COMMISSION DECISION

of 10 April 1986

concerning applications submitted by Textilveredlungs- und handelsgesellschaft mbH & Co KG, Neuenkirchen, for refund of anti-dumping duties collected on certain imports of cotton yarn originating in Turkey

(86/210/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1] and in particular Article 16 thereof,

Whereas :

A. Procedure

1. On 3 December 1981 the Commission, by Regulation (EEC) No 3453/81 [2], imposed a provisional anti-dumping duty of 16 % on certain cotton yarn originating in Turkey ; on 3 April 1982, by Council Regulation (EEC) No 789/82 [3], a definitive anti-dumping duty of 12 % was imposed on the product concerned and the amounts secured by way of provisional duty from 1 January 1982 pursuant to Regulation (EEC) No 3453/81 were definitively collected up to the amount of the definitive duty.

2. On 30 July 1982, an arrangement was agreed upon between the Commission, on the one hand, and the Turkish Government and the Turkish Textile Exporters' Association, on the other. Under the terms of this arrangement the Turkish authorities and exporters agreed that the prices for exports of cotton yarn to the Community should be raised to specified levels (hereinafter called 'the arrangement prices'). The arrangement also provided for the periodic updating of these prices to take account of changes in raw cotton prices in Turkey which would have corresponding effects on prices of cotton yarn in Turkey. The arrangement prices were equivalent to the normal values definitively determined in Regulation (EEC) No 789/82 and, consequently, eliminated the dumping margin as finally established. Because of this arrangement it was decided that it was no longer necessary to levy an anti-dumping duty. The definitive duty was therefore repealed by Council Regulation (EEC) No 2306/82 [4]. Regulation (EEC) No 789/82, however, continued to apply for those goods which had already been introduced into the customs territory of the Community but not yet released into free circulation.

3. In August 1982 Textilveredlungs- und handelsgesellschaft mbH & Co KG, Neunkirchen, an importer of cotton yarn from Turkey, submitted several applications to the German authorities for refunds of amounts totalling ... [5] which it had definitively paid in anti-dumping duties on its imports of cotton yarn from Turkey. The German authorities forwarded the applications to the Commission.

4. These applications were examined by the Commission and the applicant was informed of the preliminary results and given an opportunity to comment on them. The applicant did not comment on the preliminary results.

5. The Commission informed the Member States and gave its opinion on the matter. None of the Member States disagreed with the opinion of the Commission.

B. Arguments of the applicant

6. The applicant has based its applications on an allegation that the export prices of the consignments concerned were equal to or higher than the arrangement prices mentioned in paragraph 2.

C. Admissibility

7. The applications are admissible since they were introduced in conformity with the relevant provisions of the Community's anti-dumping legislation, in particular the time limits.

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[1] OJ No L 201, 30. 7. 1984, p. 1.
[2] OJ No L 347, 3. 12. 1981, p. 19.
[3] OJ No L 90, 3. 4. 1982, p. 1.
[4] OJ No L 246, 21. 8. 1982, p. 14.
[5] In the published version of the Decision, this figure has been omitted, pursuant to the provisions of Article 8 of Regulation (EEC) No 2176/84 concerning non-disclosure of business secrets.

D. **Merits of the claim**

8. In considering the validity of the applicant's applications, the Commission has used as normal values the arrangement prices mentioned in paragraph 2. The Commission considered the use of the arrangement prices as normal values appropriate as these prices were equivalent to the normal values established by the Commission during its anti-dumping investigation in Turkey and, consequently, to those definitively determined in Regulation (EEC) No 789/82. The applicant was informed, at the preliminary stage, of the Commission's intention to use the arrangement prices as normal values but made no comment.

9. A comparison of the normal values mentioned in paragraph 8 with the export prices concerned shows that the applicant's claim is not justified,

HAS ADOPTED THIS DECISION:

Article 1

The refund applications submitted by Textilveredlungs- und handelsgesellschaft mbH & Co KG, Neuenkirchen, in August 1982 are hereby rejected.

Article 2

This Decision is addressed to Textilveredlungs- und handelsgesellschaft mbH & Co KG, D-4445 Neuenkirchen.

Done at Brussels, 10 April 1986.

For the Commission

Willy DE CLERCQ

Member of the Commission