COMMISSION DECISION

of 5 December 1996

terminating the proceeding under Council Regulation (EC) No 3286/94 on trade barriers, concerning the imposition by Turkey of a charge known as the 'Mass Housing Fund levy' in addition to a higher level of customs duty on imports of polyester fibre originating in the European Community

(96/714/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organisation [1], as last amended by Regulation (EC) No 365/95 [2], in particular Articles 11 and 14 thereof,

Following consultations in the Advisory Committee,

Whereas:

On 1 July 1993 the Commission received a complaint, pursuant to Council Regulation (EEC) No 2641/84 of 17 September 1984 on the strengthening of the common commercial policy with regard in particular to protection against illicit commercial practices [3], as last amended by Regulation (EC) No 522/94 [4], from the International Rayon and Synthetic Fibres Committee, representing virtually all of the Community's output of polyester fibre.

The complaint alleged that, in violation of its multilateral and bilateral obligations towards the European Community, Turkey had imposed a substantial charge known as the 'Mass Housing Fund Levy' in addition to customs duty which had itself been increased on imports of Community origin polyester fibre. It also contended that such increased taxation was causing injury to the Community industry, as demonstrated, in particular, by a decrease in Community exports of polyester fibre to Turkey.

As the complaint provided sufficient evidence, within the meaning of Article 6 (1) of Regulation (EEC) No 2641/84, of the existence of an illicit commercial practice attributable to Turkey and of consequent injury, the Commission announced in a notice published in the *Official Journal of the European Communities* [5] the initiation of an examination procedure concerning an illicit commercial practice consisting of the imposition by Turkey of a charge known as the 'Mass Housing Fund Levy' in addition to a higher level of customs duty on imports of polyester fibre originating in the European Community.

Following the initiation of the proceeding, the Commission conducted a factual and legal examination and presented on 8 March 1994 its examination report to the Advisory Committee established under Regulation (EEC) No 2641/84.

From this it appeared that the Mass Housing Fund levy of 16 % was a charge on imports having an effect equivalent to a customs duty and was introduced after the entry into force of the Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey. Consequently, this new charge was in violation of Article 7 of the Additional Protocol which stated that 'the Parties shall refrain from introducing between themselves any new customs duties on imports or exports or charges having equivalent effect, and from increasing those already applied, in their trade with each other at the date of entry into force of this Protocol'. The Mass Housing Fund levy was therefore illicit.

The customs duty of 9 % introduced on 1 January 1993 was also demonstrated to be illicit since, pursuant to Articles 8 and 10 of the abovementioned Additional Protocol, all such duties were to be progressively reduced by Turkey until their complete elimination by 1 January 1995.

The Commission held consultations with the Turkish authorities who undertook to eliminate both the Mass Housing Fund Levy and customs duty on Community exports of polyester fibre. The first deadline indicated by the Turkish authorities was the end of 1994. It was then postponed until the end of 1995. The process of phasing out announced by the Turkish authorities was divided into three stages, the first two of 20 % each, the last one of 60 %.

The first 20 % reduction was brought about by Turkey by Decision No 95/6713 which was published in the *Official Gazette of the Turkish Republic* of 15 April 1995, the

[1] OJ No L 349, 31. 12. 1994, p. 71.
[2] OJ No L 41, 23. 2. 1995, p. 3.
[3] OJ No L 252, 20. 9. 1984, p. 1.
[4] OJ No L 66, 10. 3. 1994, p. 10.
[5] OJ No C 235, 31. 8. 1993, p. 4.

second by Decision No 95/6998 published in the *Official Gazette of the Turkish Republic* of 9 July 1995. The complete elimination of the remaining charges was brought about by the new import régime effective from 1 January 1996 (Decision No 95/7606 of 20 December 1995 published in the *Official Gazette of the Turkish Republic* of 31 December 1995).

Under this new régime, polyester fibres originating in the European Union are exempted from customs duty and/or charges with equivalent effects. The complainant confirmed the elimination in practice of all customs duty and charges with equivalent effect.

Under these circumstances, the Commission now considers that the termination of the proceeding is appropriate.

As from 1 January 1995 Regulation (EC) No 3286/94, which repealed Regulation (EEC) No 2641/84, applies to the present proceeding.

Pursuant to Article 11 (1) of Regulation (EC) No 3286/94 the decision terminating a procedure is adopted in accordance with Article 14 of the same Regulation. The latter provides that the Commission shall adopt a decision which it shall communicate to the Member States and which shall apply after a period of 10 days if during this period no Member State has referred the matter to the Council,

HAS DECIDED AS FOLLOWS:

Article 1

The proceeding concerning an illicit commercial practice consisting of the imposition by Turkey of a charge known as the 'Mass Housing Fund Levy' in addition to a higher level of customs duty on imports of polyester fibre originating in the European Community is hereby terminated.

Article 2

This Decision shall apply as from the day of its publication in the *Official Journal of the European Communities.*

Done at Brussels, 5 December 1996.

For the Commission

Leon BRITTAN

Vice-President