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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2664/81**of 14 September 1981****imposing a definitive anti-dumping duty on imports of certain textured polyester fabrics originating in the United States of America**

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 Article 12 thereof,

Having regard to the proposal of the Commission submitted after consultation within the Advisory Committee set up under Article 6 of the said Regulation,

Whereas, by Regulation (EEC) No 1337/81⁽²⁾, the Commission imposed a provisional anti-dumping duty of 38 % on imports of certain textured polyester fabrics originating in the United States of America ; whereas the duty was, however, limited to 30.8 % on imports of products manufactured and exported by Frank Ix and Sons, New York, and to 3.9 % on those which are manufactured and exported by Texfi Industries Inc., Greensboro, North Carolina ; Burlington Industries Inc., Greensboro, North Carolina ; Bloomsburg Mills Inc., New York, which also markets under the name of Penn Weaving, and finally Milliken and Co., Spartanburg, South Carolina ; whereas the duty does not apply to imports of like products manufactured and exported by Greenwood Mills Inc., Greenwood, South Carolina ;

Whereas, after the Commission had imposed the provisional anti-dumping duty, a number of exporters, i.e. Milliken and Co., J. P. Stevens and Co. Inc., Texfi Industries Inc. and Burlington Industries Inc., were, at their request, informed orally or in writing of the prin-

cipal facts and considerations on the basis of which it was intended to recommend a definitive decision ; whereas certain exporters, i.e. Texfi Industries Inc., Burlington Industries Inc. and Bloomsburg Mills Inc. — Penn Weaving made their views known ;

Whereas the particulars supplied to the Commission, with the exception of those provided by Burlington Industries Inc. and Texfi Industries Inc., are nevertheless not such as to justify alterations of the average weighted dumping margins established at the provisional determination ; whereas such margins, with the exception of those relating to Burlington Industries Inc. and Texfi Industries Inc., are therefore to be regarded as definitive ;

Whereas the information supplied by Burlington Industries Inc. indicates, however, that following an incorrect assessment of certain transport costs and general overheads borne by Burlington (Ireland) Ltd, the weighted average dumping margin established for that company when the provisional duty was determined should be reduced and that the margin to be regarded as definitive is 0.64 % ; whereas, however, fresh particulars supplied by Texfi Industries Inc. indicate that the normal value of that company's exports was overestimated and that accordingly the dumping margin to be regarded as definitive is 0.61 % ;

Whereas a further exporter, How Industries Ltd, Aberdeen, North Carolina, which had not made itself known before the provisional anti-dumping duty was imposed, has asked the Commission to be exempted from the duty on the grounds that its exports to the Community had not been dumped ;

Whereas, in order to establish whether that company had practised dumping, the Commission received from it all the necessary information ; whereas the investigation showed that the average prices for

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 133, 20. 5. 1981, p. 17.

textured polyester fabrics sold by the manufacturer in question on the domestic market had been less, over the period covered by the investigation i.e. the 1980 calendar year, than the fixed and variable costs ordinarily incurred in the course of their production; whereas the normal value was therefore constructed by the adjustment of prices below cost of production, in order to eliminate losses and provide for a reasonable profit; whereas the Commission considered that the figure of 5 % chosen at the provisional determination could be regarded as a reasonable profit;

Whereas the Commission compared the normal value thus established to the prices actually paid for the like products sold for export to the Community over the same reference period; whereas these comparisons were carried out at the ex-factory level; whereas these export prices were adjusted where necessary, to take account of the physical characteristics of the product such as yarn and finish, and conditions and terms of sale;

Whereas the investigation concerning How Industries Ltd reveal that the company's prices for exports to the Community were lower than the normal value and that the average dumping margin is 3.9 %; whereas this exporter was informed of the principal facts and considerations on the basis of which it was intended to recommend a definitive decision;

Whereas, since it adopted Regulation (EEC) No 1337/81, the Commission has not received any information concerning injury to Community production which could lead it to revise its conclusions on that subject as set out in that Regulation; whereas the Commission has therefore concluded definitively that the dumped imports have caused material injury to the Community industry concerned;

Whereas, in these circumstances, the protection of the Community's interests requires that a definitive anti-dumping duty be imposed on imports of certain textured polyester fabrics originating in the United States of America; whereas, in view of the material injury caused, the rate of duty should correspond to the dumping margins established; whereas, however, as the dumping margins in the case of exports from Greenwood Mills Inc., Texfi Industries Inc. and Burlington Industries Inc., are *de minimis*, imports of certain polyester fabrics manufactured and exported by these undertakings should be exempt from the definitive duty;

Whereas, for the same reasons as outlined in the preceding paragraph, the amounts secured by way of provisional duty should be definitively collected, with the exception of those relating to imports from Texfi Industries Inc. and Burlington Industries Inc. which should be released; whereas, however, in respect of the imports of goods manufactured and exported by How Industries Ltd the amount collected should not exceed that corresponding to the definitive duty, that is, 10.2 % of the amount secured by way of provisional duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of woven fabrics consisting wholly of yarn of textile fibres of textured polyester weighing not less than 175 g/m² and not more than 200 g/m² for unbleached fabrics and not less than 200 g/m² and not more than 225 g/m² for dyed fabrics falling within Common Customs Tariff subheading ex 51.04 A IV and corresponding to NIMEXE codes ex 51.04-21 and 25, originating in the United States of America. This duty shall not apply to imports of products described above which are manufactured and exported by Greenwood Mills Inc., Greenwood, South Carolina, Texfi Industries Inc., Greensboro, North Carolina and Burlington Industries Inc., Greensboro, North Carolina.
2. Subject to paragraph 3, the rate of the definitive anti-dumping duty shall be 38 %.
3. The rate of the definitive anti-dumping duty applicable to imports of products described in paragraph 1 manufactured and exported by Frank Ix and Sons, New York, shall be 30.8 %; the rate for imports of like products manufactured and exported by Bloomsburg Mills Inc. — Penn Weaving, New York; Milliken and Co., Spartanburg, South Carolina and How Industries Ltd, Aberdeen, North Carolina shall be 3.9 %.
4. The duty indicated in paragraphs 2 and 3 shall be calculated on the basis of value for customs purposes determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes⁽¹⁾.
5. The provisions in force concerning customs duties shall apply to the definitive anti-dumping duty.

⁽¹⁾ OJ No L 134, 31. 5. 1980, p. 1.

Article 2

1. Subject to paragraph 2, the amounts secured by way of provisional duty under Regulation (EEC) No 1337/81 shall be definitively collected, with the exception of those relating to imports of products manufactured and exported by Texfi Industries Inc. and Burlington Industries Inc., which shall be released in full.

2. A sum of 10.2 % of the amount secured by way of provisional duty on imports of products manufactured and exported by How Industries Ltd shall be definitively collected and the balance thereof released.

Article 3

This Regulation shall enter into force on the day of 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, 14 September 1981.

For the Council

The President

CARRINGTON
