

The problem

During the course of 1979, at a time when the Community's synthetic fibre industry appeared to have completed its restructuration after the crisis of 1977, rapid increases of imports of certain synthetic fibres into the Community were recorded from the United States. At the same time, EEC exports to the United States stagnated or declined with the result that the Community's import deficit in synthetic fibres and yarns in the first six months of 1979 exceeded the level of the previous year. The increase in imports was particularly marked in the United Kingdom (polyester fibres) and in Italy (polyester acrylic fibres). United States products are sold on European markets at prices below those charged by Community producers. EEC companies have been forced to reduce their selling prices to uneconomic levels in an attempt to preserve their market shares, thus jeopardising the financial recovery of the industry.

The reason for the surge in imports of US synthetic fibres and yarns is attributed by the Community to the effects of the US regulation of the prices of crude petroleum and natural gas produced on national territory.¹ As a result, fuels and intermediate petrochemical products derived from these hydrocarbons and used by the synthetic fibres industry have not been subject, in the US, to a price rise comparable to that which has been experienced by Community synthetic fibres producers since the autumn of 1978. According to the Community, this gives an artificial price advantage to US producers irrespective of any other possible advantage which has been estimated at 15-20%. This viewpoint is contested by the US who argue that the competitive advantage enjoyed by American producers is largely due to the depreciation of the dollar and the economies of scale and high level of capacity utilisation which characterise the US industry.

The Community reaction

1. Informal consultations

In July 1979 the Commission first raised the issue with the US Administration at the half-yearly high-level consultations in Brussels, and it was agreed that experts from both sides would meet in the autumn to examine the matter. Mr. Davignon also raised the issue when he visited Washington in October. In a speech to the Society of Chemical Industry he argued that it was not in the US interest to subsidise indirectly the export of energy products. Vice-President Haferkamp used the high-level consultations in Washington in November 1979 to press for action by the US Administration but without success.

2. Formal complaint to GATT

At the Council meeting of 21 November 1979, the Commission was authorised to seek formal consultations in GATT under the provisions of article XXIII (complaints procedure). The Community's complaint alleged that US regulation of the prices of oil, natural gas and certain of their derivatives, combined with restrictions on the export of naphtha which is the basic feedstock used by the European synthetic fibres' industry, was incompatible with article XX(i) of GATT. This article allows Contracting Parties to restrict exports of raw materials or intermediate products in order to keep the domestic price level below international levels but only on condition that this does not enable the processing industry of the country concerned to increase exports. The consultations began in December 1979 and have continued in 1980 without any agreement being reached so far on either the causal link (see above) or possible remedial action.

¹Under present plans, the US domestic crude oil price is to be denegated by the end of September 1981, and the price of natural gas is to be raised to world levels for hydrocarbons by the end of 1985.

3. Safeguard action

Reporting to the Council on the results of the article XXIII consultations with the US at the beginning of February 1980, the Commission recorded the view that no Community-wide safeguard measure was justified at the present time, but did not exclude the possibility of national measures. Following a request by the British Government, the Commission authorised the UK to limit imports of polyester filament yarn from non-preferential and non-MFA countries to 9,053 tonnes in 1980 (= average imports for 1978 and 1979) and imports of yarn of polyamide for carpets to 7,500 tonnes (= annual volume of imports over the last half of 1979). A third request for restrictions on imports of tufted carpets was refused as unjustified.¹ The Commission also decided to introduce Community-wide surveillance of imports of polyester yarn.

The German and Dutch Governments subsequently referred the Commission decision on nylon carpet yarn to the Council which has till 12 June to confirm, amend or revoke the measures in question. The Commission was asked to carry out a further investigation into the injury suffered by UK producers.

The US has invoked its rights under article XIX of GATT (safeguard measures) to request compensation from the EEC. In the course of the consultations in GATT on the American request, the Community argued that in the circumstances no compensation was due and that the volume of trade allegedly affected was exaggerated. However, the Community has indicated it would be prepared to seek a friendly solution involving autonomous trade concessions, i.e. bringing forward certain MTN tariff cuts. The deadline for a friendly settlement has been extended till 19 June. Meanwhile the US has opened hearings on the possible withdrawal of concessions in accordance with domestic law.

4. Anti-dumping action

- Acrylic fibres

In June 1979 following a complaint by CIRFS (Comité international de la rayonne et des fibres synthétiques), the Commission opened an investigation against imports from the US as well as from Greece, Spain, Turkey and Japan.² On 4 December 1979 the Commission instituted a provisional anti-dumping duty of 7.2% on discontinuous acrylic fibres and of 26.8% on continuous filament tow imported from the US.³ The Council transformed this into a definitive anti-dumping duty of 13.7% and 17.6% respectively with effect from 3 May 1980. The duty is only applicable to acrylic fibres exported by American Cyanamid. The investigation showed no dumping by other American producers except for Badische Corporation, which agreed to raise its prices. American Cyanamid offered to raise its prices to the level prevailing on the American market, but evidence was produced to the effect that the company was selling at abnormally low prices on the US market and in view of the company's refusal to provide the necessary financial information, the Commission calculated the margin of dumping on the basis of the constructed value (estimated costs of production plus profit).

¹ See Regulation 388/80 of 15 February (OJ L 45 of 20.2.1980). Imports of polyester filament yarn from the US increased from 5,114 tonnes in 1978 (7.1% of the UK market) to 12,391 tonnes in 1979 (17.7% of the market, rising to 25.5% in the last quarter), while the UK producers' share of the market fell from 48.2% to 31.5%. Imports of nylon carpet yarn from the US rose from 2,714 tonnes in 1978 (8.6% of the UK market) to 5,015 tonnes in 1979 (18.1%), while domestic producers' market share fell from 56.2% to 30.9%. In the case of tufted carpets, imports from the US increased their market share from 1.4% in 1978 to 4.8% in 1979, but UK producers managed to increase production because of rising consumption.

² The investigation on Greece and Turkey produced a finding of no dumping. The investigation into imports from Spain and Japan was closed following undertakings by the producers to raise their export prices to the EEC so as to eliminate the dumping margin.

³ See OJ L 308 of 4.12.1979 and L 114 of 3.5.1980.

Imports of acrylic fibres from the US have increased as follows (in tonnes):

	<u>1977</u>	<u>1978</u>	<u>1979</u>
EEC	7,611	10,719 (+ 41%)	17,400 (+ 62%)
of which Italy	1,794	6,225 (+246%)	11,400 (+ 85%)

Prejudice to Community producers was established on the basis both of lost sales and depressed prices at a time when the industry should have been experiencing the benefits of its restructuration.

- Polyester fibres

At the end of May 1980 the Commission opened an anti-dumping investigation into imports of textured and non-textured polyester yarn from the US, following a complaint by CIRFS on behalf of almost all Community producers.

With regard to dumping, it is claimed that domestic sales of these products in the US are being made below cost. The allegation of dumping is therefore based on a comparison of the constructed value of polyester yarn and export prices on the EEC market (23-33% for non-textured yarn and 32-47% for textured yarn). As regards injury, there has been a significant increase in imports into the Community from the US as follows:

	<u>1977</u>	<u>1978</u>	<u>1979</u>
Non-textured yarn (market share)	4,488 (8.8%)	5,608 (+ 25%)	13,719 (+ 145%) (14.3%)
Textured yarn (market share)	561 (0.4%)	3,942 (+603%)	14,446 (+ 267%) (7.9%)

According to the complaint, Community producers have not only suffered a loss of market share but have had to reduce prices despite large increases in the costs of raw materials, to meet low-priced American competition.

NOTE: Anti-dumping procedures are designed to deal with pricing policies incompatible with the revised GATT anti-dumping code, and are not directly relevant to the question of the alleged unfair cost advantages which American producers enjoy as a result of oil and natural gas price regulation in the US. Unlike safeguard measures, successful anti-dumping action does not give the exporter any right to claim compensation.

Brussels, May 1980