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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 3203/93

of 22 November 1993

amending Regulation (EEC) No 738/92 imposing a definitive anti-dumping duty on imports of cotton yarn, originating in Brazil and Turkey

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European 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 Economic Community (1), and in particular Article 14 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee as provided for under the abovementioned Regulation,

Whereas :

A. PREVIOUS PROCEDURE

(1) By Regulation (EEC) No 738/92 (2) the Council imposed a definitive anti-dumping duty on imports of cotton yarn falling within CN codes 5205 11 00 to 5205 45 90 and 5206 11 00 to 5206 45 90, originating in Brazil and Turkey.

(2) In that Regulation the Council noted that the Commission would be ready to initiate without delay a review proceeding for the exporters who supplied sufficient evidence to the Commission that they had not exported the products concerned to the Community during the original investigation period (1 January to 31 December 1989), that they only started such exports after the said period or have a firm intention of doing so and that they are not related to, or associated with, any of the companies subject to the anti-dumping duty (so-called 'newcomers').

B. REVIEW

(3) Four Brazilian companies, Cocamar Ltda, Corduroy SA, Cotece SA, Norfil S/A and a Turkish company, Kula Mensucat Fabrikasi AS, made themselves known to the Commission, claiming that they had not exported the products concerned during the investigation period and only commenced doing so after that period. They also claimed that they were not related to any of the companies subject to the anti-dumping duties and requested that a newcomer review be opened.

(4) Those companies provided, on request, evidence of the facts they alleged. The evidence provided has been considered sufficient to justify the initiation of a review in accordance with the provisions of Articles 7 and 14 of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the basic Regulation'). By a notice published on 23 September 1992 (3), the Commission, after consultation of the Advisory Committee, initiated a review of Regulation (EEC) No 738/92 with regard to the five companies cited above and commenced its investigation.

C. RESULT OF INVESTIGATION

1. Normal value

(5) Normal value has been determined on the basis of the comparable price actually paid or payable in the ordinary course of trade for the like product intended for consumption in the country of origin when sales on the domestic market were representative and profitable.

When there were no such sales, normal value has been constructed in accordance with Article 2 (3) (b) (ii) of the basic Regulation by adding cost of production, including a reasonable amount for selling, general and administrative expenses and a reasonable margin for profit. In the case of non-profitable sales in Brazil, their margin was based on the average profit of the domestic sales of the product concerned of the other exporting producers.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No L 82, 27. 3. 1992, p. 1.
(3) OJ No C 244, 23. 9. 1992, p. 14.

2. **Export price**

(6) For three Brazilian producers and the Turkish producer, export prices were determined by the Commission on the basis of the prices actually paid for the cotton yarn sold for export to the Community.

In the case of one Brazilian producer which sold exclusively to a related importer in the Community, export prices were constructed pursuant to Article 2 (8) (b) of the basic Regulation and were therefore based on the price to the first independent customer in the Community, adjusted to take account of all costs incurred between importation and resale and for a reasonable amount of profit.

3. **Comparison**

(7) For the purpose of a fair comparison between normal value and export price, account was taken of differences affecting price comparability with Article 2 (9) and (10) of the basic Regulation, namely commissions, credit terms, transport, insurance, handling, packing and other ancillary costs. Export prices, on a transaction-by-transaction basis, were compared with normal value at ex works level, at the same level of trade.

4. **Dumping margin**

(8) The examination of the facts showed the existence of dumping with respect to the cotton yarn exported by the five companies. The margins of dumping, being equal to the amount by which normal value exceeds the price for export to the Community, expressed as a percentage of total cif value, were as follows:

— *Brazil*

— Cocamar Ltda:	12,3 %
— Corduroy SA:	11,7 %
— Cotece SA:	10,9 %
— Norfil SA:	8,7 %

— *Turkey*

— Kula Mensucat Fabrikasi AS:	8,4 %.

5. **Injury**

(9) No request for review of the findings on injury was made and there is no reason to doubt the validity of the injury findings in the original investigation.

D. **AMENDMENT OF THE REVIEWED MEASURES**

(10) In accordance with Article 13 (3) of the basic Regulation, the amount of anti-dumping duties should not exceed the dumping margin established and be less if such lesser duty would be adequate to remove the injury.

In the present case, since the dumping margins established are lower than the injury margins found in the original proceeding, the Commission considers that Regulation (EEC) No 738/92 should be amended and that the level of duty applicable to each of the five companies concerned should be the level of the dumping margins established (see recital 8).

(11) The five exporting companies and the complainant have been informed of those findings and have raised no objection.

(12) Since the review is limited to one Turkish and four Brazilian producers, it does not affect the date on which Regulation (EEC) No 738/92 will expire pursuant to Article 15 (1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 (2) of Regulation (EEC) No 738/92 is hereby amended as follows:

1. under (a) the following shall be added:

'Cocamar (Cooperativa de Cafeicultores e Agropecuaristas de Maringá Ltda)	12,3 %	8735
Corduroy SA (Indústrias Têxteis)	11,7 %	8736
Cotece SA	10,9 %	8737
Norfil S/A (Indústria Têxtil)	8,7 %	8738'

2. under (b) the following shall be added:

'Kula Mensucat Fabrikasi AS	8,4 %	8739'.

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, 22 November 1993.

For the Council

The President

Ph. MAYSTADT