COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL ON THE PROGRESS OF GATT ARTICLE XX(i)/XXIII CONSULTATIONS ON U.S. EXPORTS OF SYNTHETIC FIBRES

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COMMISSION COMMUNICATION TO THE COUNCIL on the progress of GATT Article XX(i)/XXIII consultations on U.S. exports of synthetic fibres

I. Introduction

It is the view of the Commission that the existence of price regulation in the United States for oil and natural gas, together with restrictions on the export of certain of their derived products (e.g. naphtha, natural gas liquids) give U.S. producers of synthetic fibres and other petrochemical products a cost advantage compared with their European counterparts, and that this advantage has been one significant factor among others in the greatly increased exports of U.S. synthetic fibres to the Community in 1979.

The conditions of Article XX(i) GATT thus appearing to be fulfilled, the Commission requested bilateral consultations with the United States on 24 November 1979, in accordance with Article XXIII.1 GATT, and consultations began on 14 December 1979. Subsequent meetings have taken place on 14 January 1980, 11 March 1980 and 24 June 1980.

An interim report on the results of the consultations of December and January was included in the working document of the Commission services "U.S. Exports of synthetic fibres to the Community", which was discussed in the Council meeting of 5 February 1980.

In that report, the Commission concluded that there were at the time no grounds for the taking of restrictive measures against synthetic fibre imports on a Community-wide basis but that action might be justifiable in a specific area of the Community.

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Subsequently, safeguard measures were introduced by the Commission for the U.K. market in the case of polyester filament yarn (1) and polyamide yarn for carpet, the latter measure being confirmed by the Council on 9 June 1980 (2).

The Commission's report concluded further that the consultations with the United States under Article XXIII GATT should be vigorously pursued and that the magnitude of the competitive advantage enjoyed by U.S. producers should continue to be studied with a view to the possible taking of remedial action.

The Council took note of the Commission's conclusions and invited it to pursue the Article XXIII.1 consultations.

In order to arrive at an evaluation of the importance of the competitive advantage resulting from U.S. controls on oil and natural gas prices the Commission proceeded to study with the U.S. authorities the relevant legislation and its practical application and the timetables envisaged for price decontrol. This subject is of great complexity and a full understanding of its practical consequences for industrial costs is very difficult to attain.

The factual situation with regard to the oil and gas price regulatory systems and their impact on the costs of U.S. synthetic fibres producers, as it has emerged from the consultations, is summarised in the following two sections.

II. Oil price regulation

The U.S. oil price control legislation divides domestically produced oil into several categories. "Old oil", which is produced from wells discovered some time ago, is sold at low, controlled prices, which are allowed to rise only in line with inflation. "New oil", produced from recently discovered wells, is not subject to price control and its price reflects world market conditions.

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(1) Commission regulation No. 387/80 of 15.2.1980

(2) Council regulation No. [illegible]/80 of 9.6.1980

The essence of the decontrol legislation, which is now allowing the price mechanism to begin to play its part in reducing U.S. oil consumption, is that a certain proportion of the category "old oil" is transferred each month into the category "new oil", so an ever decreasing proportion of U.S. domestic production is price-controlled. 40% of domestic production was price-controlled in June 1979, only 25% is price-controlled in June 1980, and none will be price-controlled by September 1981.

This decontrol timetable is not yet reflected in a narrowing of the differential between the average price paid by U.S. refiners for their oil and U.S. oil import prices, because the effects of decontrol have been counteracted by the OPEC price rises which have taken place over the last 6-9 months. The differential has thus risen from $4.00 / barrel in June 1979 to $ 6.54 / barrel in March 1980. In June 1980 it is estimated by the American authorities to have fallen to $ 6 / barrel, and under reasonable assumptions about future OPEC pricing decisions and if the decontrol timetable remains unchanged it can be expected to have declined to $ 4 / barrel by December 1980 and to continue to decline thereafter.

This decontrol timetable is an inevitable result of existing legislation which, (if it remains unchanged), will thus lead to complete decontrol by September 1981.

With regard to the impact of the oil price differential on the production costs of synthetic fibre manufacturers, this is determined primarily by the extent to which it leads to a price for naphtha, the basic petrochemical feedstock, below that which would prevail under free market conditions. Thus the U.S. price for naphtha (1) in June 1979 was estimated at $ 180/tonne compared with a European contract price of $ 235/tonne, a difference of $ 55/tonne. By March 1980, this difference had increased to $75/tonne (U.S. $290/tonne, EC $365 /tonne), reflecting the increase in the crude oil price differential over the same period, but it has since again declined, the European contract price having fallen to around $ 350/tonne in June.

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(1) Estimated as an average of U.S. prices for gasoline and naphtha type jet fuel minus $20/tonne, reflecting according to European experts the unpublished US price for naphtha.

III. Gas price regulation

Natural gas prices in the U.S. are subject to control under the Natural Gas Policy Act (NGPA) of 1978, although the U.S.A. has a long history of price control for gas produced in one state and sold in another ("interstate gas").

The aim of the NGPA was to gradually decontrol gas prices by the year 1985 (1), but to ensure that industrial users of gas as boiler fuel pay a realistic market price at a much earlier date.

However, when the NGPA was formulated, no-one foresaw the large increases which were to take place in oil prices in 1979 and 1980. As a result, the provisions of the Act which were to allow real gas prices to attain free market levels by 1985 are likely to remain completely inadequate.

In consequence, industrial producers using natural gas as a feedstock obtain significant benefits from the control of gas prices, and the cost advantage they now enjoy compared with their European counterparts is unlikely to diminish before the year 1985, when it will be to a very large extent eliminated. The advantage is compounded in the main gas-producing states of Texas and Louisiana by a low price also being paid by industry using gas as fuel: it is in this area that the manufacture of certain petrochemical intermediates used in the manufacture of synthetic fibres (adiponitrile, adipic acid, acrylonitrile, ethylene glycol) is concentrated. This advantage is shared between the producers of synthetic fibres and the producers of the intermediates in a proportion depending on the prices paid for these intermediates.

In the South-Eastern U.S., on the contrary, where the main manufacturers of synthetic fibres are located, it appears that industry pays a considerably higher price for gas used as a fuel. The advantage deriving from gas price control is thus reduced, although that deriving from the purchase of intermediates produced with cheaper gas remains.

The cost advantage derived by U.S. producers of synthetic fibre manufacturers from gas price control is certainly less than that currently derived from oil price regulation, because of a major proportion of synthetic fibre production must be based on naphtha and only the remainder can use gas as feedstock. However, it is unlikely to diminish in real terms and may even increase between now and 1985 and will thus remain a considerable problem even after September 1981.

(1) Although some categories will not be decontrolled until 1987 and others, of minimal quantitative importance, will remain price-controlled.

IV. U.S. Remedial action

The difference of opinion between the EC and U.S. sides as to whether the conditions of Article XX(i) are fulfilled persists. The U.S. contention is that the cost advantage derived by U.S. synthetic fibre producers from oil and gas price regulation, which they consider to be very much smaller than Community experts have estimated, has not been the main cause of the increases in U.S. synthetic fibre exports to the Community. In addition, the U.S. authorities allege that EC producers have free access to petrochemical intermediates under the same conditions as U.S. synthetic fibre producers. Therefore, the U.S. does not consider itself to be breaching Article XX(i) and is therefore under no obligation under the GATT to take remedial action. Nevertheless, the U.S. authorities have declared themselves ready, in a spirit of cooperation, to examine the possible courses of action proposed by the Commission to alleviate the problem of increased synthetic fibre exports to the Community. The results of this examination up till now are as follows:

Firstly, in view of the long and politically difficult domestic decision-making processes in the energy field, the U.S. authorities do not consider it politically realistic to propose specific legislation to accelerate oil and gas price decontrol solely for commercial policy reasons.

Secondly, the U.S. authorities do not regard the use of commercial policy instruments to restrain U.S. exports of synthetic fibres as justifiable under their legislation.

Thirdly, although current legislation would not allow the Administration to derestrict U.S. exports of naphtha under its own authority, the U.S. authorities have offered to examine two specific measures :

- the Europeanisation of existing national naphtha export quotas;
- the provision of a substantial export quota for natural gasoline.

The creation of a single Community quota for naphtha instead of separate ones the Member States should be understood primarily as a symbolic gesture.

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The offer to examine the opening of an export quota for natural gasoline might be of more interest to Community industry. It is a product of considerable use as an alternative to naphtha in the making of some petrochemicals, it may become available in considerable quantities on the American mrket, (for reasons associated with the declining demand for gasoline), and according to the U.S. authorities it would be available at U.S. market prices. However, it is as yet unclear just how useful a feedstock natural gasoline would be, whether the infrastructure needed to assure its transport to Europe is available, and what its market price would be likely to be. These questions are being further examined together with Community industry.

V. The development of U.S. exports of synthetic fibres to the Community

The accompanying tables containing the most recent figures available to the Commission (see Annex) show that the high level attained by U.S. exports to the Community in the last quarter of 1979 has been maintained in the first quarter of 1980, although it has not increased significantly further overall.

VI. Conclusions

Taking into account the developments described above, the Commission is of the opinion that the conclusions it arrived at in February remain valid. As regards the GATT Article XXIII.1 consultations, it believes that they should be pursued with the following aims in view:

- to maintain pressure on the U.S. authorities to adhere scrupulously to the existing timetable for decontrol of oil prices. In this context, it should be noted that a change in this legislation either to accelerate or to slow down decontrol, would require a time-consuming passage through both parts of Congress.

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- to continue to press the U.S. authorities to accelerate the decontrol of natural gas prices for industrial users. In fact, because of the considerable benefits it brings to some consumers, but not to others, and because of the increasing discrepancy between the prices of oil and gas, it is possible that the NGPA may be subject to amendment between now and 1985. However, such amendment would almost certainly be subject to a debate every bit as long and acrimonious as the one which led to the adoption of the Act in 1978 and any prediction of the outcome of such a debate would be extremely harzardous. Nevertheless, certain technical measures modifying the application of the Act in the sense suggested by the Commission already lie within the powers of the Administration;

- to continue to monitor the development of the oil and gas price differentials;

- to continue to monitor U.S. exports to the Community of synthetic fibres and other related products;

- to study whether the American proposal to Europeanise naphtha export quotas is of more than symbolic importance;

- to pursue the American suggestion on liberalising natural gasoline exports, if this should prove to be economically of interest to Community producers.

IMPORTS [illegible]D MARKET SHARE OF POLYESTER STAPLE [illegible]RE

metric tons

		1978	1979	Quarterly average 1979	IV quart. 1979	Ist quart. 1980	April 1980	May 1980
NL	Imports Extra-CEE	3.430	4.027	1.006	1.624	(730)		
	Imports U.S.	1.699	3.120	780	1.245	(640)		
	Market share Extra-CEE	14,4 %	16,0 %	16,0 %		(12 %)		
	Market share U.S.	7,1 %	12,4 %	12,4 %		(10,1 %)		
U	Imports Extra-CEE	3.612	2.885	721	(743)			
E	Imports U.S.	567	1.161	290	(290)			
B	Market share Extra-CEE	13,7 %	16,3 %	16,3 %				
L	Market share U.S.	2,2 %	6,6 %	6,6 %				
UK	Imports Extra-CEE	6.340	12.233	3.058	(2.535)	(1.293)		
	Imports U.S.		2.164	541		(831)	(77)	(157)
	Market share Extra-CEE	12,4 %	(29,6 %)	(29,6 %)				
	Market share U.S.	0,9 %	5,2 %	5,2 %		8 %		
Ir	Imports Extra-CEE	130	863	215		(270)		
	Imports U.S.	-	764	191	(191)	(212)		
	Market share Extra-CEE							
	Market share U.S.							
Dk	Imports Extra-CEE	492	608	152	(152)			
	Imports U.S.		90	22	(22)			
	Market share Extra-CEE							
	Market share U.S.							

IMPORTS AND MARKET SHARE OF POLYESTER STAPLE FIBRE.

metric tons.

		1978	1979	quarterly average 1979	IV quart. 1979	Ist. quart. 1980	April 1980	May 1980	
CEE	Imports Extra-CEE	40.277	58.888	14.722	17.981				
	Imports U.S.	5.755	20.993	5.248	9.741	(7.500)			
	Market share Extra-CEE	12,5 %	14,1 %	14,1 %					
	Market share U.S.	1,8 %	5,0 %	5,0 %		(7 %)			
D	Imports Extra-CEE	17.446	18.942	4.735	4.761	(5.443)			
	Imports U.S.	1.115	2.921	730	1.444	(1.708)			
	Market share Extra-CEE	19,8 %							
	Market share U.S.	1,3 %	(4,2 %)	(4,2 %)		(8 %)			
F	Imports Extra-CEE	4.428	5.170	1.292	1.572	(2.000)			
	Imports U.S.	214	661	165	370	(400)			
	Market share Extra-CEE	8,6 %	(10,6 %)	(10,6 %)	12,2 %	(16 %)			
	Market share U.S.	0,4 %	1,4 %	(1,4 %)	2,9 %	(3,2 %)			
I	Imports Extra-CEE	5.581	15.422	3.855	7.006	(5.233)			
	Imports U.S.	1.722	10.052	2.513	4.607	(3.488)			
	Market share Extra-CEE	9,7 %	20 %	(20,0 %)	(28,7 %)	(21 %)			
	Market share U.S.	3 %	(13 %)	(13,0 %)	(18,8 %)	(14 %)			

IMPORTS AND MARKET SHARE POLYESTER FILAMENT YARN.

metric tons

		1978	1979	quarterly average 1979	IV quart. 1979	Ist. quart. 1980	April 1980	May 1980	
C E E	Imports Extra-CEE	32.169	49.028	19.949	(15.832)				
	Imports U.S.	9.524	27.878	6.970	(10.289)	(8.100)			
	Market share Extra-CEE	12 %	17,0 %	17,0 %					
	Market share U.S.	3,5 %	9,7 %	9,7 %		(11,0 %)			
D	Imports Extra-CEE	3.918	6.368	1.592	(2.049)				
	Imports U.S.	740	2.899	724	(992)	(± 1.100)			
	Market share Extra-CEE	1,9 %	3,6 %	3,6 %					
	Market share U.S.	0,4 %	1,6 %	1,6 %		(2,4 %)			
F	Imports Extra-CEE	1.595	3.216	804	(1.172)	1.020			
	Imports U.S.	825	1.454	364	(573)	(584)	(250)		
	Market share Extra-CEE	4,8 %	9,2 %	9,2 %	(11,5 %)	(10,5 %)			
	Market share U.S.	2,5 %	4,2 %	4,2 %	(5,6 %)	6 %)			
I	Imports Extra-CEE	4.816	12.272	3.068	(4.651)	(3.264)			
	Imports U.S.	608	6.314	1.579	(3.499)	(2.002)			
	Market share Extra-CEE	13,8 %	22,1 %	22,1 %	(28,6 %)	(22 %)			
	Market share U.S.	1,7 %	11,4 %	11,4 %	(21,5 %)	(13,1 %)			

IMPOR[illegible] AND MARKET SHARE POLYESTER FILAMENT [illegible]RN

metric tons

		1978	1979	Quarterly average 1979	IV quart. 1979	Ist quart. 1980	April 1980	May 1980
NL	Imports Extra-CEE	572	778	194	(241)	194		
	Imports U.S.	27	315	78	(116)	± 100		
	Market share Extra-CEE	12,4 %	15,2 %	15,2 %				
	Market share U.S.	0,1 %	(6,2 %)	(6,2 %)		(± 8 %)		
UEBL	Imports Extra-CEE	392	969	242	(392)			
	Imports U.S.	306	498	124	(208)			
	Market share Extra-CEE	8,5 %	14,8 %	14,8 %				
	Market share U.S.	6,6 %	7,6 %	7,6 %				
UK	Imports Extra-CEE	17.638	20.854	5.213	(5.515)			
	Imports U.S.	5.077	12.247	3.062	3.719	2.966	(1.670)	(2.460)
	Market share Extra-CEE	20,9 %	29,8 %	29,8 %				
	Market share U.S.	6,0 %	17,5 %	17,5 %		16,9 %	(29 %)	(42 %)
Ir	Imports Extra-CEE	2.179	2.961	740	(814)	(936)		
	Imports U.S.	1.414	2.906	726	(813)	(900)		
	Market share Extra-CEE		(21 %)	(21 %)				
	Market share U.S.		(20 %)	(20 %)		(25 %)		
Dk	Imports Extra-CEE	1.059	1.610	402	(380)			
	Imports U.S.	527	1.245	311	(275)			
	Market share Extra-CEE	63,2 %						
	Market share U.S.	31,5 %						

IMPORTS AND MARKET SHARE ACRYLIC STAPLES

metric tons

		1978	1979	quarterly average 1979	IV quart. 1979	Ist. quart. 1980	April 1980	May 1980	
CEE	Imports Extra-CEE	37.911	50.999	12.749	(10.655)				
	Imports U.S.	10.729	17.794	4.448	(4.884)	(3.300)			
	Market share Extra-CEE	8,5 %	12,0 %	12,0 %					
	Market share U.S.	2,4 %	4,2 %	4,2 %		(3,0 %)			
D	Imports Extra-CEE	7.206	5.733	1.443	(1.406)	(2.389)			
	Imports U.S.	282	(512)	(128)	(115)	(171)			
	Market share Extra-CEE	(8,5 %)	(7 %)	(7 %)		(11 %)			
	Market share U.S.	(0,3 %)	(0,2 %)	(0,2 %)		(0,8 %)			
F	Imports Extra-CEE	4.384	5.393	1.348	(1.238)				
	Imports U.S.	826	883	221	(202)	(303)			
	Market share Extra-CEE	5,7 %	6,6 %	6,6 %	(6,3 %)				
	Market share U.S.	1,1 %	1,1 %	1,1 %	(1 %)	(1,4 %)			
I	Imports Extra-CEE	19.646	31.229	7.807	8.024	(5.255)			
	Imports U.S.	6.225	12.491	3.123	3.320	(2.185)			
	Market share Extra-CEE	8,0 %	13,0 %	13 %	(13,3 %)	9 %			
	Market share U.S.	2,5 %	5,2 %	5,2 %	(5,5 %)	(3,7 %)			

IMPORTS AND MARKET SHARE ACRYLIC STAPLES

metric tons

		1978	1979	Quarterly average 1979	IV quart. 1979	Ist quart. 1980	April 1980	May 1980
NL	Imports Extra-CEE	620	528	132	(132)			
	Imports U.S.	148	265	66	(66)	Jan.-Fev. (20)		
	Market share Extra-CEE	6,8 %	(5,8 %)	(5,8 %)				
	Market share U.S.	1,6 %	(2,9 %)	(2,9 %)				
UEBL	Imports Extra-CEE	1.506	2.738	684	(684)			
	Imports U.S.	1.301	1.288	322	(322)			
	Market share Extra-CEE	4 %	7,1 %	7,1 %				
	Market share U.S.	3,4 %	3,3 %	3,3 %				
UK	Imports Extra-CEE	3.656	4.786	1.196	(753)			
	Imports U.S.	2.126	2.687	672	(526)	(302)	(159)	(182)
	Market share Extra-CEE	3,4 %	6,1 %	(6,1 %)				
	Market share U.S.	2,0 %	3,4 %	(3,4 %)	(2,7 %)	(1,5 %)		
Ir	Imports Extra-CEE	38	136	114	(114)	(110)		
	Imports U.S.	-	-					
	Market share Extra-CEE							
	Market share U.S.							
Dk	Imports Extra-CEE	189	456	114	(114)			
	Imports U.S.	1	7	2	(2)			
	Market share Extra-CEE							
	Market share U.S.							