

COMMISSION DECISION

of 14 June 1982

accepting undertakings in connection with the anti-dumping procedure concerning imports of certain polypropylene film for capacitors originating in Japan and terminating that procedure

(82/397/EEC)

THE COMMISSION 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 Article 10 thereof,

After consultations within the Advisory Committee set up under Regulation (EEC) No 3017/79,

Whereas the Commission received a complaint lodged by the Association of Plastics Manufacturers in Europe (APME) on behalf of the two Community producers which at that time accounted for total Community output of treated polypropylene film for electrical capacitors (OPP-T); whereas the complaint contained evidence of the existence of dumping in respect of like products originating in Japan and of material injury resulting therefrom;

Whereas, since the said evidence was sufficient to justify initiating a proceeding, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of a proceeding concerning imports of such products originating in Japan and commenced an investigation of the matter at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned as well as the representatives of the exporting country and the complainants;

Whereas the Commission gave the parties directly concerned the opportunity to make known their views in writing and to be heard orally; whereas all exporters and importers known to be concerned have taken this opportunity;

Whereas, in order to arrive at a preliminary determination of dumping and injury, the Commission sought

to obtain and verify all information which it deemed to be necessary;

Whereas the Commission carried out inspections at the premises of the two Japanese producers, Toray Industries Inc. and Honshu Paper Co. Ltd, which together account for the totality of Japanese exports of OPP-T to the Community, and at the premises of the three Tokyo-based trading houses involved in the export transactions concerned, Mitsui and Co. Ltd (selling Toray film), Japan Pulp and Paper Company Ltd, and Gunze Sangyo Inc. (selling Honshu film); whereas the Commission also carried out inspections at the premises of the three importers concerned, Mitsui and Co. Ltd (London branch), United Kingdom and Mitsui and Co. Europe GmbH and Gunze (Düsseldorf) GmbH, Federal Republic of Germany, as well as at the premises of the two Community manufacturers Kalle in Germany and Safidiep in France; whereas the Commission obtained additional information from a third Community producer, Kopafol, in the Federal Republic of Germany, who started production in the second half of 1981 only;

Whereas, for its determination of dumping, the Commission selected as an investigation period that of 1 June 1980 to 31 May 1981 and, in view of the fact that OPP-T of many different thicknesses is exported to the Community, it considered that those types of film which, for each of the two producers concerned, were the most important ones and covered more than 85 % of the volume exported, would provide a representative sample; whereas the Commission based its findings, therefore, on exports of Toray product having a thickness of eight and 10 microns and on exports of Honshu product of a thickness of seven, eight and 10 microns;

Whereas, in determining the normal value for the products in question, the Commission had to take account of the fact that no film of a thickness of seven, eight or 10 microns produced by Toray or Honshu has been sold to independent buyers on the Japanese market with the exception of a very small quantity sold by Toray to one Japanese metallizer with whom they had a special processing arrangement; whereas the Commission considered these sales as not having been made in the ordinary course of trade;

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No C 155, 24. 6. 1981, p. 2.

Whereas no price information concerning third country export sales of Toray product was made available to the Commission; whereas, during the investigation period, Honshu product has not been sold in any significant quantities to third country markets; whereas, under these circumstances, the Commission sought to establish normal value on the basis of constructed value;

Whereas, in the case of Toray, constructed value was established by taking their cost of materials and manufacture and by adding the amount for overheads shown in the company's accounts as well as a 6 % profit margin considered to be reasonable by the company;

Whereas Honshu did not provide the necessary information on constructed value nor allow the Commission investigators to inspect their accounts; whereas the Commission, therefore, had to make its findings on the basis of the facts available; whereas, for this purpose, the Commission established a hypothetical ex-factory home market price for film of a thickness of seven, eight and 10 microns by extrapolation on the basis of the home market price payable for Honshu film having thicknesses immediately below and above the thickness relevant for export;

Whereas these normal values were compared, transaction by transaction, at ex-works level with the prices paid for the products sold for export to the Community; whereas for the purpose of a fair comparison between normal value and export prices, account was taken in the case of Toray of differences between terms of payment and packaging costs for home market and export sales as well as of differences between direct selling expenses on domestic and export markets, where such differences could be clearly demonstrated to the satisfaction of the Commission;

Whereas, in the case of Honshu, account was taken of differences between credit terms for domestic and export sales; whereas no allowance was made for alleged differences in cost of production of product exported and product sold on domestic market because the company did not permit inspection of its accounts necessary to verify these allegations;

Whereas this comparison showed that sales for export to the Community made by Toray during the investigation period were dumped at varying rates, in some instances up to 31 %, the weighted average margin being 1.07 %; whereas it also showed that all sales made by Honshu were dumped, the weighted average margin being 53.4 %;

Whereas the Commission also investigated whether dumping had been practised by Mitsui and Gunze Sangyo, which were selling Toray and Honshu product to the Community; whereas, during the investigation period, neither Mitsui nor Gunze Sangyo have been making sales of OPP-T having a thickness of seven, eight or 10 microns on the domestic market nor was any evidence on Mitsui's third country export prices for these products made available to the Commission; whereas, for these reasons, the Commission based its dumping finding in respect of Mitsui on Toray's normal value, and in respect of Gunze Sangyo on Honshu's normal value;

Whereas, in respect of export prices practised by these trading houses, the Commission had to take account of the fact that both companies have been selling the products concerned to their subsidiaries in the Community; whereas, under these circumstances, their export prices were constructed on the basis of the prices at which the imported products were first resold to independent buyers in the Community, allowance being made for all costs incurred between importation and resale, including transport in the Community, insurance, customs duties, cost of credit granted to the Community customers, commissions paid, a reasonable margin for selling, general and administrative costs of the subsidiaries and a profit margin of 2.8 %; whereas this margin which appears to be reasonable corresponds to the profit realized on OPP-T sales made during the investigation period by one of the three importers and was the only evidence available to the Commission;

Whereas Mitsui's and Gunze Sangyo's export prices were compared, transaction by transaction, on an ex-factory basis, with the respective normal values;

Whereas these comparisons show that sales for export to the Community made by Mitsui were dumped at varying margins, in some instances up to 27 %, the weighted average margin being 1.3 %, and that all sales made for export to the Community by Gunze Sangyo were dumped, the weighted average margin being 86.4 %;

Whereas, with regard to the injury caused by the dumped imports to the Community industry, the evidence available to the Commission during the preliminary investigation showed that total imports of OPP-T from Japan increased from 738 tonnes in 1978 to 1 305 tonnes in 1980 and dropped to 499 tonnes in the first half of 1981; whereas, although consumption of the products concerned in the Community increased by approximately 75 % between 1978 and 1980, the market share of Japanese imports remained relatively stable, varying between 32.2 and 36 %;

Whereas, during the investigation period, the resale prices of imported Japanese film of the most common type, having a thickness of eight microns and accounting for more than half of Community consumption, were very low and forced Community producers to align their prices downward in order to maintain a certain market share; whereas the price-depressing effect of these low-priced imports was particularly strong in Italy, one of the main markets in the Community; whereas, in 1981, weighted average resale prices of these imports were in some instances more than 30 % below the price level necessary for Community producers to cover their costs and to make a reasonable profit;

Whereas the consequent impact on the Community industry has contributed to the fact that producers of OPP-T in the Community made serious losses and were unable to sell their product at profitable prices;

Whereas the Commission has considered whether injury has been caused by other factors such as volume and prices of undumped imports or overcapacity of Community producers, which individually or in combination are also adversely affecting the industry concerned; whereas, however, the substantial quantity of dumped imports accounting for approximately half of total imports of the products in question, the prices at which they were offered for sale in the Community and the fact that the price-depressing effect of imports was particularly strong in those markets of the Community, where all imports have been dumped at particularly high margins, led the Commission to determine that the dumped imports of OPP-T originating in Japan taken in isolation have caused injury to the Community industry concerned which has to be qualified as being material;

Whereas all exporters and importers concerned were informed of the findings of the investigation and

commented on them; whereas subsequently Honshu Paper Co. Ltd and Gunze (Düsseldorf) GmbH, acting as subsidiary of Gunze Sangyo, have undertaken to increase their prices to a level sufficient to eliminate the injurious effects of the dumping margins found; whereas Toray Industries Inc. and Mitsui and Co. Ltd have also offered undertakings which would prevent a recurrence of injury to Community producers;

Whereas the Commission has therefore determined that it is not now necessary to take protective action in respect of imports of treated polypropylene film for electrical capacitors originating in Japan and has decided to accept the undertakings offered and to terminate the proceedings without the imposition of anti-dumping duties,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission hereby accepts the undertakings offered in connection with the anti-dumping proceedings concerning treated polypropylene film for electrical capacitors originating in Japan.

Article 2

The anti-dumping proceedings concerning imports of treated polypropylene film for electrical capacitors originating in Japan is hereby terminated.

Done at Brussels, 14 June 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President