diafibers Co. Ltd, the principal Japanese company exporting to the Community which also sells on the domestic market ;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No C 146, 12. 6. 1979, p. 2.
(3) OJ No C 2, 4. 1. 1980, p. 6.
(4) OJ No L 308, 4. 12. 1979, p. 11.
(5) OJ No L 10, 15. 1. 1980, p. 7.

Whereas Diafibers claimed that certain differences existed in the conditions and terms of sale ; whereas all the allowances claimed by them for remission of import charges on imported raw materials, handling, ancillary costs, salesmens' salaries and related expenses and technical assistance expenses were granted ; whereas, however, the company's claims for allowances for advertising and sales promotion and research and development costs were disallowed, since it was considered that such costs did not bear a direct relationship to the sales under consideration ;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of the imports effected during the investigation period, of which the weighted average margin is 38 % ;

Whereas with regard to injury the evidence available to the Commission during the preliminary examination showed that the Community has been making strenuous efforts to recover from the effects, experienced over many years, of virtual stagnation of production and consumption accompanied by considerable overcapacity and extremely high losses ;

Whereas this process of recovery has entailed major efforts to reduce capacity and to rationalize which has resulted in an overall reduction of approximately 8 % of the work force since 1977, and attempts by the European producers to increase their selling prices in order to cover sharply increased raw material costs and to reach a reasonable profit situation ;

Whereas, whilst these attempts were being made by Community producers, a significant increase in imports has taken place from Japan ; whereas the evidence available to the Commission shows that imports into the Community of acrylic fibres originating in Japan has increased from 3 678 tonnes in 1977 to 7 700 tonnes in 1979, representing an increase of 109 % ; whereas the Japanese market share has doubled since 1977 from 0·8 % in 1977 to 1·6 % in 1979 ;

Whereas Japanese imports are concentrated on the Italian market which, for 1979, received almost 70 % of Japanse exports to the Community ; whereas these exports to Italy have increased from 776 tonnes in 1977 to 1 027 tonnes in 1978, representing an increase of 32 % and to 5 438 tonnes for 1979, an increase of 430 % compared with 1978 ; whereas the market share of these imports has increased from 0·5 % in 1977 to 2·4 % in 1979 ; whereas these increased Japanese exports to Italy have been at extremely low prices, undercutting Italian producers by approximately 40 % ;

Whereas the total market share held by Japanese exports, together with those held by American and Spanish firms also found to have dumped, amounted in 1979 to 7·6 % in the Community and to 9·8 % in Italy ; whereas the above has resulted in a loss of orders and depression of prices and additional losses for Italian producers ;

Whereas the evidence available to the Commission also indicates that this situation in Italy, which represents approximately 30 % of Community production and approximately 40 % of Community consumption, has a considerable impact on other Community producers who traditionally export to Italy and who are also facing a difficult situation characterized by heavy losses, and who are currently forced to meet artificially low import prices ;

Whereas injuries caused by other factors which could adversely affect the Community industry, such as the volume and prices of other imports, or stagnation of demand, have been examined, and any adverse effects caused by these factors have not been attributed to the imports under consideration ;

Whereas, in view of the foregoing, the preliminary examination of the facts shows that dumping exists, and that there is sufficient evidence of consequent injury ;

Whereas the Commission, after having examined the Community producers' and importers' prices, costs, profitability and marketing conditions, has determined the import prices necessary to eliminate the injury caused ;

Whereas the main Japanese exporter concerned, Diafibers Co. Ltd, Osaka, Japan, was informed of the main findings of the preliminary investigation and commented on them ; whereas an undertaking was consequently offered by this company ;

Whereas the effect of the said undertaking will be to increase import prices into the Community to a level necessary to eliminate injury ; whereas the increase in no case exceeds the dumping margin ;

Whereas the Commission has therefore determined that it is not now necessary to take protective action in respect of imports originating in Japan ;

Whereas the Commission will ensure that the undertaking is strictly complied with, in particular by carrying out periodically the necessary checks and inspections ;

Whereas the decision to accept this undertaking may be reconsidered should the Commission discover that it is failing to eliminate the injury ;

Whereas, in these circumstances, the undertaking offered is considered acceptable and the proceedings may therefore be terminated without imposition of anti-dumping duties,

HAS DECIDED AS FOLLOWS :

Article 1

The Commission hereby accepts the undertaking given in connection with the anti-dumping proceeding concerning certain acrylic fibres (1), originating in Japan.

Article 2

The anti-dumping proceeding concerning imports of certain acrylic fibres originating in Japan is hereby terminated.

Done at Brussels, 6 May 1980.

For the Commission

Wilhelm HAFERKAMP

Vice-President

(1) NIMEXE codes 56.01-15 and 56.02-15; Common Customs Tariff subheadings ex 56.01 A and ex 56.02 A.