COUNCIL REGULATION (EEC) 3540/83

of 14 December 1983

imposing a definitive anti-dumping duty on imports of certain glass textile fibres (rovings) originating in the German Democratic Republic and Czechoslovakia

THE COUNCIL 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 Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee set up under the above Regulation,

Whereas :

A. Provisional action

(1) The Commission, by Regulation (EEC) No 1631/83 (3), imposed a provisional anti-dumping duty on imports of certain glass textile fibres (rovings) originating in Czechoslovakia, the German Democratic Republic and Japan and terminated the proceedings concerning certain textile fibres (mats) originating in Czechoslovakia and the German Democratic Republic, no injury having been caused by these imports during the period under review. The duty was extended for a further maximum period of two months by Regulation EEC No 2876/83 (4) at the request of the exporters concerned.

B. Subsequent procedure

(2) Following the imposition of the provisional anti-dumping duty the Czechoslovakian and the German Democratic Republic exporters, certain importers and Community producers concerned requested, and were granted, an opportunity to be heard by the Commission. Other exporters and importers made written submissions making known their views on the duty.

(3) The exporters and main importers requested to be informed of certain facts and essential considerations on the basis of which it was intended to recommend definitive action and these requests were granted.

(4) The main arguments put forward by the parties and considered by the Commission since the imposition of the provisional measures concerned the comparability of the products involved and the injury caused by the dumped imports.

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(5) It was argued by the Czechoslovakian and German Democratic Republic exporters and several importers that the products in question originating in these two countries, the products manufactured in the United States, which were used to determine the normal value, and the products manufactured by the Community producers were not like products within the meaning of Article 2 (12) of Regulation (EEC) No 3017/79. This argument was supported by a considerable amount of evidence such as technical comments, studies made by experts and letters from users of these products. The Community producers refuted this argument and provided evidence to demonstrate that the products were indeed like products within the meaning of the said Regulation.

(6) The Commission, after careful examination of all relevant arguments, concluded that as regards physical characteristics the products closely resembled one another and that, in a great majority of cases, they could be used for the same applications irrespective of the country of origin. Therefore, the Commission concluded that they were like products, but granted certain allowances for quality differences and differences in conditions and terms of sale. Based on the information received, these allowances were set at 10 % of the selling price for Czechoslovakia and 15 % of the selling price for the German Democratic Republic.

D. Dumping

(7) Consequently the preliminary determinations of dumping should be modified with respect to Czechoslovakia and the German Democratic Republic. The dumping margins now amount to 56,03 % for Czechoslovakia and 62 % for the German Democratic Republic.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No L 160, 18. 6. 1983, p. 18.
(4) OJ No L 283, 15. 10. 1983, p. 1.

(8) No new evidence on dumping with respect to Japan has been received since the imposition of the provisional duty and the findings on dumping as set out in Regulation (EEC) No 1631/83 are therefore considered to be definitive.

E. Injury

(9) With regard to the injury suffered by the Community industry, the main arguments put forward by the interested parties were that low price imports from other third countries have increased substantially in recent years and are comparable to the volume of the dumped imports. It has been found, however, that the prices of these imports are significantly higher than the prices of imports from the countries in question.

F. Community interest

(10) Community processing industries which use glass textile fibres as input materials have continued to argue that the introduction of protective measures was not in the Community's interest because it would make them less competitive.

(11) In view however, of the particularly serious losses which the Community producers are incurring in the production and sale of the products concerned and in order to avoid the danger that other plants may close in addition to the two already closed since 1981, the Council has come to the conclusion that on balance it is in the Community's interests that action be taken. In these circumstances, protection of the Community's interests call for the imposition of anti-dumping measures for imports of glass textile fibres (rovings) originating in Czechoslovakia, the German Democratic Republic and Japan.

G. Amount of definitive duty

(12) For the provisional duty the Commission had fixed the level required to eliminate injury at the amount by which the free-at-Community-frontier net price, before duty, was less than 0,97 ECU per kilogram. Community industry argued that this price was too low because the unit cost of Community producers' products would still be higher than the likely resale price of the imports following imposition of the provisional duty.

(13) Accordingly, the production costs of each Community producer were reexamined and the more detailed product-by-product cost information confirmed that unit production costs were higher than the resale prices of the imports and that an increase of the duty was necessary.

(14) Having therefore compared the Community producers' weighted average prices and costs, account being taken of their profit margins with the individual importers' costs and special marketing conditions, where available, and having made allowances for quality differences and differences in conditions and terms of sale where necessary, it has been concluded that the definitive anti-dumping duty should be the amount by which the free-at-Community-frontier net price, before duty, is less than 1,07 ECU per kilogram for glass textile fibres (rovings).

H. Undertakings

(15) Undertakings were offered by the Czechoslovakian exporter, Glassexport Co. Ltd and the Japan Glass Fibre Association in the name of all its members. In the case of Japan, there were no exports to the Community during the investigation period, other than the exports of Nippon Electric Co. which had offered an acceptable price undertaking before the imposition of the provisional duty and which was consequently excluded from the provisional measures taken ; the other Japanese producers declared that they have no intention to export in the near future but that, if and when they export to the Community, the price of these exports will not be at dumping level. After consultation, the Commission took the view that this undertaking could be accepted and that, as a result, the proceedings concerning Japan could be terminated.

(16) With regard to Czechoslovakia, the effect of the price undertaking offered by the sole exporter could not be to increase the prices of exports to the Community to the level necessary to eliminate the injury found. This being so, application of a definitive duty is called for, both with regard to imports from the German Democratic Republic and to those from Czechoslovakia.

I. Collection of provisional duty

(17) In view of the extent of the dumping and injury found and the critical situation of the Community industry, the amounts secured by way of provisional anti-dumping duties should be definitively collected,

HAS ADOPTED THIS REGULATION :

Article 1

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

2. The amount of the duty shall be equal to the amount by which the free-at-Community-frontier net price, before duty, is less than 1,07 ECU per kilogram.

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 increased or reduced by 1 % for each increase or decrease of one month in the period for payment.

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

Article 2

The sums secured by way of provisional anti-dumping duty under Regulation (EEC) No 1631/83 shall be definitively collected.

Article 3

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

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

Done at Brussels, 14 December 1983.

For the Council

The President

C. SIMITIS