II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 19 June 1980

accepting undertakings offered by the Chinese and Czechoslovak exporters in connection with the anti-dumping proceeding concerning imports of mechanical alarm clocks (other than travel alarms) originating in China, Czechoslovakia, the German Democratic Republic, Hong Kong and the USSR, terminating the proceeding in respect of China, Czechoslovakia and Hong Kong, and withdrawing acceptance of undertakings previously accepted by the United Kingdom Government from the exporters in the German Democratic Republic and the USSR

(80/600/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 Community (1), and in particular Articles 10 and 14 thereof,

After hearing the opinions expressed by the Advisory Committee set up under that Regulation,

Whereas in May 1979 the Commission received a complaint lodged by the British Clock and Watch Manufacturers Association Ltd on behalf of manufacturers accounting for a major part of the Community production of mechanical alarm clocks ; whereas the complaint contained evidence of the existence of dumping in respect of like products originating in China, Czechoslovakia, the German Democratic Republic, Hong Kong and the USSR, and of substantial 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 mechanical alarm clocks originating in China, Czechoslovakia, the German Democratic Republic, Hong Kong and the USSR, 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 countries ;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally, and to meet so that opposing views might be presented and rebuttal arguments put forward ;

Whereas a number of the importing parties and all the exporting parties concerned with the exception of the Soviet exporter have taken this opportunity ;

Whereas, in order to arrive at a preliminary determination of the dumping margin and of the extent of injury, the Commission carried out inspections at the premises of importers and exporters' agents accounting for the greater part of imports of the goods concerned, viz. : in Belgium, EWA Technical and

(1) OJ No L 339, 31. 12. 1979, p. 1.

(2) OJ No C 212, 24. 8. 1979, p. 3.

Optical Equipment SA (Brussels) and Société Commerciale Anversoise SA (Antwerp); in Germany, Kuco Handelsgesellschaften Kudler KG (Hamburg) and Max A. Obermann KG (Hamburg); in France, Slava SA (Besançon), Agefi (Paris), Société d'Industrie Horlogère de Besançon (Paris), C. Spiero (Strasbourg), and Kiple (Morteau); in the Netherlands, A. Herschdorfer & Co. (Uithoorn) and Hema BV (Amsterdam); in the United Kingdom, Walter S. Strauss Ltd (London), Steven Strauss and Co. Ltd (London), The Boots Company Ltd (London), H. Goldman Ltd (London), and S. Goldman and Sons Ltd (London); whereas in the case of Italy most of the 19 importers contacted by the Commission did not reply, with the result that it is not known which are the major importers; whereas, in these circumstances no on-spot inspections have yet been carried out at the premises of importers or agents in Italy; whereas the Commission carried out inspections at the premises of the three Hong Kong firms involved in the production and export of mechanical alarm clocks to the Community namely: Chiap Hua Clocks and Watches Ltd, Eastern Time Ltd and General Time Asia Ltd; whereas the Commission also carried out inspections at the premises of the main complainant Community producers, viz.: in France, Réveils Bayard SA (St Nicholas-d'Aliermont); in Germany, Adolf Jerger KG (Niedereschach), Peter-Uhren GmbH (Rottweil), Wehrle Uhrenfabrik GmbH (Schönwald) and Uhrenfabrik Senden GmbH (Senden/Iller); in the United Kingdom (Westclox (UK) Ltd (Dumbarton, Scotland);

Whereas in the course of investigating whether there was dumping in the case of Hong Kong, it was ascertained that sales of Hong Kong-produced mechanical alarm clocks on the domestic market constitute a virtually negligible proportion of Hong Kong production of the product concerned and cannot, therefore, be regarded as permitting a proper comparison;

Whereas it was ascertained from the inspections carried out that Hong Kong exports of the product concerned were not being made to third country markets at prices higher than those applying for exports to the Community;

Whereas an examination was also conducted into the constructed normal value by taking the costs of materials and manufacture in Hong Kong and adding a reasonable margin for overheads and profit; whereas, for each of the major models exported to the Community, the normal value as thus determined was compared with the export price to the Community; whereas, since these values were only available on a fob basis, the comparison was effected at the fob stage; whereas this also showed no dumping in respect of exports to the Community of the products in question originating in Hong Kong;

Whereas, in order to establish whether imports from China, Czechoslovakia, the German Democratic Republic and the USSR were dumped, the Commission had to take into account the fact that these countries are not market economy countries;

Whereas, for that reason, the Commission had to base its calculations on the normal value in a market economy country; whereas, in that connection, the complaint had cited the Mexican domestic market;

Whereas, on the basis of the information concerning the Mexican market made available by the complainants, and of the information concerning the Hong Kong market obtained during the investigation, and in the light of the arguments put forward by a number of the exporters and importers concerned, disputing the comparability of the Mexican market, it would appear appropriate and not unreasonable, at least for the purposes of a preliminary finding of dumping, to use Hong Kong as the basis for determining the normal value for exports of mechanical alarm clocks from the non-market economy countries concerned; whereas, in particular in this connection the low level of protection afforded to alarm clock production in Hong Kong would appear to guarantee a fair level of costs and prices;

Whereas since no dumping was found for Hong Kong, it was appropriate and not unreasonable to use Hong Kong export prices to the Community as the basis for determining the normal value for exports to the Community from the non-market economy countries in question; whereas the preliminary determination of dumping for these countries was accordingly effected by comparing the current export prices for each of the main models of each exporter with the current export prices of the Hong Kong models nearest in physical appearance to them; whereas the export prices for the non-market economy countries in question were available only on a cif free-at-frontier or delivered basis; whereas it was therefore necessary for the Commission, on the basis of the best information available, to make appropriate deductions from these prices to render them comparable with the normal value, which could only be reliably established on a fob Hong Kong basis;

Whereas due account was taken of the differences affecting price comparability known to the Commission, in particular as regards price discounts and credit terms; whereas at this stage no allowance has been made for any differences in the physical characteristics of the product other than those relating to outward appearance; whereas the Commission will give further attention to this question in the light of a technical assessment which it is having carried out by an appropriate outside organization;

Whereas in some cases export prices for a given model varied according to the Member State of destination; whereas in such cases the dumping margin was determined on the basis of those export prices

which were considered representative, account being taken of the quantities involved and of the situation on the various Community markets ;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of imports from the non-market economy countries in question, the dumping margin being equal to the amount by which the normal value as established above exceeds the price at which the goods are exported to the Community ; whereas this margin varies considerably depending on the type of alarm clock and the exporting country ;

Whereas it was therefore necessary to establish average dumping margins ; whereas, for the USSR, the weighted average dumping margin was 1·75 EUA per clock for twin bell models, and 1·50 EUA for other models ; whereas for Czechoslovakia, China and the German Democratic Republic the Commission does not possess sufficient information to establish a weighted average dumping margin ; whereas, however, for large twin bell alarms falling within NIMEXE code 91.04-56 the dumping margins established were : in the case of Czechoslovakia, between 0·93 EUA and 1·11 EUA ; in the case of China, 1·60 EUA ; and in the case of the German Democratic Republic 1·30 EUA ; whereas for other models from these three countries the margins established vary from zero to 0·91 EUA, with arithmetic averages of 0·04 EUA for Czechoslovakia, 0·38 EUA for China and 0·35 EUA for the German Democratic Republic ;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that imports into the Community of the mechanical alarm clocks in question originating in the countries found to be dumping rose from 2·80 million pieces in 1975 to 4·71 million pieces in 1978, and reached 1·49 million pieces for the first six months of 1979 ; whereas, in view of the seasonal nature of alarm clock sales, this latter figure cannot necessarily be taken as indicating a reversal of the upward trend ;

Whereas the information available suggests that for 1978 imports of the mechanical alarm clocks in question originating in the countries found to be dumping took a market share of 36 % in the Community compared with 22 % in 1975 ; whereas in 1978 these imports took a market share of 17 % in Germany, 42 % in France and 21 % in the United Kingdom and Ireland ;

Whereas in 1979 the resale prices in the Community of the mechanical alarm clocks for which dumping was found undercut the prices of like mechanical alarm clocks produced by Community manufacturers by substantial margins ; whereas, for example, for twin bell alarms the prices of the dumped imports undercut the lowest known profit-making price charged by a Community manufacturer at the same level of trade by between 0·56 and 1·78 EUA per clock ; whereas for other models the margin of price undercutting varied from 0·26 to 3·75 EUA ;

Whereas this reflects in particular the very low import prices for clocks originating in these countries ;

Whereas the consequent impact on the Community industry takes the form principally of loss of market share and of a depression of Community prices for mechanical alarm clocks similar to those being imported ; whereas, for example, the share of the Community market held by Community manufacturers is estimated to have fallen from 59 % in 1975 to 47 % in 1978 ; whereas in Germany the estimated fall has been from 67 to 56 %, in France from 65 to 44 % and in the United Kingdom and Ireland from 57 to 52 % ; whereas, moreover, those firms which have attempted to maintain their market shares are making very low profits or, in many cases, substantial losses on their more basic models ;

Whereas Community production of mechanical alarm clocks is estimated to have fallen by about 20 % since 1975, which has resulted in the loss of many jobs ; whereas, for example, the four major producers have reduced their workforces by between 12 and 32 % since 1975 ; whereas the evidence available suggests that this is due primarily to reduced levels of production, rather than to rationalization ;

Whereas the sole remaining United Kingdom producer of mechanical alarm clocks has recently been obliged to lay off a substantial number of workers and has put the remaining workers on a three-day week ;

Whereas the Commission has considered whether there is injury caused by other factors which, individually or in combination, are also adversely affecting the Community industry ; whereas the Commission has examined in particular in this context the level and prices of other imports and the level of demand in the Community for mechanical alarm clocks ; whereas the level of other imports fell from 2·43 million pieces in 1975 to 2·25 million pieces in 1978, and fell further in the first half of 1979 ; whereas the average prices for the principal countries involved in the first half of 1979 were, with the exception of Brazil and Hungary, higher than those of the highest-priced source for which dumping was found, while at the same time imports from Hungary and Brazil accounted for only 7 % of all imports other than those found to be dumped, having fallen dramatically from their 1978 level ; whereas, according to the information available to the Commission, the level of Community demand for mechanical alarm clocks remained unchanged from 1975 to 1978, while over this period the number of Community producers declined considerably ;

Whereas the preliminary examination of the facts shows that there is no dumping in the case of Hong Kong ; whereas, on the other hand, China, Czechoslo-

vakia, the German Democratic Republic and the USSR, were found to be dumping and there is sufficient evidence of injury resulting therefrom ;

Whereas, in these circumstances, to prevent injury being caused during the proceeding, the interests of the Community call for immediate intervention consisting in the imposition of a provisional anti-dumping duty on imports of mechanical alarm clocks (other than travel alarms) originating in Czechoslovakia, China, the German Democratic Republic and the USSR ; whereas protective measures are unnecessary in the case of Hong Kong ;

Whereas the Commission, after having examined the Community producers' and importers' prices, costs, profitability and marketing conditions, has determined the import prices necessary to eliminate the injury caused ;

Whereas, after being informed of the main findings of the investigation the Chinese and Czechoslovak exporters concerned have offered to undertake to increase their prices to a level which eliminates the injury caused by dumping in respect of twin bell models, and which eliminates the margins of dumping established for other types ; whereas the Commission, having consulted the Member States, considers these undertakings to be acceptable and that it is not now necessary to take protective action in respect of the products in question originating in China and Czechoslovakia ;

Whereas, in the course of its investigation, the Commission has also reviewed the undertakings accepted by the United Kingdom Government in 1976 under the transitional provisions of the Act of Accession from exporters in the German Democratic Republic and the USSR ; whereas the Commission has concluded that these undertakings no longer eliminate the margins of dumping, or the extent of injury, for the products in question ; whereas the exporters have not offered to revise their undertakings ; whereas the Commission should consequently withdraw the acceptance of these undertakings,

HAS DECIDED AS FOLLOWS :

Article 1

The undertakings offered by the Chinese National Light Industrial Products Import and Export Corporation, Peking, China, and Merkuria Foreign Trade Corporation, Prague, Czechoslovakia, in the context of the anti-dumping proceeding concerning imports of mechanical alarm clocks (other than travel alarms), are hereby accepted.

Article 2

The anti-dumping proceeding in question is hereby terminated in respect of China, Czechoslovakia and Hong Kong.

Article 3

The acceptance of the undertakings offered in 1976 to the United Kingdom Government by VEB Uhren- und Maschinenkombinat Ruhla, Berlin, German Democratic Republic, and Mashpriborintorg., Moscow, USSR, in the context of an anti-dumping proceeding in respect of mechanical alarm clocks, is hereby withdrawn.

Done at Brussels, 19 June 1980.

For the Commission

Wilhelm HAFERKAMP

Vice-President