COMMISSION REGULATION (EC) No 693/97

of 18 April 1997

initiating an investigation concerning the alleged circumvention of Council Regulation (EC) No 1490/96 on imports of polyester staple fibre originating in Belarus by imports of synthetic filament tow of polyester for conversion in the European Community and making the latter imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as amended by Regulation (EC) No 2331/96 [2], and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

A. REQUEST

(1) The Commission has received a request pursuant to Article 13 (3) of Council Regulation (EC) No 384/96 (hereafter 'the Basic Regulation'):

— to investigate the alleged circumvention of the anti-dumping duties, imposed by Council Regulation (EC) No 1490/96 [3] on imports of polyester staple fibre (hereafter 'PSF') originating in Belarus, by imports of polyester filament tow (hereafter 'PFT') originating in Belarus which would subsequently be converted in the Community into PSF,

— to make imports of such PFT subject to registration by the customs authorities pursuant to Article 14 (5) of the Basic Regulation, and

— to propose to the Council the extension, where justified, of the above anti-dumping duties to imports of this PFT.

B. APPLICANTS

(2) The request was lodged on 4 March 1997 by the International Committee of Rayon and Synthetic Fibres (CIRFS) on behalf of Community producers whose collective output is alleged to represent over 90 % of the total Community production of PSF.

C. PRODUCT

(3) The like product, through the importation and conversion of which the alleged circumvention is taking place, is PFT, falling within CN code 5501 20 00, which is used for conversion in the Community into PSF which is currently classifiable within CN code 5503 20 00. The request alleges that this conversion consists of a simple process of mechanical cutting of PFT into PSF and that the PFT originating in Belarus is exclusively used for conversion into PSF. The CN codes mentioned are given for information only and have no binding effect on the classification of the products.

D. EVIDENCE

(4) The request contains sufficient evidence, in accordance with Article 13 of the Basic Regulation, that the anti-dumping measures on imports of PSF originating in Belarus are being circumvented by means of imports of PFT originating in this country which are used in conversion operations in the Community which could be characterized as practices for which there seems to be insufficient due cause or economic justification other than the imposition of the anti-dumping duty.

(5) The evidence is as follows:

(a) A clear change has taken place in the pattern of trade between Belarus and the Community, particularly since March 1996 when the provisional anti-dumping measures on PSF from Belarus entered into force. In this respect, the request points out that imports into the Community of PSF from Belarus decreased from 3 979 tonnes in the period January to February 1996 to 338 tonnes in the period March to August 1996 (i.e. a decrease of 91,5 %), whereas during the same periods imports of PFT from Belarus increased from 99 tonnes to 2 943 tonnes (i.e. an increase of

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No L 189, 30. 7. 1996, p. 13.

2 873 %). The imposition of anti-dumping measures would therefore appear to have led to a clear substitution of imports of PSF by imports of PFT.

This change in the pattern of trade is alleged to stem from the conversion in the Community of PFT into PSF, consisting essentially of a simple cutting operation, for which there is insufficient due cause or economic justification, apart from the existence of the anti-dumping duty of 43,5 % on imports of PSF originating in Belarus. As is pointed out in the request, the extra cost incurred by converting PFT into PSF in the Community rather than conducting this operation in an integrated process is not offset by any cost savings but is even compounded because of the relatively high labour cost in the Community.

(b) Furthermore, the request contains evidence which shows that the prices at which PSF resulting from conversion in the Community of PFT imported from Belarus are being sold in the Community, are lower than the non-dumped level of the export price established in the anti-dumping investigation for PSF from Belarus.

(c) Finally, the request contains evidence which shows that the conversion operations of PFT are undermining the remedial effects of the existing antidumping duties on PSF in terms of quantities and prices.

E. PROCEDURE

(6) In the light of the evidence contained in the request, the Commission has concluded that, pursuant to Article 13 (3) of the Basic Regulation, sufficient evidence exists to justify the initiation of an investigation and to make imports of PFT subject to registration.

(i) Questionnaires

(7) In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the importers, traders and converters of PFT in the Community named in the request. Information, as appropriate, may also be sought from Community producers.

(8) Other interested parties which can show that they are likely to be affected by the outcome of the investigation, should request a questionnaire from the Commission within 15 days of publication of this Regulation in the *Official Journal of the European Communities*. Any request for questionnaires must be made in writing to the address mentioned below, and should indicate the name, address, telephone and fax numbers of the requesting party.

The authorities of Belarus will be notified of the initiation of the investigation and provided with a copy of the request.

(ii) Certificates of non-circumvention

(9) In accordance with Article 13 (4) of the Basic Regulation, certificates exempting the imports of the product concerned from registration or measures may be issued by the customs authorities to importers when the importation does not constitute circumvention.

Since the issue of this certificate requires the prior authorization of the Community institutions, requests for such authorizations should be addressed by interested importers to the Commission as early as possible in the course of the investigation so that they may be considered on the basis of a thorough appraisal of their merits.

F. TIME LIMIT

(10) In the interest of sound administration, a period should be fixed within which interested parties, provided they can show that they are likely to be affected by the results of the investigation, may make their views known in writing. A period should also be fixed within which interested parties may make a written request for a hearing and show that there are particular reasons why they should be heard.

Furthermore, it should be stated that, in cases in which any interested party refuses access to, or otherwise does not provide necessary information within the time limit, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation, pursuant to Article 13 of Regulation (EC) No 384/96, concerning imports into the Community of synthetic filament tow of polyester, currently classifiable within CN code 5501 20 00, originating in Belarus, which is used for conversion in the Community into polyester staple fibre, is hereby initiated.

Article 2

The customs authorities are hereby directed, pursuant to Article 13 (3) and Article 14 (5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community of synthetic filament tow of polyester, currently classifiable within CN code

5501 20 00, originating in Belarus in order to ensure that, should the anti-dumping duties applicable to imports of polyester staple fibre originating in Belarus be extended to imports of synthetic filament tow of polyester, they may be collected from the date of such registration.

Registration shall expire nine months following the date of entry into force of this Regulation.

Imports shall not be subject to registration where they are accompanied by a customs certificate issued in accordance with Article 13 (4) of Regulation (EC) No 384/96.

Article 3

1. All interested parties, if their representations are to be taken into account during the investigation, must make themselves known, present their views in writing, submit information and apply to be heard by the Commission within 40 days from the date of publication of this Regulation in the *Official Journal of the European Communities.* This time limit applies to all interested parties, including the parties not named in the request, and it is consequently in the interest of these parties to contact the Commission without delay.

2. Questionnaires should be requested from the Commission within 15 days of publication of this Regulation in the *Official Journal of the European Communities.*

3. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for authorization of certificates of non-circumvention should be sent to the following address:

European Commission,
Directorate-General for External Relations: Commercial Policy and Relations with North America, the Far East, Australia and New Zealand,
Directorate I-C,
Rue de la Loi/Wetstraat 200,
B-1049 Brussels (1).

Article 4

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, 18 April 1997.

For the Commission
Leon BRITTAN
Vice-President

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