COUNCIL REGULATION (EC) No 1828/94

of 25 July 1994

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 pursuant to 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 and originating in Brazil and Turkey.

(2) The Council, in that Regulation, noted that the Commission would be ready to initiate without delay a review proceeding for those exporters (so-called 'newcomers') who supplied sufficient evidence to the Commission that they did not export 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 had a firm intention of doing so and that they were not related to or associated with any of the companies subject to the anti-dumping duty.

B. REVIEW REQUEST

(3) The Commission has received applications for a review of the measures currently in force from three Turkish companies claiming that they satisfied the abovementioned criteria.

(4) Those companies provided, on request, evidence of the facts alleged which was 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. By a notice published on 11 May 1993 [3], the Commission, after consultation of the Advisory Committee, initiated a review of Regulation (EEC) No 738/92 with regard to the three companies concerned and commenced its investigation.

C. PRODUCT

(5) The product is cotton yarn (other than sewing thread) not put up for retail sale. The product under consideration includes types of cotton yarn, classified on the basis of the 'English count system'. This system is designed to classify cotton yarn according to its thickness.

The cotton yarns concerned fall under the following codes :

5205 : from 5205 11 00 to 5205 45 90 cotton yarn (other than sewing thread) containing at least 85 % by weight of cotton.

5206 : from 5206 11 00 to 5206 45 90 cotton yarn (other than sewing thread) containing at least 85 % by weight of cotton.

(6) The investigation period was set from 1 May 1992 to 30 April 1993.

D. RESULT OF INVESTIGATION

1. Newcomer

(7) The investigation showed that the companies concerned did not export cotton yarn to the Community during the original investigation period but that they now have a firm intention of exporting in accordance with the provisions of recital 34 of Regulation (EEC) No 738/92 (see recital 2).

(8) In addition, it was found that these companies had no link, either direct or indirect, with the exporters involved in the original procedure and for which dumping was found.

(9) Accordingly the quality of newcomer for the three companies is confirmed.

2. Normal value

(10) The companies involved had no sales of the product concerned on their domestic market as they either use it internally for making other products or did not sell the type of yarn they intended to export. Therefore, the Commission had

[1] OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).
[2] OJ No L 82, 27. 3. 1992, p. 1. Regulation as last amended by Regulation (EC) No 3203/93 (OJ No L 289, 24. 11. 1993, p. 1).
[3] OJ No C 131, 11. 5. 1993, p. 2.

to determine normal value by adding cost of production and a reasonable margin of profit. The cost of production has been computed on the basis of all costs, in the ordinary course of trade, both fixed and variable, in Turkey, of materials and manufacture, plus a reasonable amount for selling, administrative and other general expenses. The profit rate used was based on the average profit of the domestic sales of the product concerned of other exporting producers in the country of origin.

3. Export price

(11) The Commission has established the export price on the basis of the price payable to the exporters concerned for the product in question by independent importers in the European Union.

4. Comparison

(12) Export prices were compared with normal value on a transaction by transaction basis, at ex-works level and at the same level of trade.

5. Dumping margin

(13) The examination of the facts showed the existence of dumping, the margins being equal to :

— Safir Tekstil Sanayii ve Ticaret AS : 5,3 %,

— Örmesan Tekstil Sanayi ve Ticaret AS : 5,3 %,

— Gap Iplik Sanayi ve Ticaret AS : 5,2 %.

6. Injury

(14) No request for review of the findings on injury was made and no change of circumstances from the injury findings in the original investigation sufficient to justify such a review was apparent to the Commission.

E. AMENDMENT

(15) In accordance with Article 13 (3) of Regulation (EEC) No 2423/88, the amount of anti-dumping duties must not exceed the dumping margin established and should be less if such lesser duty would be adequate to remove the injury.

(16) 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 three companies concerned should be the level of the dumping margins established.

(17) The three exporting companies and the complainant have been informed of these findings and have raised no objection.

(18) Since this review is limited to three Turkish producers, it does not affect the date on which the measures imposed by Regulation (EEC) No 738/92 will lapse pursuant to Article 15 (1) of Regulation (EEC) No 2423/88,

HAS ADOPTED THIS REGULATION :

Article 1

In Article 1 (2) of Regulation (EEC) No 738/92 the following shall be added under (b) :

'Safir Tekstil Sanayii ve Ticaret AS :	5,3 %	8789,
Örmesan Tekstil Sanayi ve Ticaret AS :	5,3 %	8789,
Gap Iplik Sanayi ve Ticaret AS :	5,2 %	8790.'

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, 25 July 1994.

For the Council

The President

F.-CH. ZEITLER