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Contents

I *Acts whose publication is obligatory*

- * Council Regulation (EEC) No 789/82 of 2 April 1982 imposing a definitive anti-dumping duty on imports of certain cotton yarns originating in Turkey** 1

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 789/82

of 2 April 1982

**imposing a definitive anti-dumping duty on imports of certain cotton yarns
originating in Turkey**

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⁾,
and in particular Articles 12 and 16 (1) thereof,

Having regard to the Additional Protocol⁽²⁾ to the
Agreement establishing an Association between the
European Economic Community and Turkey, and in
particular Article 47 (2) thereof,

Having regard to the proposal made by the Commis-
sion after hearing the opinions expressed by the Advi-
sory Committee set up under Regulation (EEC) No
3017/79,

Whereas the Commission has received a complaint
lodged by Eurocoton on behalf of the great majority of
Community manufacturers of cotton yarn; whereas
the complaint contained sufficient evidence of the
existence of dumping in respect of like products origi-
nating in Turkey and of substantial injury resulting
therefrom;

Whereas the Commission accordingly announced, by
a notice published in the *Official Journal of the
European Communities*⁽³⁾, the initiation of a procee-
ding concerning imports of certain cotton yarns origi-
nating in Turkey and commenced an investigation of
the matter at Community level;

Whereas, in order to arrive at a preliminary assessment
of the dumping margin and injury, the Commission

carried out inspections at the premises of three export
firms, namely Cukurova Sanayi Isl. AS (Tarsus), Taris
Pam. Tar. Sat. Koop. Birliği Iplik Fab. (Izmir) and
Trakya Iplik Sanayi AS (Istanbul); whereas these firms
were chosen as being representative by agreement with
the Turkish associations of exporters of the products
concerned and the complainants;

Whereas, since the preliminary examination of the
matter showed that there was dumping, that there was
sufficient evidence of injury, and that the interests of
the Community called for immediate intervention, the
Commission by Regulation (EEC) No 3453/81⁽⁴⁾
imposed a provisional anti-dumping duty of 16 % on
certain cotton yarn originating in Turkey;

Whereas, in the course of subsequent examination of
the matter, completed after the imposition of the
provisional anti-dumping duty, the interested parties
had the opportunity to make known their views in
writing, to be heard by the Commission and to
develop their views orally, to inspect non-confidential
information relevant to the defence of their interests
and to be informed of the essential facts and conside-
rations on the basis of which it was intended to make
a final determination; whereas a number of producers,
importers and users availed themselves of these possi-
bilities by making known their views in writing or
orally;

Whereas the Commission has updated the results of
the provisional determination based on the three firms
mentioned above and has carried out a supplementary
investigation in Turkey on exports made in the final
quarter of 1981; whereas this extension of the period
of investigation was made at the request of the Turkish
exporters; whereas, despite the findings received
following the imposition of the provisional duty, the

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 293, 29. 12. 1972, p. 4.

⁽³⁾ OJ No C 196, 3. 8. 1979, p. 2.

⁽⁴⁾ OJ No L 347, 3. 12. 1981, p. 19.

Commission maintains its opinion with regard to the representativity of the sample of the exporters chosen, for it contains the largest Turkish exporters and both public and private firms, located in the three producing regions of these products ;

Whereas, in order to establish a definitive determination as to whether the above imports were dumped, the Commission had to take into account the fact that sales of similar products by the abovementioned three firms on the Turkish domestic market did not provide a valid comparison, since the volume of these sales was so low ;

Whereas, for that reason, the Commission based its calculations on the constructed value, namely the costs of material and manufacturing in the ordinary course of trade in Turkey, together with a reasonable margin for profit and overheads ; whereas in the light of the financial results of the exporters visited, a reasonable profit margin was fixed at 5 % ;

Whereas, however, an adjustment was made to the costs submitted to the Commission by Trakya Iplik Sanayi AS in respect of the period 1 January to 30 September 1981 ; whereas the adjustment consisted in adding to those costs the sales and financial expenses of the subsidiary company responsible for marketing certain exports, which the exporter had not taken into account in his submission ; whereas the exporter has taken into account these costs in his submission made in respect of the final quarter of 1981 and therefore no adjustment was made for that period ;

Whereas, in addition, following an underestimate by Cukurova Sanayi Isl. AS of its overheads, the latter have been reassessed on the basis of information supplied by the company regarding the total amount of its exports and the overheads attributable to those exports ;

Whereas, on the other hand, Taris Pam. Tar. Sat. Koop. Birligi Iplik Fab. did not allow the Commission to check or supplement the information provided regarding its production costs ; whereas, accordingly, the Commission had to determine the normal value in relation to the company's exports on the basis of the best information available, in this case the data obtained from the other Turkish producers investigated ;

Whereas the definitive determination of dumping was made in comparing, transaction by transaction on a fob basis, this constructed value for sales made from 1 January to 31 December 1981 with the export prices to the Community in the same period ;

Whereas the above examination of the facts shows that dumping exists in respect of the imports considered in

the investigation, the dumping margins varying according to type of yarn ; whereas the weighted average dumping margin for the same reference period is equal to 15.1 % for Cukurova Sanayi Isl. AS, 13.1 % for Trakya Iplik Sanayi AS and 12.1 % for Taris Pam. Tar. Sat. Koop. Birligi Iplik Fab. ;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that the imports of the cotton yarn in question, originating in Turkey, after falling from 71 000 tonnes in 1978 to approximately 54 000 tonnes in 1980 have risen to 82 000 tonnes in 1981 ;

Whereas these imports obtained a market share in the Community of 9.1 % in 1978 and 6.6 % in 1980 ; whereas their share is estimated at 10.8 % for 1981 ;

Whereas, according to the information gathered by the Commission, the prices of imports into the Community of cotton yarn originating in Turkey considerably undercut the prices of like products produced by Community manufacturers, this undercutting reaching 25 % in some cases ;

Whereas the consequent impact on the Community industry, whose volume of production dropped from 613 000 tonnes in 1977 to 557 000 tonnes in 1981, takes the form of a depression of Community prices in real terms for many producers, making it impossible to cover production costs ; whereas, in addition, the Community industry is characterized by a growing reduction in the utilization of capacities which at present is less than 65 % in several Member States ;

Whereas most of the Community firms are consequently making considerable losses on the cotton yarn covered by the proceeding and this has put at risk the profitability of the industry as a whole and has already led to an appreciable fall in the numbers directly employed in the manufacture of those products from 100 000 in 1979 to 92 000 in 1980 and to less than 84 000 in 1981 ;

Whereas the Commission has considered whether there is injury caused by other factors which, individually or in combination, are also adversely affecting the Community industry ; whereas the Commission has examined, in particular in this context, the conditions under which other imports were made, the level of demand for cotton yarn in the Community and the competition among Community producers ; whereas the volume of other imports increased slightly between 1979 and 1980 but declined slightly in 1981 ; whereas, moreover, most of these imports are covered by quantitative restrictions ; whereas, according to the information received by the Commission, the level of Community demand for cotton yarn, after increasing in 1979, has decreased slightly since 1980 ; whereas during the same period the number of Community

producers has declined and the market shares of third countries other than Turkey has remained relatively stable ;

Whereas in these circumstances the injurious effects attributable solely to dumping from Turkey must be considered as material injury ;

Whereas the EEC-Turkey Association Council, apprised of the matter by the Commission on 27 November 1981, did not, within the period laid down for this purpose, take a decision under Article 47 (1) of the Additional Protocol to the Agreement establishing an Association ;

Whereas following the imposition of the provisional anti-dumping duty, the Commission received numerous representations arguing that these measures were harmful to the interests of importers as well as those of the processing industry and were therefore not in the Community interest ; whereas counter-arguments were also received from the Community producers ; whereas the representative associations for the whole industry, which include members from both the spinning and the weaving industries, have pronounced in favour of the elimination of dumping practices and the injury resulting therefrom ; whereas the Commission, after examining all the arguments put forward by the parties, considers that, taking into account the extent of the dumping margin, of the injury resulting therefrom for the industrial sector concerned, the interests of the Community require the imposition of a definitive anti-dumping duty on imports of certain cotton yarns originating in Turkey ;

Whereas in order to determine the amount of this duty, the Commission has examined the dumping margins, as well as the extent of the injury caused ;

Whereas for technical reasons the Commission has concluded that this duty must correspond to the lowest of dumping margins established, that is 12 % ;

Whereas, as far as the advisability of the definitive levying of sums paid by way of provisional anti-dumping duty is concerned, the introduction of these measures was not unforeseeable because the imports concerned formed the subject of a duly announced anti-dumping procedure ; whereas, however, given the particularly long lapse of time which has passed between the opening of the procedure on 3 August 1979 and the imposition of the provisional anti-dumping duty, it would appear equitable to facilitate, as an exceptional measure, the adjustment of those operators, who had entered into trade commitments, to

the new situation created by the provisional anti-dumping duty ; whereas, however, in order to safeguard the efficiency of the protection measures required for the defence of Community interests, the period for adjustment should be fixed at four weeks as from the date of the entry into force of the provisional anti-dumping duty ; whereas, in these circumstances, the definitive levying, at the amount of the definitive duty, of the sums paid by way of provisional duty must be carried out for all products released for consumption from 1 January 1982,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of cotton yarns falling within subheading 55.05 B of the Common Customs Tariff and corresponding to NIMEXE codes 55.05-21 to 55.05-98 inclusive, originating in Turkey.
2. The rate of the anti-dumping duty shall be 12 % on the basis of the customs value determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes ⁽¹⁾.
3. The provisions in force concerning customs duties shall apply to the anti-dumping duty.

Article 2

1. The amounts secured by way of provisional duty pursuant to Regulation (EEC) No 3453/81 shall be definitively collected up to the amount of the definitive duty, that is, 75 % of the amount of the provisional duty. The balance of these sums, that is 25 % of the amount of the provisional duty, is released.
2. However, as far as the products released for consumption before 1 January 1982 are concerned, the amounts secured by way of provisional anti-dumping duty shall be released.

Article 3

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 April 1982.

For the Council

The President

P. de KEERSMAEKER
