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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3017/92

of 19 October 1992

modifying the anti-dumping duties following the review of the anti-dumping measures applicable to imports of synthetic polyester fibres originating in Romania, Taiwan, Turkey and the Republics of Serbia and of Montenegro and the former Yugoslav Republic of Macedonia and terminating the said review in respect of imports of synthetic polyester fibres originating in Mexico and 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 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Community (1), and in particular Article 14 thereof,

Having informed the EEC-Turkey Association Council pursuant to Article 47 (2) of the Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey (2),

Having regard to the proposal from the Commission, presented after consultations within the Advisory Committee as provided for by the Regulation,

Whereas :

A. PROCEDURE

(1) Under Regulation (EEC) No 3946/88 (3) the Council imposed a definitive anti-dumping duty on imports of synthetic polyester fibres originating in Mexico, Romania, Taiwan, Turkey, the United States of America and Yugoslavia.

(2) In March 1990 the Commission received a request for a review from the 'Association of Importers of Synthetic Polyester Fibres'; requests for a review had also come from exporters of this product in Mexico, Romania and the United States of America.

(3) Having decided, after consultations, that there was sufficient evidence to justify a review, the Commission decided to institute a full review of Regulation (EEC) No 3946/88, in accordance with Article 14 of Regulation (EEC) No 2423/88, and opened an investigation (4).

(4) The Commission officially notified the exporters and the Community importers and producers known to be concerned and gave them the opportunity to make known their views in writing and to request a hearing.

There were found to be no producers/exporters in the Republics of Slovenia, Croatia and Bosnia-Herzegovina. Anti-dumping measures should therefore be restricted to the Republics of Serbia, Montenegro and the former Yugoslav Republic of Macedonia.

(5) Exporters, importers and the International Rayon and Synthetic Fibres Committee (IRSFC) made known their views in writing. Some of them requested and were granted hearings.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No L 293, 29. 12. 1972, p. 3.
(3) OJ No L 348, 17. 12. 1988, p. 49.
(4) OJ No C 230, 15. 9. 1990, p. 3.

(6) The Commission sought and verified all information it considered necessary for a preliminary determination of dumping and injury. It inspected the premises of the following companies

— **Community producers :**

— Du Pont de Nemours GmbH, Germany,
— Enka AG, Germany,
— Hoechst AG, Germany,
— Enichem Fibre SpA, Italy,
— Montefibre SpA, Italy,
— Nurel SA, Spain,
— La Seda de Barcelona SA, Spain,
— Rhône Poulenc SA, Spain,
— Brilen SA, Spain,
— Finicisa Fibras Sinteticas SA, Portugal,
— Akzo NV, Netherlands,
— Rhône Poulenc Fibres SA, France,
— Wellman International Ltd, Ireland ;

— **Community importers :**

— Hugo Bartram KG, Germany,
— Jochen von Grundherr, Germany ;

— **Non-Community producers**

(a) *Taiwan*

— Chung Shing Textile Co., Ltd, Taipei,
— Far Eastern Textile Ltd, Taipei,
— Nan Ya Plastics Corporation, Taipei,
— Shinkong Synthetic Fibres Corporation, Taipei,
— Tainan Spinning Co., Ltd, Tainan,
— Tuntex Distinct Corporation, Tainan ;

(b) *Turkey*

— Sasa, Artificial and Synthetic Fibres Inc., Adana, exporting through an affiliated company, Exsa, Adana,
— Sönmetz Filament, Bursa ;

(c) *Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia*

— Hemteks, Skopje ;

(d) *Mexico*

— Celanese Mexicana SA, Mexico,
— Crisal Textil SA, Mexico,
— Fibras Sinteticas SA, Monterrey,
— Kimex SA, Mexico,
— Nylon de Mexico, Mexico ;

(e) *United States of America*

— Eastman Chemical Products Inc., Kingsport TE,
— E.I. Du Pont de Nemours and Co., Wilmington DE,
— Hoechst Celanese Fibres, Inc., Charlotte NC,
— Wellman Inc., Johnsonville,
— Martin-Color-Fi Inc., Edgefield,
— Gates Formed-Fibre Product Inc., Auburn,
— Foss Manufacturing Company Inc., Hampton,
— Bollag International Corporation, Newell, NC,
— Carter, Moore & Co., Inc., New York.

(7) The Commission received, and made use of, information from importers, producers in the exporting countries and Community producers.

(8) Producers/exporters were notified of the main facts and considerations on the basis of which it was proposed to recommend the imposition of definitive measures. They were also given time in which to present their comments following receipt of this information. Their comments were studied and, where appropriate, taken into account by the Commission in drawing up its conclusions.

(9) The investigation into dumping practices concerned the period 1 January to 31 August 1990.

B. REVIEW UNDER ARTICLE 14 OF REGULATION (EEC) NO 2423/88

(10) As regards injury, a fall in imports and/or an improvement in the economic and financial situation of the Community industry is taken into consideration only if it results from factors other than the anti-dumping measures in force.

C. PRODUCT

1. Product description

(11) The product is the same as that described in Regulation (EEC) No 3946/88.

(12) The product under investigation is synthetic staple fibres of polyesters, not carded, combed or otherwise processed for spinning, covered by CN code 5503 20 00, and hereinafter referred to as synthetic polyester fibres.

This product is a raw material used in various stages of textile production, depending on the nature of the textiles to be produced. Some 60 % of the synthetic polyester fibres consumed in the

Community are used for spinning yarn to make fabric, mixed, where necessary, with other fibres such as wool or cotton. About 40 % is used as wadding for stuffing certain textile products (cushions, car seats, anoraks, and the like), including other non-spun applications such as carpet manufacture.

(13) Although the potential use and quality of synthetic polyester fibres can vary, there is no significant difference in the basic physical characteristics, consumer perception or marketing of the various types of synthetic polyester fibres under consideration. They may therefore be grouped as one product for the purposes of this proceeding.

Importers raised the question whether a distinction should not be drawn between synthetic polyester fibres used for wadding and other fibres because of the different application. Such a distinction was not acceptable, however, because it was only possible following industrial processing. Before processing, all types of synthetic polyester fibres generally have the same physical characteristics.

Some exporters and importers also asked for synthetic polyester fibres with specific characteristics, such as fire-resistant or bicomponent fibres, to be considered a different product and excluded from the scope of this proceeding, since such fibres were much higher priced than the others. The investigation showed, however, that although there were several types of synthetic polyester fibres with different characteristics corresponding to specific purposes, the basic physical characteristics, application and use were the same as other synthetic polyester fibres. Furthermore, the market for the product is made up of different classes of synthetic polyester fibres which overlap without there being a clear distinction between them. These additional characteristics of so-called 'special fibres' do not, therefore, make them different, and they should fall within the scope of this review.

2. Like products

(14) The Commission found that synthetic polyester fibres produced in the Community and those sold on the domestic markets of Taiwan ; the Yugoslav Republics of Serbia and of Montenegro and the former Yugoslav Republic of Macedonia ; Turkey, Romania, the United States of America and Mexico were like products as regards physical and technical characteristics to those exported by those countries to the Community.

D. DUMPING

1. Normal value

(a) *Taiwan*

(15) The Commission was able to establish that the three Taiwanese firms exporting to the Community had sold representative quantities of the product, equivalent, that is, to over 5 % of exports to the Community, on the domestic market. Since, however, the volume of profitable sales was negligible, the normal value had to be constructed on the basis of the cost of production and a reasonable profit margin.

The cost of production was computed on the basis of all costs, both fixed and variable, of materials and manufacture, plus a reasonable amount for selling and general and administrative expenses. Given a representative volume of domestic sales, the amount was calculated by reference to the expenses incurred by Taiwanese producers on sales of like products on the domestic market. As to the profit margin, the information available to the Commission indicated that there had been no representative profitable sales on the domestic market in the period under investigation. The Commission therefore established the profit margin on another reasonable basis, namely the profits made by the firms concerned over previous three years on all sales in the sector of each firm ; this margin varied between 6 % and 11 %.

(b) *The Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia*

(16) Since there had been sales of a representative quantity on the domestic market (over 5 % of exports to the Community), the normal value was calculated on the basis of prices actually paid or to be paid in the ordinary course of trade for the like product intended for consumption on the domestic market, net of all discounts and rebates.

(c) *Turkey*

(17) Since there had been sales of a representative quantity on the domestic market (over 5 % of exports to the Community), the normal value was calculated on the basis of prices actually paid or to be paid in the ordinary course of trade for the like product intended for consumption on the domestic market, net of all discounts and rebates.

(d) *Romania*

(18) In view of the fact that Romania cannot be classed as a market economy, the Commission had to base its calculations on the normal value of the product in question in a market economy country. The importers and the producer objected to Turkey, chosen in the previous investigation, but accepted Taiwan as a similar country. The Commission found that there were no significant differences between the two countries in the production process, scale of production or type of product, nor in the conditions of access to the main items of production cost. It accordingly decided that it was appropriate and not unreasonable to determine the Romanian normal value.

(19) As indicated in recital 15, the normal value for Taiwan had to be constructed. In this respect an importer of the Romanian product requested that the normal value thus established be adjusted on the grounds that Romania had a comparative advantage in terms of oil supplies, a raw material for the manufacture of polyester fibres. This request was not found to be justified. The investigation established that Taiwanese firms were able to obtain low-cost raw materials on the domestic market. Any advantage enjoyed by the Romanian producer was therefore not significant.

In constructing the normal value for Romania, the Commission based its calculations on the situation of the most efficient Taiwanese producer manufacturing the same type of product for the domestic market and for export. The Council believes that any comparative advantage has been taken fully into account, especially since the importer in question did not provide any precise figures in support of his request.

(e) *United States of America and Mexico*

(20) Given that the two countries' exports had not contributed to the injury (see recitals 30 and 31), the Commission thought it unnecessary to find out whether dumping had taken place.

2. Export prices

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

Where products were exported through subsidiaries or associates based in the Community, as in the case of the Turkish producer, export prices were calculated by the Commission on the basis of the price at wich they were resold to the first independent buyer, duly adjusted to take account of all costs incurred between import and resale, plus a margin deemed reasonable to cover general expenses and profit, given the profit margins of independent importers of the product in question.

3. Comparison

(22) In comparing the normal value with the export prices, transaction by transaction, the Commission, in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88, took account, where warranted, of the differences directly affecting price comparability, such as selling expenses — i.e. terms of credit, transport, insurance and handling costs, technical assistance, salaries of sales staff, and ancillary costs — where the claim was justified and the link direct. All comparisons were made at the ex-works stage and at the same level of trade.

(23) Regarding the export prices charged both by producers from Turkey and from the Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia, the Commission took account, in accordance with Article 2 (10) (b) of Regulation (EEC) No 2423/88, of the differences resulting from the import charges on raw materials, which varied according to whether the raw materials were used for production sold on the domestic market or for export to the Community. Adjustments were thus made in cases where refunds of duty were found to have been accorded, where such refunds concerned materials physically incorporated in the product exported to the Community.

4. Dumping margins

(24) The comparisons referred to above showed that dumping was taking place. The dumping margin calculated for each country or producer/exporter is

equal to the difference between the normal value and the price on export to the Community, duly adjusted.

The weighted average dumping margins for each of the countries or producers/exporters concerned, adjusted to free-at-Community-frontier prices, are as follows:

— *Taiwan:*

  — Nan Ya Plastics Corporation, Taipei 5,9 %,

  — Far Eastern Textile Ltd, Taipei 6,8 %,

  — Shinkong Synthetic Fibres Corporation, Taipei 13,0 %.

— *Romania:* 14,1 %.

— *The Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia:*

  — Hemteks, Skopje 15,6 %.

— *Turkey:*

  — Sasa, Artificial and Synthetic Fibres Inc., Adana 11,4 %.

(25) In the case of firms which failed to cooperate in the investigation or did not reply satisfactorily to the Commission's questionnaire, the dumping margin was determined on the basis of available information, in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88. The Commission considered the results of its investigation to be the most appropriate basis for determining the dumping margin and that the fixing of a margin lower than the highest margin determined for an exporter which cooperated with the investigation would reward failure to cooperate and make it possible to evade duty. It accordingly applied the highest appropriate margin to such firms. The Council supports this approach.

E. INJURY

(26) In accordance with Article 14 (1) of Regulation (EEC) No 2423/88, the investigation sought to determine whether any changes had occurred, for better or for worse, in the circumstances as a result of the behaviour of the exporters on the Community market or the situation of the Community industry, independently of the anti-dumping measures which are the subject of this review procedure.

(27) The Commission's findings are as follows:

1. Exporters' behaviour on the Community market

(a) *Cumulation*

(28) To measure the impact of dumped imports on the Community industry, it must first be ascertained whether the approach adopted in determining the measures under review, namely cumulation of all imports originating in the countries covered by the investigation, should be continued.

(29) Imports from Mexico stood at nearly 0,1 % in 1990. Although the mere fact that Mexican imports are insignificant after the imposition of anti-dumping measures does not of itself mean that the measures should be dropped or these imports not cumulated with other imports, the investigation found that the structure of the Mexican market, as analysed over a number of years, made it highly unlikely that exports to the Community would ever reach significant levels in future. In effect, Mexican production is mainly destined for the US market. Confirmation of this comes from the fact that although Mexico had sizeable production capacity between 1984 and 1990, its share of the Community market remained negligible, hovering around the 0,2 % to 0,5 % level, apart from a temporary increase of 1 % in 1987.

The Commission thus believes that imports from Mexico would not rise significantly if anti-dumping duties were abolished and that there is little likelihood of further injury. This being so, the Commission finds that imports from Mexico should not be cumulated with those of the other countries concerned.

(30) Imports from the United States of America have fallen and accounted for no more than 0,8 % of the market in 1990. The investigation established that this trend is the result of circumstances other than the imposition of anti-dumping duties. First, the leading US producers responsible for most exports to the Community are not subject to such duties, and the duties imposed on others are relatively low. Furthermore, US production is focused on high-cost products for the domestic market. In these circumstances the export volume of the products in question is unlikely to have been affected by the anti-dumping duties. These exports are unlikely to contribute to injury in future. There are thus no grounds for cumulating imports from the United States of America with those of the other countries concerned.

(31) Imports from the other four countries concerned were substantial, those of Taiwan and Turkey in particular (respectively 4,2 % and 2 % market shares in 1990) can scarcely be regarded as negligible.

(32) Although the volume of imports from Romania and the Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia was significantly reduced after the imposition of anti-dumping measures — to a low level in the case of the latter and to a negligible level in the case of Romania — the only explanation for this drop was the anti-dumping measures.

Romanian and Serbian, Montenegrin and Macedonian exports have always been oriented towards the Community and they have held significant and constant market shares over the last six years. For those reasons, they still represent a threat. The effects of these imports should thus be cumulated with those of Taiwan and Turkey as they were at the time when the measures under review were imposed.

(33) The Council supports this approach.

(b) *Community consumption*

(34) The Community market remains relatively stable in size. It rose from 431 535 tonnes in 1988 to 441 033 tonnes in 1989, falling to 424 194 tonnes in 1990 (277 507 tonnes during the reference period).

(c) *Volume of imports*

(35) Following the introduction of anti-dumping measures in December 1988, the volume of imports of synthetic polyester fibres from the four countries in question fell from 44 000 tonnes in 1988 to 31 400 tonnes in 1990; in the case of Taiwan, imports rose from 12 000 tonnes in 1988 to 18 000 tonnes in 1990. The share of Community imports held by these countries shrank from 10,2 % in 1988 to 7,4 % in 1990.

(d) *Import prices*

(36) During the reference period the prices of these imports were lower than the prices of the relevant Community product, and caused a scale of undercutting ranging from 19 % to 25 % on average. It should be noted that this undercutting has been taking place even with anti-dumping measures in force.

2. Situation of the Community industry

(a) *Production capacity, utilization rate, stocks*

(37) Community production of synthetic polyester fibres fluctuated from 379 286 tonnes in 1988 to 428 147 tonnes in 1989 and 407 251 tonnes in 1990. Since production capacity rose from 432 903 tonnes in 1988 to 466 339 tonnes in 1989 and 471 723 tonnes in 1990, the utilization rate has remained fairly stable around 86 % — 88 %. Stocks over the same period rose by 94 % from 29 146 tonnes to 56 533 tonnes.

(b) *The Community industry's sales volume and market share*

(38) The quantity of synthetic polyester fibres sold in the Community by the Community industry rose from 337 424 tonnes in 1988 to 356 465 tonnes in 1989 but fell back to 330 310 tonnes in 1990 and stood at 220 207 tonnes during the reference period. The Community industry's market share developed as follows: 78,2 % in 1988, 80,8 % in 1989 and 79,4 % in 1990.

(c) *Price trends*

(39) A detailed analysis was made of the selling prices in the Community of polyester synthetic fibres produced by the Community industry and those of imports from the countries under investigation.

The investigation showed that, following the imposition of anti-dumping measures, prices in the Community rose from 1988 to 1989, and then fell to 1988 levels in 1990.

(d) *Profits*

(40) The Commission found that, overall, the Community industry had recorded poor financial results since 1988. Despite a slight improvement in 1989, the situation in the reference period had deteriorated. In 1990 only a few Community producers made a modest profit, while many others suffered heavy losses. A weighted average of the Community industry's results shows a loss of some 2,3 % over the reference period.

(e) *Employment and investment*

(41) Between 1988 and 1990 the Community industry shed 237 jobs, 5 % of its labour force, and investments were cut back and two factories closed.

3. Conclusions concerning a change in circumstances

(42) In light of the above, the Community industry's vulnerability in the face of declining sales and financial losses still requires protection against dumped imports originating in Taiwan, Romania, Turkey and the Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia. The imposition of the measures under review has not prevented continued undercutting of Community producers' prices by these exports, which have remained at an appreciable level. In these circumstances, there are no grounds for lifting the anti-dumping measures against these countries as requested by the importers' association. Indeed, the measures should be adjusted in the light of the evidence of dumping and injury emerging from this investigation. Imports originating in the United States of America and Mexico, in contrast, cannot be seen as a source of injury, now or in the future, for the reasons set out in recitals 29 and 30.

(43) Importers claimed that a review which examined the possibility of lifting existing measures could lead only to a downwards adjustment of the existing duties.

The Council cannot accept this argument. First, no such provision exists in the relevant Community legislation or in GATT's anti-dumping code. Such a rule would be contrary to the whole idea of a review instrument, as provided for in Regulation (EEC) No 2423/88. The aim of Article 14 is to adjust measures to changing circumstances, whether in connection with dumping or the resulting injury. It is thus irrelevant whether the request for a review comes from the importers, the exporters of the Community producers.

This applies with even greater force in that the Commission may at any moment review the measures and adjust them to changing circumstances without any request from an interested party.

F. LEVEL OF DUTY

1. Rate

(44) In order to determine the amount of duty to be levied, the Commission took account of the dumping margins observed and the level of duty required to eliminate the injury.

(45) In calculating the injury threshold, the Commission had to take account of the fact that the Community industry as a whole is making losses. The proposed measures therefore have to ensure that the industry can increase its prices to cover production costs and make a reasonable profit. Based on the profits realized in previous years and the industry's ongoing long-term investment requirements, 8 % was estimated to be a reasonable figure.

The Commission than calculated the price increases that would enable the Community industry to cover all its costs and make a profit of 8 %. The prices of the dumped imports were then increased by the figure thus calculated, expressed as a percentage of the weighted average price of their imports cif at the Community frontier.

The individual injury threshold for each exporter was obtained by adding the average increase thus calculated to the existing anti-dumping duty.

(46) These calculations produced an injury margin for each exporter, and will enable Community producers to raise prices to restore the industry to health.

(47) The dumping margin for Romanian, Serbian, Montenegrin, Macedonian, Turkish and Taiwanese producer/exporters was lower than the average injury calculated as above. In line with Article 13 (3) of Regulation (EEC) No 2423/88, this margin is the figure used to determine the rate of duty imposed on these exporters.

(48) Since there may be other producer/exporters who failed to reply to the Commission questionnaire, failed to make themselves known in any other way or failed to supply the information considered necessary by the Commission, it is necessary, for

the reasons set out in recital 25, to impose a duty calculated on the basis of the most appropriate available information. Consequently, the highest appropriate margin was applied to these firms.

(49) No duty will be levied on Mexican and United States producers, for the reasons set out in recitals 29 and 30.

(50) The Council confirms the above.

2. Form

(51) No argument was put forward to justify a change in the form of the anti-dumping under review. Consequently, it would seem appropriate for the *ad valorem* format to be retained.

G. COMMUNITY INTEREST

1. Situation of the Community industry

(52) To leave the Community industry without protection against this unfair competition would lead to a further deterioration in the situation. The injury already suffered by the Community industry in the past led to the imposition of the measures under review. As these measures have not eliminated the injury, the situation of the Community producers remains precarious. Any further deterioration would endanger jobs and investment in a sector on which many downstream industries depend.

2. Situation of the importers

(53) The importers argued that they are in a difficult position, since they are caught between large Community fibre producers on the one hand and, on the other, a powerful fibre-processing industry to which not all the effects of anti-dumping measures can be passed on. Consequently, any anti-dumping duty would cut importers' profit margins and threaten their very existence. The Council does not accept this argument. The allegations concerning the effect that the retention of anti-dumping measures would have on importers' competitive and financial situation were not substantiated. Given that the outcome of this review will be to discontinue some of the duties imposed in 1988 and to cut others, imports should, in some cases at least, become less expensive. Furthermore, the importers' arguments miss the point of anti-dumping measures, which is to restore healthy competition that is not distorted by unfair practices. This objective would be compromised if it were possible for importers to take advantage of such unfair competition.

3. Balancing the interests

(54) Having considered the arguments set out above, and the significant part played by the imports in question in the difficulties confronting the Community synthetic polyester fibre industry, the Council concludes that Community interest requires the retention of the anti-dumping measures previously imposed, readjusted in line with the conclusions of this enquiry.

H. NEWCOMERS

(55) For producers who are newcomers to the market, and who did not export during the reference period, the Commission is prepared to reexamine the situation if the exporters concerned can demonstrate, backed up by adequate proof, that they did not export to the Community during the period of the enquiry (recital 9), that they began to export after this period, and that they are not related or linked to any of the companies covered by this enquiry.

I. PERIOD OF VALIDITY OF THE REGULATION

(56) This Regulation should be considered an amendment to Regulation (EEC) No 3946/88 within the meaning of Article 15 (1) of Regulation (EEC) No 2423/88. The measures will therefore lapse after a period of five years starting from the date on which this Regulation enters into force.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EEC) No 3946/88 is hereby replaced by the following:

'Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of synthetic polyester fibres falling within CN code 5503 20 00 and originating in Taiwan, Romania, Turkey and the Republics of Serbia and Montenegro and the former Yugoslav Republic of Macedonia.

2. The duty, calculated on the basis of the free-at-Community-frontier price of the product, not cleared through customs, shall be :

— 13 % for polyester fibres originating in Taiwan (additional taric code 8195), with the exception of those produced by the companies listed below, to which the following rates shall apply :

  — Far Eastern Textile Ltd, Taipei 6,8 % (Additional taric code 8192)
  — Nan Ya Plastics Corporation, Taipei 5,9 % (Additional taric code 8193)
  — Shingkong Synthetic Fibres Corporation, Taipei 13,0 % (Additional taric code 8194)

— 15,6 % for polyester fibres originating in the Republics of Serbia and Montenegro, and the former Yugoslav Republic of Montenegro (Additional taric code 8263)

— 11,4 % for polyester fibres originating in Turkey (Additional taric code 8198)

— 14,1 % for polyester fibres originating in Romania (Additional taric code 8262).

3. The provisions in force concerning customs duties shall apply.'

Article 2

The definitive anti-dumping duties applicable to synthetic polyester fibres falling within CN code 5503 20 00 and originating in the United States of America and Mexico imposed by Regulation (EEC) No 3946/88, are hereby repealed and the proceeding with regard to these two countries is hereby terminated.

Article 3

This Regulation shall enter into force on the day following that 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 Luxembourg, 19 October 1992.

For the Council

The President

D. CURRY