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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 485/83

of 28 February 1983

amending Regulation (EEC) No 1100/80 imposing a definitive anti-dumping duty on certain acrylic fibres originating in the United States of America

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 consultation with the Advisory Committee established by the above Regulation,

Whereas the Council, by Regulation (EEC) No 1100/80 (3), imposed definitive anti-dumping duties on imports of certain acrylic fibres originating in the United States of America ;

Whereas the duty imposed for discontinuous acrylic fibres (corresponding to NIMEXE code 56.01-15) was 13,7 % and that for continuous filament tow of acrylic fibre (corresponding to NIMEXE code 56.02-15) 17,6 % ;

Whereas four exporters were exempt from the relevant definitive duties, three of them because sales of the producers concerned were not made at dumped levels and one because it had offered an acceptable price undertaking ;

Whereas the Commission has since received a request from American Cyanamid Company, Wayne, New Jersey, United States of America, to review the duty in so far as it applies to it and this company has provided evidence that recent price developments on both the United States and the Community markets have significantly changed the market conditions since the imposition of the definitive duty ;

Whereas, since the said information provided sufficient evidence to justify a review of the proceeding, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (4), a review of the definitive anti-dumping duties on imports of certain acrylic fibres originating in the United States of America and commenced an investigation of the matter at Community level ;

Whereas the Commission officially so advised the exporters known by it to be concerned as well as the representatives of the exporting country and the complainants ;

Whereas the Commission has afforded the parties directly concerned the opportunity to make known their views in writing and to be heard orally ;

Whereas all exporters known to be concerned took this opportunity to present written and oral observations ;

Whereas the Commission sought and verified all information it deemed to be necessary for the purposes of the review procedure and carried out investigations at the premises of the following :

Community producers :

Hoechst AG, Frankfurt

Courtaulds Ltd, Bradford

Società Italiana Prodotti Acrilici, Milan

Snia Fibre SpA, Milan

Vomvix SA, Athens

Bayer AG, Leverkusen

Anicfibre SpA, Milan

Exporters :

Badische Corp., Williamsburg, Virginia

American Cyanamid, Wayne, New Jersey ;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No L 114, 3. 5. 1980, p. 37.
(4) OJ No C 140, 3. 6. 1982, p. 8.

Whereas the written submission of certain of the companies who had requested that their products be exempted from the investigation indicated that they had exported small quantities of special types of acrylic fibre which were completely different from the types to which the definitive duties apply ; whereas a comparison could therefore not be made and further investigation as regards these companies was accordingly not undertaken ;

Whereas the Commission selected the period from 1 January 1981 to 30 June 1982 as the relevant investigation period ;

Whereas, for American Cyanamid and Badische, normal values were established by taking weighted average prices of their domestic sales ; whereas profitability of these prices was established for both companies in the domestic market in all relevant instances ;

Whereas American Cyanamid claimed that certain 'research and development' and 'corporate debt' expenses should be deducted from the domestic sales price ; whereas the Commission rejected these claims on the grounds that insufficient evidence in their support had been provided ;

Whereas Badische, which had offered an acceptable price undertaking during the previous investigation, when showing profitability of its domestic prices, claimed that the allocation of the fixed costs to the fibres activity should be based on the fixed costs actually utilized rather than on the full standard fixed costs ; whereas the Commission accepted this claim in view of the present low utilization of capacity of the world acrylic fibre industry ;

Whereas export prices were determined on the basis of the prices actually paid or payable for the products exported to the Community during the period of investigation ;

Whereas, in comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability such as differences in transport costs, payment terms and so on ; whereas all comparisons were made at an ex-works level ;

Whereas the above examination of the facts showed that no dumping existed in the case of American Cyanamid and that Badische had respected its price undertaking ;

Whereas, for those exporters who did not make themselves known in the course of the review investigation, the Commission considered that it would constitute a bonus for non-cooperation to assume that the dumping margins for these exporters were any lower than the dumping margins determined in the original investigation ;

Whereas, as regards injury, the Commission received no new evidence to alter its view that the continued application of the existing duty was necessary in order to eliminate injury and to prevent its recurrence ;

Whereas, in the circumstances, no alteration to the definitive duties is required ;

Whereas, after being informed of the findings of the investigation, American Cyanamid has offered an undertaking not to export in the future at prices below the prevailing normal value at the time of export ; whereas the Commission, having consulted the Member States, considers this undertaking to be acceptable and that exports made by this company should now be excluded from the duties ;

Whereas the Commission has also reviewed the undertaking of Badische accepted by it in Regulation (EEC) No 2712/79 (1) ; whereas the Commission has concluded that this undertaking should be modified in order to be effectively controlled and to take account of current market prices ; whereas the company has agreed to this modification and has offered a new undertaking to replace the original one which the Commission, after consultation with the Member States, considers acceptable ; whereas Badische should continue to be excluded from the application of the duty,

HAS ADOPTED THIS REGULATION :

Article 1

Article 3 of Regulation (EEC) No 1100/80 is hereby replaced by the following :

'Article 3

The definitive anti-dumping duty instituted by Article 1 shall not apply to acrylic fibres produced and exported by :

— Badische Corporation, Williamsburg, Virginia, USA,

— E. I. Dupont de Nemours and Company, Wilmington, Delaware, USA,

— Eastman Chemicals Division of Eastman Kodak Company, Kingsport, Tennessee, USA

(1) OJ No L 308, 4. 12. 1979, p. 11.

(exported by Eastman Chemical International AG, Zug, Switzerland),

— Monsanto International Sales Company, Missouri, USA,

— American Cyanamid Company, Wayne, New Jersey, USA.'

Article 2

This Regulation shall enter into force on the day following 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, 28 February 1983.

For the Council

The President

F. ZIMMERMANN