

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 63 final

Brussels, 3 February 1983

Proposal for a
COUNCIL REGULATION (EEC)
amending Regulation (EEC) No 1100/80 imposing a definitive
anti-dumping duty on certain acrylic fibres originating
in the United States of America

(submitted to the Council by the Commission)

COM(83) 63 final

EXPLANATORY MEMORANDUM

In 1980 the Council imposed a definitive duty of 13.7% imports of discontinuous acrylic fibre and 17.6% for continuous filament tow of acrylic fibre.

Following the imposition of this duty the Commission received a request from one American producer to undertake a review procedure regarding this duty.

The Commission, after consultation, re-opened the procedure and commenced its investigation. This investigation has shown no dumping for the companies investigated.

For those exporters who did not make themselves known to the Commission during the review procedure, the Commission considered it would be a bonus for non-cooperation to determine dumping margins below the level found in the previous investigation.

As regards injury, the Commission received no new evidence to alter its view that the continued application of the existing duty was a requirement for the elimination of injury and the prevention of its recurrence.

American Cyanamid, the company that requested the review procedure, has offered an acceptable undertaking not to export in the future at prices below the prevailing normal value at the time of export.

On the basis of these facts, therefore, the Commission proposes that the Council **amends its** Regulation (EEC) No 1100/80 to the extent that the above mentioned company is excluded from the duty.

Proposal of a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 1100/80 imposing
a definitive anti-dumping duty on certain acrylic
fibres 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 subsidised imports from countries not
members of the European Economic Community (1) as amended by
Regulation (EEC) No 1580/82 (2), and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultations
within the Advisory Committee provided for under the above Regulation,

Whereas the Council, by Regulation (EEC) No 1100/80 (3), imposed definitive
anti-dumping duties on imports of certain acrylic fibres originating in
the United States of America;

Whereas the duties imposed were 13.7% for discontinuous acrylic fibres (4)
and 17.6% for continuous filament tow of acrylic fibre (5);

Whereas four exporters were exempt from the relevant definitive duties, three
of them because sales of the products concerned were not made at dumped
levels and one because it had offered an acceptable price undertaking;

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(1) OJ No L 339, 31.12.1979, p. 1

(2) OJ No L 178, 22.6.1982, p. 9

(3) OJ No L 114, 3.5.1980, p. 37

(4) NIMEXE Code : 56.01-15

(5) NIMEXE Code : 56.02-15

Whereas the Commission has since received a request from American Cyanamid Company, Wayne, N. Jersey, United States of America, to review the duties insofar as they apply to it and this company has provided evidence that recent price developments on both the United States and EEC markets have significantly changed the market conditions since the imposition of the definitive duty;

Whereas, since the said information provided sufficient evidence to justify a review of the proceeding, the Commission accordingly announced by a notice published in the Official Journal of the European Communities (1) a review of the definitive anti-dumping duties on imports of certain acrylic fibres originating in the United States of America and commenced an investigation of the matter at Community level;

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

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally;

Whereas all exporters known to be concerned took this opportunity to present written and oral observations;

Whereas the Commission sought and verified all information it deemed to be necessary for the purposes of the review procedure and carried out investigations at the premises of the following :

EEC producers : Hoechst A.G., Frankfurt
Courtaulds Ltd, Bradford
Società Italiana Prodotti Acrilici, Milan
Snia Fibre SpA, Milan
Vomvix S.A., Athens
Bayer A.G., Leverkusen
Anicfibre SpA, Milan

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(1) OJ No C 140, 3.6.82, p. 8

exporters : Badische Corp., Williamsburg, Virginia
 American Cyanamid, Wayne, N.J.

Whereas the written submissions of certain of the companies who had requested that their products be exempted from the investigation indicated that they had exported small quantities of special types of acrylic fibre which were completely different from the types to which the definitive duties apply; whereas a comparison could therefore not be made and further investigation as regards these companies was accordingly not undertaken;

Whereas the Commission selected the period from 1 January 1981 to 30 June 1982 as the relevant investigation period;

Whereas for American Cyanamid and Badische normal values were established by taking weighted average prices of their domestic sales; whereas profitability of these prices was established for both companies in the domestic market in all relevant instances;

Whereas American Cyanamid claimed that certain "Research and Development" and "Corporate Debt" expenses should be deducted from the domestic sales price; whereas the Commission rejected these claims on the grounds that insufficient evidence in their support had been provided;

Whereas Badische, which had offered an acceptable price undertaking during the previous investigation, when showing profitability of its domestic prices claimed that the allocation of the fixed costs to the fibres activity should be based on the fixed costs actually utilized rather than on the full standard fixed costs; whereas the Commission accepted this claim in view of the present low utilization of capacity of the world acrylic fibre industry;

Whereas export prices were determined on the basis of the prices actually paid or payable for the products exported to the Community during the period of investigation;

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Whereas in comparing normal value with export prices the Commission took account where appropriate of differences affecting price comparability **such as differences in transport costs, payment terms** and so on; whereas all **comparisons were made at an ex-works level;**

Whereas the above examination of the facts showed that no dumping existed in the case of American Cyanamid and that Badische had respected its price undertaking;

Whereas for those exporters who did not make themselves known in the course of the review investigation, the Commission considered that it would constitute a bonus for non-cooperation to assume that the dumping margins for these exporters were any lower than the dumping margins determined in the original investigation;

Whereas as regards injury the Commission received no new evidence to alter its view that the continued application of the existing duty was necessary in order to eliminate injury and the prevention of its recurrence;

Whereas in these circumstances no alteration to the definitive duties is required;

Whereas after being informed of the findings of the investigation American Cyanamid has offered an undertaking not to export in the future at prices below the prevailing normal value at the time of export; whereas the Commission, having consulted the Member States, considers this undertaking to be acceptable and that exports made by this Company should now be excluded from the duties;

Whereas the Commission has also reviewed the undertaking of Badische accepted by it in Regulation (EEC) No 2712/79 (1); whereas the Commission has concluded that this undertaking should be modified in order to be effectively controlled and to take account of current market prices; the Company has agreed to this modification and has offered a new undertaking

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(1) OJ No L 308, 4.12.1979, p. 11

to replace the original one which the Commission, after consultation with the Member States, considers acceptable and that Badische should continue to be excluded from the application of the duty,

HAS ADOPTED THIS REGULATION :

Article 1.

Article 3 of Regulation (EEC) No 1100/80 is hereby replaced by the following :

"Article 3

"The definitive anti-dumping duty instituted by Article 1 shall not apply to acrylic fibres produced and exported by :

- Badische Corporation, Williamsburg, Virginia, USA;
- E.I. Dupont de Nemours and Company, Wilmington, Delaware, USA;
- Eastman Chemicals Division of Eastman Kodak Company, Kingsport, Tennessee, USA (exported by Eastman Chemical International AG, Zug, Switzerland);
- Monsanto International Sales Company, Missouri, USA;
- American Cyanamid Company, Wayne, N. Jersey, USA.

Article 2

This Regulation shall enter into force on the third 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,

For the Council