COMMISSION DECISION

of 6 August 1990

terminating the anti-dumping proceeding concerning imports of denim fabric originating in Turkey, Indonesia, Hong Kong and Macao

(90/421/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1] and in particular Article 9 thereof,

After consultations within the Advisory Committee as provided for by the Regulation (EEC) No 2423/88

Whereas :

A. PROCEDURE

(1) In January 1989, the Commission received a complaint lodged by Eurocoton, the Committee of the Cotton and Allied Textile Industries of the EEC, on behalf of producers of denim fabrics whose collective output was alleged to constitute the bulk of Community production of the product in question. The complaint contained evidence of dumping of the product concerned originating in Turkey, Indonesia, Hong Kong and Macao and resultant material injury, which was considered sufficient to justify the initiation of an anti-dumping proceeding. As a result, the Commission announced in a notice published in the *Official Journal of the European Communities* [2] the initiation of an anti-dumping proceeding and commenced an investigation concerning imports of denim fabrics originating in Turkey, Indonesia, Hong Kong and Macao.

(2) The Commission officially notified the exporters and importers known to be concerned, the representatives of the exporting countries and the complainant Community producers, and gave the parties directly concerned the opportunity to make their views known in writing and request a hearing.

(3) Most of the Community producers and some of the exporters and importers known to be concerned made their views known in writing. A number of these companies requested and obtained hearings.

No submissions were made by end users or other Community purchasers of the product.

(4) The Commission sought and verified all information it deemed to be necessary for an assessment of the facts and carried out investigations at the premises of the following companies :

(a) *Community producers :*

- UCO, Gent,
- Bonduel SA, Ronq,
- Lauffenmühle GmbH & Co, Waldshut,
- Atlantic Mills Ltd, Longford,
- Smith & Nephew Textiles Ltd, Colne, Lancashire,
- Hellenic Fabrics, Thessaloniki,
- Leglertex, Ponte San Pietro,
- Montebello SpA, Montebello,
- Jose Royo SA, Valencia,
- Textiles y Confecciones Europeas SA, Valencia ;

(b) *Exporters*

- PT Bintang Augung, Jakarta, Indonesia,
- PT South Textile Mills, Jakarta, Indonesia,
- PT Tyfountex, Solo, Indonesia,
- Aldwick Textile Exporters Co., Hong Kong,
- Merit Garment Co., Hong Kong,
- Mou Fung Limited, Hong Kong,
- Nanyang Cotton Mill Limited, Hong Kong,
- Novel Textiles Ltd, Macao,
- Bossa Ticaret ve Sanayi Isletmeleri TAS/ Exsa Exports, Sanayi, Adana, Turkey,
- Orta Anadolu Ticaret ve Sanayi Isietmesi TAS Kaysari,
- Narin Pazariama Ithalat ve Ihracat AS,

(5) The investigation covered the period from 1 January 1988 to 31 December 1988.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(6) The present proceeding concerns imports of woven cotton fabrics (denim) containing 85 % or more by weight of cotton and weighing more than 200 gr/m² and woven cotton fabrics (denim) containing less than 85 % weight of cotton mixed mainly or

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No C 73, 21. 3. 1989, p. 3.

solely with man-made fibres and weighing more than 200 gr/m², both of which fall within CN codes 5209 42 00 and 5211 42 00.

For the purpose of these subheadings, the expression 'denim' means fabrics of three-thread or four-tread twill, including broken twill, warp faced, the warp yarns of which are dyed blue and the weft yarns of which are unbleached, bleached, dyed grey or coloured in lighter shade of blue than that of the warp yarn.

(7) In order to establish proper comparability between different kinds of denim, the Commission considered it appropriate to use an internationally accepted classification based on weight per square yard, as follows :

— Heavyweight denim : more than 13 oz/yard²,

— Mediumweight denim : 10 to 12,9 oz/yard²,

— Lightweight denim : up to 9,99 oz/yard².

The Commission considered that the similarities in production process and physical characteristics, together with virtually identical application and end use, led to the conclusion that, for the purposes of these proceedings, all weights and types of denim described in this and the preceding recital are identical or sufficiently similar to be considered a single product category as provided for in Article 2 (12) of Regulation (EEC) No 2423/88.

In this context, all exporters concerned sold the same weight or weights and the same quality both domestically and for export to the Community. Thus, for the purposes of the calculation of dumping, normal value and export prices for identical products could be compared. Similarly, the Community industry manufactured all three weights, the prices of which could therefore be compared to the prices of the exported product of the same weight.

C. DUMPING

(a) Normal value

(8) For the product sold in sufficient quantity in the ordinary course of trade in the four domestic markets concerned, normal value was determined on the basis of the weighted average domestic prices of those exporters which exported to the Community and which cooperated in the investigation. In the case of Turkey, in view of the inflationary situation, these normal values were established on a monthly basis.

The normal value was calculated by type of product. In this respect, the Commission took into account the different fabric weights per square yard as mentioned in recital 7 above. Account was also taken, wehre appropriate, of different widths of the material.

For all but one of the companies concerned, sufficient profitable sales on the respective domestic markets for establishing normal value were found.

In the case of one Hong Kong exporter, a trading company, which did not manufacture the product concerned and whose domestic sales were made at a loss throughout the investigation period, normal value was determined by the weighted average of the domestic prices of the other exporters in Hong Kong for sales of similar types of the product concerned.

(b) Export prices

(9) Export prices in all cases were made to independent importers in the Community and accordingly were determined on the basis of the prices actually paid or payable for the product sold for export to the Community.

(c) Comparison

(10) The normal value for each type of product was compared, transaction by transaction, with the export prices of the corresponding type of product at the ex-works stage. The Commission took account of all differences affecting price comparability in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88 such as differences in physical characteristics, and differences in conditions and terms of sale, where claims of a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated. This was the case in respect of differences in credit terms, warranties, commissions, salaries paid to salesmen, packing, transport, insurance, handling and ancillary costs.

The complainants suggested that the comparison be restricted to the heaviest category of the product which they claimed would be most representative. The Commission, however, considered that since comparisons of all categories of the like product were possible, it should not deviate from normal practice in this area. In any event, about 95 % of all reports from the companies concerned were of the heaviest weight and thus had the greatest significance on the weighting of the calculations.

(d) Dumping margins

(11) The dumping margin calculated for each exporter is equal to the difference between normal value and the export price to the Community, duly adjusted.

The weighted average dumping margins for each of the exporters concerned, expressed as a percentage of total CIF values, are as follows :

(a) *Turkey*

— Bossa Ticaret ve Sanayi Isletmeleri TAS/Exsa Exports Sanayi, Adana 6,5 %,

— Orta Anadulu Ticaret ve Sanayi, Isletmesi TAS, Istanbul 7,8 % ;

(b) *Indonesia*

— PT Bintang Agung, Jakarta 2,1 %,

— PT Tyfountex, Solo 3,4 % ;

(c) *Hong Kong*

— Merit Garment Co., Hong Kong 18,7 %,

— Aldwick Textile Exporters Co., Hong Kong 11,4 % ;

No, or *de minimis* (in each case less than 1,0 %), dumping margins were found for the remaining companies investigated.

D. INJURY

(a) Cumulation

(12) The Commission assessed injury on the basis of the impact of the total sales of the product concerned in the Community from all exporting companies for which dumping at a level above *de minimis* was established.

(b) Volume and price of imports

(13) It was established that imports of denim from Turkish, Indonesian and Hong Kong companies concerned amounted to 5 538 tonnes in 1986, 7 956 tonnes in 1987 and 3 803 tonnes in 1988.

These volumes corresponded to a market share in the Community of 3,1 % in 1986, 4,4 % in 1987 and 2,8 % in 1988. The fall in market share between 1987 and 1988 took place in a period when consumption in the Community fell by more than 26 %.

(14) The Commission determined that, during the investigation period, prices for denim fell between 20 % and 30 % in the Community, while on average, the prices of the companies concerned fell by comparison by 2,9 %. A clear pattern of price undercutting by the exporters concerned could not be established, although individual instances of price undercutting by all the exporters concerned were found. The examination of price undercutting was carried out by comparing, at the same level of trade i. e. mainly sales to garment manufacturers, the prices of the Community producers with those for the same weight of material of the imported product.

(c) Position of Community industry

(15) The data available show that EEC production in 1987 amounted to 120 000 tonnes and fell to 105 000 tonnes in 1988, a decrease of 12,5 %. Capacity utilization fell commensurately during this period. The Community producers' sales in the Community followed the same trend, showing a reduction from 106 400 tonnes in 1987 to 94 200 tonnes in 1988.

Consumption in the Community also fell from 180 000 tonnes to 134 000 tonnes between 1987 and 1988. This contraction in demand, of more than 26 % has, given the Community producers' sales volume, led to an increase in their market share from 59 % in 1987 to 70 % in 1988.

(16) Given the degree of this fall in consumption, the reduction in the volume produced was insufficient to prevent the EEC producers accumulating increased stocks from the beginning of 1988, and the consequence of this overall increase in supply as against demand in the Community market was a significant reduction in prices. This price depression during the reference period ranged from 20 % to 30 % and followed the general market trend as described above in recital 14.

(17) In 1988, all Community producers suffered an important erosion in their profitability which meant, for some, that losses were incurred for sales of the product concerned. The weighted average profit margin of the Community producers concerned fell from 10,2 % in 1987 to a loss of 5,1 % in 1988.

(18) In these circumstances, the Commission is of the opinion that there are indications that the Community industry suffered injury during the investigation period. However, given the Commission's conclusion on causality, it is considered inappropriate to decide on the existence of material injury.

E. OTHER RELEVANT ECONOMIC FACTORS AND CAUSATION OF INJURY

(19) To the extent that material injury was suffered by the Community industry, the Commission examined whether such injury was caused by the effects of the dumping established or by other relevant economic factors.

(20) In this context, the level and price of imports from countries not covered by the investigation and undumped imports were taken into account. These imports fell between 1987 and 1988 but still maintained a market share in the Community of some 2,6 %. It was also found that large quantities of these imports were sold at prices which undercut those of the Community producers for the same type of product in the Community market and on occasion the prices of the product imported from the countries concerned and found to be dumped.

(21) Another factor which was examined was the trend in demand for the product under consideration in the Community. It was found that between 1987 and 1988 this demand fell by some 26 %. This considerable contraction in demand, which exceeded in percentage terms the reduction in the Community industry's production during the same period led to increased stocks and falling prices.

(22) As regards quantities exported by the companies found to have dumped the product concerned in the Community, these also fell considerably between 1987 and the investigation period and, despite the fall in consumption in the Community of some 26 % over this period, the reduction in imports resulted in a loss in market share for the exporting companies concerned from 4,4 % to 2,8 %. By contrast, the Community producers experienced a much smaller loss in sales in percentage terms and, given the lower consumption level in 1988, increased market share by approximately 11 % in the reference period.

(23) Concerning price, while some undercutting could be related to the imports in question, no pattern emerged in what, during the period of reduced demand in 1988, appeared to be a highly price competitive market. Indeed, on an average basis, the prices of the four exporting companies concerned fell by 2,9 % during this period as against a 20 % to 30 % reduction in the Community as a whole. While the relatively small price reduction of the companies concerned may have been calculated from a lower base than that of the Community producers, given the imported products' loss in market share, any price undercutting by these imports which may have previously existed will have been much reduced and, in many cases, eliminated.

(24) Furthermore, it was established that the total volume of dumped imports of products originating in the countries concerned comprised an extremely small percentage of the total Community consumption during the reference period and that these imports took place almost exclusively at the end of the investigation period due to the quota licensing system in each of the countries and thus had little or no effect on the Community producers' prices during this period.

(25) Accordingly, in examining the factors which are relevant in assessing whether the dumped imports caused material injury to the Community industry as provided for in Article 4 of Regulation (EEC) No 2423/88, account was taken of the fact that there had been no significant increase in the total volume of imports from the companies concerned either in absolute terms or related to consumption in the Community. Indeed, for each of the companies, individually, both volume and market share had fallen in the investigation period, the market share of the imports of all exporters found to have dumped being only 2,8 % for this period. Furthermore, no significant price undercutting was established when prices of the companies concerned were compared with the prices of like products in the Community of the complainant producers.

As regards factors other than the dumped imports, the volume and price of undumped imports and imports from countries other than those concerned were taken account of as was, most importantly, the significant reduction in demand for the product concerned which took place during the investigation period.

(26) In these circumstances, therefore, it was concluded that any injury sustained by the Community industry during the reference period resulting from the dumped imports of denim originating in the countries concerned, taken in isolation, could not be considered to be material.

F. TERMINATION OF THE PROCEEDING

(27) The complainants and other interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to terminate this proceeding. Subsequently, the complainants made known their views which were then examined in detail by the Commission's services.

(28) This submission included a comparative analysis of costs of production in the exporting countries and in the Community. However, it was concluded that such an analysis had little relevance as regards the Commission's findings concerning causality and accordingly there was no justification for altering the decision based on these findings. The complainants, at this stage, also questioned the Commission's figures on consumption in the Community and referred, in this context, to consumption figures in the Community for denim garments, i. e. products which use denim fabric in their manufacture. This, however, was not considered a reliable

guide to the consumption of denim fabrics. In the Commission's view, therefore, the complainants' figures formed no basis for changing either the Commission's figures or its conclusion on the question of consumption in the Community of the product under consideration.

(29) On causality, the complainants argued that, owing to the price sensitivity of the market for the product in the Community, even the small quantity of dumped imports at low prices could have caused material injury to the Community industry.

The complainants further argued in this context that the low prices of the exporting companies concerned caused a fall in demand from the purchasers of denim who, in the expectation of even lower prices, withheld purchases and used available stock. The Commission considered, however, that the reduction in prices was rather the result of the general trend of falling demand during the investigation period. This conclusion is supported by the fact that the prices of the exporting companies concerned remained relatively stable during this period, resulting in a loss in their market share and also by the fact that, in previous periods of high demand, the Community producers sold at prices which were considerably higher than those of the imported products.

(30) Thus the evidence available to the Commission led to the conclusion that the volume and price of imports other than those dumped and the fall in demand in the Community during the reference period were factors which caused material injury to the Community industry whereas the small volume of dumped imports, despite their relatively low prices, did not.

(31) Reference was also made by the complainants to the question of a threat of injury concerning imports of denim from the countries concerned. This was limited in effect to an alleged increase in the production capacity of Turkish exporters, it being claimed that their production capacity had reached one half of the total capacity of all Community producers. The Commission, however, could not substantiate this allegation and, given the very low market share of the Turkish exporters during the investigation period, compared to the alleged increase in capacity, it was considered inappropriate at this stage to extend the present investigation for a further period to examine the situation in more detail.

(32) In these circumstances, therefore, the proceeding concerning imports of denim fabrics originating from Turkey, Indonesia, Hong Kong and Macao should be terminated without the imposition of measures.

HAS DECIDED AS FOLLOWS:

Sole Article

The antidumping proceeding concerning imports of denim fabrics, falling within CN codes 5209 42 00 and 5211 42 00 and originating from Turkey, Indonesia, Hong Kong and Macao is hereby terminated.

Done at Brussels, 6 August 1990.

For the Commission

Jean DONDELINGER

Member of the Commission