COMMISSION REGULATION (EEC) No 1631/83

of 15 June 1983

imposing a provisional anti-dumping duty on imports of certain glass textile fibres (rovings) originating in Czechoslovakia, the German Democratic Republic and Japan, accepting a price undertaking from one Japanese exporter and terminating the proceeding in respect of imports of certain glass textile fibres (mats), originating in Czechoslovakia and the German Democratic Republic

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), as amended by Regulation (EEC) No 1580/82 (2), and in particular Articles 10 and 11 thereof,

After consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Procedure

(1) In August 1982, the Commission received a complaint lodged by the International Rayon and Synthetic Fibres Committee (CIRFS) on behalf of nine Community producers whose collective output constitutes all Community production of the products in question. The complaint contained evidence of dumping and of material injury resulting therefrom which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the initiation of an anti-dumping proceeding concerning imports into the Community of continuous glass textile fibres (rovings) falling within subheading 70.20 ex B of the Common Customs Tariff (NIMEXE code 70.20-70), originating in Czechoslovakia, the German Democratic Republic and Japan, and mats (strands cut into lengths greater than 40 mm) falling within subheading 70.20 ex B of the Common Customs Tariff (NIMEXE code 70.20-80), originating in Czechoslovakia and the German Democratic Republic and commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned and the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(3) The majority of the exporters and importers have made their views known in writing. Two exporters and several importers have requested and been granted oral hearings. Submissions were made by two representatives of the exporting countries as well as by certain processors of the products.

(4) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following Community producers : Bayer AG, Federal Republic of Germany ; Gevetex Textilglas GmbH, Federal Republic of Germany ; Owens Corning Fibreglas Europe SA, Belgium, Silenka BV, Netherlands ; Fiberglass Limited, United Kingdom ; TBA Industrial Products Ltd, United Kingdom ; Vetrotex Italia, Italy ; Vetrotex Saint-Gobain, France ; Owens Corning Fiberglas France SA, France, and the following importers : Vicon Polyester BV, Netherlands ; Fibron W.M. GmbH, Federal Republic of Germany, Menzolit Werke, Federal Republic of Germany ; MBG, Federal Republic of Germany ; Centraver, France.

(5) The Commission investigation of dumping covered the period November 1981 to October 1982.

B. Normal value

(6) The Commission provisionally determined normal value for Japanese exports on the basis of domestic prices of Nippon Electric Glass Co. sufficient evidence of which has been submitted to the Commission.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 310, 27. 11. 1982, p. 2.

(7) In order to establish whether the imports from Czechoslovakia and the German Democratic Republic were dumped, the Commission had to take account of the fact that these countries do not have market economies and the Commission therefore had to base its determinations on the normal value in a market-economy country.

In this connection the complainants had suggested the Japanese market. The two exporters and several importers objected to this suggestion because they considered this comparison inappropriate and unreasonable due to the fact that the average prices quoted for the Japanese market were partially based on different types of glass textile fibres from those exported by Czechoslovakia and the German Democratic Republic. However, the German Democratic Republic exporter was unable to suggest an alternative market-economy country while the Czechoslovakian exporter proposed Finland as an alternative market-economy country.

(8) In view of those objections, the Commission studied the possibility of using Finland or the United States as the analogue country. It was found that in the United States there are production processes similar to those used in the exporting countries, that there is production on a substantial scale and that there is strong internal competition between the three major independent producers which ensures that price levels are in a reasonable proportion to production costs in contrast with Finland where there is one producer and no assurance of a reasonable proportion between price levels and production could be obtained. On the basis of contacts with the US producers and an inspection carried out at the premises of two US producers representing more than 65 % of the US free market, the Commission concluded that it would be appropriate and not unreasonable to determine normal value on the basis of domestic prices in the United States of America.

C. **Export price**

(9) Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

D. **Comparison**

(10) In comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability, whereas these adjustments concerned mainly delivery terms, payment terms, transport and insurance costs. All comparisons were made on ex-works level.

E. **Margins**

(11) The above preliminary examination of the facts shows the existence of dumping in respect of exports from Czechoslovakia, the German Democratic Republic and Japan, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

(12) These margins vary according to the exporter, the importing Member State and the type of glass textile fibre concerned. The weighted average margin for each of the exporters investigated for glass textile fibre in rovings was as follows: 66,03 % for Czechoslovakia, 77 % for the German Democratic Republic and 21,25 % for Japan. The weighted average margin for each of the exporters investigated for glass textile fibre in mats was as follows: 85,52 % for Czechoslovakia and 87,90 % for the German Democratic Republic.

(13) For those Japanese exporters who neither replied to the Commission's questionnaire nor made themselves known otherwise in the course of the preliminary investigation, dumping was determined on the basis of the facts available. In this connection the Commission considered that the results of its investigation provided an accurate basis for determination of the level of dumping and that it would constitute a bonus for non-cooperation to assume that the dumping margin for these exporters was any lower than the dumping margin of 21,25 % determined with regard to the exporter who had cooperated fully.

F. **Injury**

(14) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Czechoslovakia, the German Democratic Republic and Japan of glass textile fibre in rovings increased from 4 333 tonnes in 1978 to 7 050 tonnes in 1982 with a consequent increase in market share held by the exporting countries from 8,3 to 13 % for the same period while the imports into the Community from Czechoslovakia and the German Democratic Republic of glass textile fibre in mats increased from 654 tonnes in 1978 to 1 246 tonnes in 1982 with a consequent increase in market share held by the exporting countries from 1,5 to 3 % in the same period and despite the fact that the Community industry total reinforcement production fell from

187 097 tonnes in 1979 to 135 469 in 1982, a decrease in average monthly production over the period of 27,6 %, while the average utilization of production capacity has fallen from 69 to 53 % over the same period.

(15) Community producers' sales of the products in question fell from 83 029 tonnes in 1979 to 66 316 tonnes in 1982 with a consequent decrease in market share held by Community producers from 86 to 75 % in the same period.

(16) The weighted average resale prices of imports from Czechoslovakia, the German Democratic Republic and Japan undercut the prices of the Community producers during the investigation period by margins varying from 17 to 49 %. The resale prices of these imports were in most cases lower than the variable production costs of the Community industry and in all cases lower than the total production cost.

(17) The evidence available to the Commission shows that the Community producers competing in this market have been unable to raise their selling prices sufficiently to cover increases in production costs in their attempts to maintain their market share and to compete with low priced imports especially of glass textile fibre in rovings. The losses thus incurred have multiplied in the last two years. Two plants, one in the United Kingdom and one in the Federal Republic of Germany have closed since 1981 because losses had become economically intolerable.

(18) The Commission has considered whether injury has been caused by other factors such as stagnation of demand and over capacity.

(19) Imports of the products in question originating in other third countries have increased significantly, especially imports of glass textile fibres in mats where their market share increased from 8 % in 1979 to 21 % in 1982 while the market share of glass textile fibre in rovings increased from 8 to 13 % in the same period.

(20) Consumption in the Community for glass textile fibre in rovings increased by 8,3 % between 1979 and 1982. However, consumption in the Community for glass textile fibre in mats decreased by 27,6 %.

(21) It has been acknowledged by the Community producers that since 1976, there has been between 30 % and 40 % over capacity for these products in the EEC.

(22) For imports of glass textile fibre in mats, the Commission has concluded that the decrease in consumption and the increase in volume of imports from other countries far outweigh the relatively limited effects of dumping. Consequently, the injury caused by imports of glass textile fibres in mats from Czechoslovakia and the German Democratic Republic cannot be qualified as material.

(23) Therefore, the proceeding in respect of imports of certain glass textile fibres (mats) originating in Czechoslovakia and the German Democratic Republic should be terminated.

(24) For imports of glass textile fibre in rovings, although the volume of imports from third countries is nearly as high as the volume of the dumped imports, Czechoslovakia, the German Democratic Republic and Japan are by far the largest suppliers to the Community and have substantially increased their sales at very low prices. Therefore, the Commission, even taking account of over capacity, came to the conclusion that for rovings the impact has to be qualified as constituting material injury to the Community industry concerned.

G. **Community interest**

(25) The interests of the Community have been taken into consideration. The Community processing industries have argued that the introduction of protective measures would not be in the Community interest because it would affect their competitive position ; in view of the serious difficulties facing the Community industry, in particular the closure of two plants and the danger that other plants may close too, the Commission has, however, come to the conclusion that it is in the Community's interests that action be taken and provisional duty be imposed in order to prevent injury being caused during the investigation.

(26) Nippon Electric Glass Co. and C. Itoh & Co. Ltd of Japan have offered undertakings. The Commission considers these undertakings to be acceptable. No objection to this course was raised within the Advisory Committee.

H. **Rate of duty**

(27) The rate of such duty, having regard to the extent of injury caused, should be less than the dumping margins provisionally established but adequate to remove the injury caused.

(28) Having compared the Community producers' weighted average prices and costs, taking account of their profit situation, with the individual importers' costs and special marketing conditions, where available, and making allowances for quality differences, and differences in conditions and terms of sales where necessary, the Commission has concluded that the provisional anti-dumping duty should be the amount by which the free-at-Community-frontier price, before duty, is less than 0,97 ECU per kilogram for glass textile fibre in rovings.

(29) A period should be fixed within which the parties concerned may make their views known and request an oral hearing,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on continuous glass textile fibres (rovings) falling within subheading 70.20 ex B of the Common Customs Tariff (NIMEXE code 70.20-70), originating in Czechoslovakia, the German Democratic Republic and Japan.

2. The amount of the duty shall be equal to the amount by which the price per kilogram free-at-Community-frontier before duty is less than 0,97 ECU.

The free-at-Community-frontier prices shall be net if the conditions of sale provide for payment within 30 days from the date of shipment ; they shall be reduced or increased by 1 % for each increase or decrease of one month in the period for payment.

3. The duty shall not apply to products originating in Japan produced by Nippon Electric Co., Otsu, Japan and exported by C. Itoh & Co. Ltd, Osaka, Japan.

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

5. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

The anti-dumping proceeding concerning imports of continuous glass textile fibres (mats) falling within subheading 70.20 ex B of the Common Customs Tariff (NIMEXE code 70.20-80), originating in Czechoslovakia and the German Democratic Republic is hereby terminated.

Article 3

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 3017/79, the parties concerned may make known their views and apply to be heard orally by the Commission within in one month of the entry into force of this Regulation.

Article 4

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, it shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 15 June 1983.

For the Commission

Wilhlem HAFERKAMP

Vice-President