COMMISSION REGULATION (EEC) No 2712/79

of 30 November 1979

imposing a provisional anti-dumping duty on certain acrylic fibres originating in the United States of America

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 459/68 of 5 April 1968 on protection against dumping or the granting of bounties or subsidies by countries which are not members of the European Economic Community (1), as last amended by Regulation (EEC) No 1681/79 (2), and in particular Article 15 thereof,

After hearing the opinions expressed in the Advisory Committee set up under the said Regulation,

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 the information received indicated that the complaint was admissible and that defensive measures against dumping might be necessary, the Commission officially notified the importers and exporters known to be concerned and 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 (3) ;

Whereas the Commission gave interested parties the opportunity to make known their views in writing ;

Whereas the Commission gave to parties directly concerned the opportunity to develop their views orally and to meet to present opposing views and rebuttal arguments ;

Whereas most of the parties made use of these opportunities ;

Whereas, for the purposes of a preliminary determination of dumping and injury, the Commission made on the spot investigations at the offices of the American exporters whose operations were deemed to require investigation, namely the American Cyanamid Company, Wayne, New Jersey, USA and the Badische Corporation, Williamsburg, Virginia, USA ; whereas similar investigations were carried out at the offices of Vomvicryl S.A. Athens, Greece, Akrilik Kimya Sanayii A.S., Istanbul, Turkey ; whereas the preliminary examination regarding Japanese and Spanish exporters has not yet been concluded ; whereas the Commission has carried out on the spot investigations at the offices of the main Community producers involved ;

Whereas it emerges from the investigations carried out in Greece and Turkey that no dumping exists in the case of the exports of these producers to the Community and the investigation is consequently closed in so far as they are concerned ;

Whereas to make a preliminary examination of the existence of dumping by American producers, the Commission compared their export prices to the Community with those ruling on the American 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 ;

Whereas all the allowances claimed by the Badische Corporation for transport and selling expenses were granted ; whereas, however, the company's claim that first quality material sold as development samples at low prices should not be included in the overall net weighted average calculation for first quality material was disallowed since the volume of the sales concerned constituted such a high proportion of total sales and the company did not provide sufficient evidence to justify its claim ;

Whereas the allowance claimed by the American Cyanamid Company for transport costs was granted ; whereas, in the absence of sufficient evidence in support of their claim that there were virtually no selling expenses on exports to the Community, the breakdown of these costs was based on the available accounting data, allocated proportionately to the

(1) OJ No L 93, 17. 4. 1968, p. 1.
(2) OJ No L 196, 2. 8. 1979, p. 1.
(3) OJ No C 146, 12. 6. 1979, p. 2.

turnover for each product and market under consideration ; whereas the exporter in question requested in addition a supplementary adjustment for certain administrative and other expenses ; whereas, in the absence of sufficient proof as to the direct relationship of these expenses with the sales under consideration, the Commission was not able to take this request into account ; whereas a claim made by the American Cyanamid Company for differences in the production cost of certain acrylic fibres sold in the domestic market as opposed to those sold in the Community market has not been allowed since the exporter in question refused to provide documentary proof in support of its claim ;

Whereas it emerges from the preliminary examination of the facts that dumping exists for all the imports examined from the United States of America the weighted average margins being for :

American Cyanamid

— discontinuous acrylic fibre : 7·2 %,

— continuous filament tow of acrylic fibres : 26·8 % ;

Badische Corporation

— discontinuous acrylic fibre : 5·8 % ;

Whereas with regard to injury it was found that the Community industry was 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 have 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 took place especially from the United States of America ; whereas the evidence available to the Commission shows that imports into the Community of acrylic fibres originating in the United States of America have increased from 7 611 tonnes in 1977 to 10 719 tonnes in 1978 representing an increase of 41 %, and to 4 301 tonnes in the first quarter of 1979 ; whereas on the basis of current statistics continuous filament tow represents approximately 60 % and discontinuous acrylic fibre represents 40 % of American imports ; whereas the American market share has nearly doubled since 1977 from 1·7 % in 1977 to 3·4 % in the first three months of 1979 ;

Whereas US imports are concentrated in Italy which, for the first quarter of 1979, received almost 75 % of American exports to the Community ; whereas these exports to Italy have increased from 1 794 tonnes in 1977 to 6 225 tonnes in 1978 representing an increase of 246 % and to 3 181 tonnes for the first quarter of 1979 indicating an annual increase of 104 % compared with 1978 ; whereas the market share of these imports has increased from 1·1 % in 1977 to 2·9 % in 1978 and to 6·0 % for the first three months of 1979 ; whereas these increased American exports to Italy have been at extremely low prices undercutting Italian producers by approximately 25 % ; whereas this has resulted in a loss of orders for Italian producers 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 artifically low American prices ;

Whereas therefore there is sufficient evidence to show that the dumped imports originating in the USA undermine the process of recovery of Community producers ; whereas, consequently, these imports constitute injury to a Community industry ;

Whereas, for these reasons, several Member States requested the Commission to take immediate provisional measures in accordance with Article 15 (1) (c) of Regulation (EEC) No 459/68 ;

Whereas in these circumstances the interests of the Community call for immediate intervention consisting in the imposition of a provisional anti-dumping duty on imports of acrylic fibres originating in the United States of America the rate of which, having regard to the extent of injury caused, should be equal to the dumping margins provisionally established ;

Whereas one of the American exporters of acrylic fibres, the Badische Corporation, Williamsburg, Virginia, USA, has meanwhile voluntarily undertaken to increase its prices ; whereas consultations are taking place within the Advisory Committee as provided for

in Article 12 of Regulation (EEC) No 459/68 as to the advisability of accepting this undertaking and it is consequently appropriate to exclude this company for the time being from the application of this provisional duty;

Whereas the only other known American exporter of acrylic fibres to the Community, E. I. Dupont de Nemours and Company, Wilmington, Delaware, USA, has not been alleged to be dumping; whereas, moreover, the information received by the Commission was sufficient to satisfy it that there was no evidence of dumping or injury and it is consequently appropriate to exclude this firm from the application of this provisional duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on discontinuous acrylic fibre falling within Common Customs Tariff subheading ex 56.01 A and corresponding to NIMEXE code 56.01-15 and continuous filament tow of acrylic fibre falling within Common Customs Tariff subheading ex 56.02 A and corresponding to NIMEXE code 56.02-15, both originating in the United States of America.

2. This duty does not apply to acrylic fibres produced and exported by the Badische Corporation, Williamsburg, Virginia, USA, and E. I. Dupont de Nemours and Company, Wilmington, Delaware, USA.

3. The rate of the duty shall be 26·8 % on continuous filament tow of acrylic fibre and 7·2 % on discontinuous acrylic fibre.

4. The provisions in force for the application of customs duties shall apply for the application of this duty.

5. The entry of the product referred to in paragraph 1 into free circulation shall be conditional upon the deposit of security for the amount of the provisional duty.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Without prejudice to the provisions of Article 18 of Regulation (EEC) No 459/68, or to any different decision taken by the Council the present Regulation shall apply for a maximum period of three months or until such time as a different decision taken by the Council enters into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 November 1979.

For the Commission

Wilhelm HAFERKAMP

Vice-President