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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 April 1982

terminating an anti-dumping proceeding in respect of imports of upright pianos originating in Czechoslovakia, the German Democratic Republic and Poland

(82/220/EEC)

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 10 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee set up under Regulation (EEC) No 3017/79,

Whereas in September 1980 and June 1981 the Commission received complaints lodged by the Confédération des associations des facteurs d'instruments de musique de la CEE (CAFIM) on behalf of manufacturers accounting for the major part of the Community production of upright pianos;

Whereas since the first complaint provided sufficient evidence of dumping in respect of the like product originating in the German Democratic Republic and Poland, and of material injury resulting therefrom, 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 upright pianos originating in the German Democratic Republic and Poland and commenced an investigation of the matter at Community level;

Whereas, since the second complaint provided sufficient evidence of dumping in respect of the like product originating in Czechoslovakia and the USSR, and of material injury resulting therefrom, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [3], the extension of the above investigation to upright pianos originating in Czechoslovakia and the USSR;

Whereas the Commission officially so advised the exporters and importers known to be concerned, as well as the exporting countries and the complainants;

Whereas the Commission has given all parties directly concerned the opportunity to make known their views in writing and to be heard orally; whereas neither the exporter in the USSR, nor any importer of USSR pianos, took advantage of this opportunity; whereas several of the other importing and exporting parties known to be concerned have taken the opportunity to make known their views in writing; whereas the exporters in Czechoslovakia, the German Democratic Republic and Poland requested, and were granted, an opportunity to make known their views orally;

[1] OJ No L 339, 31. 12. 1979, p. 1.

[2] OJ No C 35, 18. 2. 1981, p. 2.

[3] OJ No C 181, 23. 7. 1981, p. 3.

Whereas, in order to arrive at a preliminary determination of dumping and injury, the Commission sought to obtain and verify all information which it deemed to be necessary;

Whereas, in order to verify the export prices to the Community of the pianos under investigation, and the resale prices of these pianos in the Community, the Commission carried out inspections at the premises of the principal agents and importers concerned, namely: Cross and Ticher Ltd, London; Fortin Euromusic, Paris; Furcht & Co., Milan; General Music, Les Eyzies, France; Hamm, Paris; Harlet, Paris; Minns Music Ltd, Bournemouth; Ricordi, Milan; Sisme, Osimo; Whelpdale, Maxwell and Codd Ltd, London;

Whereas the Commission requested and received detailed written submissions from the complainant Community producers with respect to the question of injury and causation thereof; whereas the Commission also carried out inspections at the premises of a number of complainant Community producers, namely: Barratt and Robinson Ltd, London; Bentley Piano Co. Ltd, Stroud (Gloucestershire); Farfisa SpA, Ancona; Kemble & Co. Ltd, Bletchley (Buckinghamshire); Rameau SA Pianos, Alès, France; Whelpdale, Maxwell and Codd Ltd, London;

Whereas no information was submitted by, or on behalf of, any Community purchaser or consumer of upright pianos, other than by firms who were also purchasing from the exporting countries under investigation;

Whereas a large number of different models and finishes are covered by the investigation; whereas, consequently, the Commission, in its preliminary determination of dumping, has based all its calculations on the prices charged for upright pianos 110 cm in height, with 88 notes, three pedals and matt mahogany veneer, this being in the Commission's view, generally accepted by the interested parties, the most representative model;

Whereas, in determining the normal value for the product in question, the Commission had to take into account the fact that the exporting countries concerned do not operate market economies; whereas the complainant initially proposed South African domestic prices as the basis for normal value; whereas, after having considered the arguments advanced by the interested parties to the proceeding, the Commission has based its preliminary determination of normal value on the prices charged for pianos manufactured in Finland; whereas, in arriving at this decision, the Commission has taken into account in particular the physical similarity of Finnish pianos to those under investigation, and the proximity to supplies of key raw materials;

Whereas, owing to the particular structure of the retail market for pianos in Finland, and the fact that the greater part of Finnish production is exported, much of it to the Community, the Commission considered that it was appropriate and not unreasonable to use as basis for normal value the weighted average of Finnish export prices to the Community;

Whereas, after having considered the arguments and evidence presented by interested parties, the Commission adjusted the above normal value to take account of certain differences in physical characteristics as between, on the one hand, Finnish pianos and, on the other, the pianos exported by the countries under investigation; whereas in this context account was taken of the quality of the action, the type of soundboard used, and the raw material used for the cabinet; whereas the allowance for such differences was based on the Commission's best estimate of the effect these would have had on the price charged for Finnish pianos exported to the Community; whereas the normal value was also adjusted to take account of the inferior condition in which these pianos are delivered to the importer in the Community, compared with Finnish pianos; whereas the allowance for this difference was based on the cost to importers of remedying the defects involved; whereas, in the case of the USSR, the Commission deemed it appropriate to make these adjustments, despite the fact that no interested party had claimed them;

Whereas, as concerns the export price, the Commission has used, for each exporting country, the actual export price to the Community for the representative model chosen;

Whereas a comparison between the normal value and the export price shows the following margins of dumping, expressed as a percentage of the price free at Community frontier:

	1980 (second half)	Situation at 1 September 1981
Czechoslovakia	21·1 %	23·0 %
German Democratic Republic	from 21·8 to 33·7 % weighted average 26·6 %	from 14·0 to 42·8 % weighted average 27·3 %
Poland	from 17·2 to 30·2 % weighted average 21·1 %	from 14·2 to 35·0 % weighted average 23·6 %
USSR	55·8 %	79·7 %

Whereas, with regard to the injury caused by the dumped imports to the Community industry, the evidence available to the Commission during the preliminary investigation showed that total imports of upright pianos from the countries in question increased from 25 136 in 1978 to 31 213 in 1980, an increase of 24 % ;

Whereas, in examining the market shares held respectively by dumped imports and by Community producers, the Commission has concluded that, by virtue of their style and quality, the pianos from the countries in question are competing mainly in a very specific sector of the market, namely that for low-priced beginner's pianos ; whereas a separate identification of this market has been possible, since such pianos are produced only by certain producers in specific countries ; whereas the sales of the imported pianos under investigation should consequently be measured against the market for such low-priced beginner's pianos ; whereas most of the Community producers directly competing with the dumped imports in the market for low-priced beginner's pianos are situated in the UK ;

Whereas, according to the Commission's best estimates, the share of the Community market held by dumped pianos from the countries in question stood at 40 % in 1978 and rose to 43 % in 1980 ;

Whereas, depending on the country of origin, the average cif price of the dumped pianos was, in 1978, between 28 % (in the case of Czechoslovakia) and 47 % (in the case of the USSR) below the average unit sales price of Community producers of this type of piano ; whereas in 1980 this difference had increased to between 39 % (for Czechoslovakia) and 56 % (for the USSR) ; whereas, given the structure of the market for imported and Community-produced pianos, this indicates a substantial and increasing margin of price undercutting ; whereas, even taking into account the evidence available concerning differences in quality between Community-produced pianos and those under investigation, the extent of price undercutting appears to the Commission to be greater than the margins of dumping determined ;

Whereas, as regards the effect of these dumped imports on the Community industry, the evidence available to the Commission shows that total Community production stood at 55 772 pieces in 1978, rose to 57 849 pieces in 1979, and fell to 54 250 pieces in 1980 ; whereas in the United Kingdom, production fell from 18 708 pieces in 1979 to 13 012 in 1980, after having previously increased from 18 400 in 1978 ; whereas in Germany, where the industry produces a higher quality product not directly affected by the dumped imports production rose from 25 800 in 1978, to 26 500 in 1979 and 27 500 in 1980 ;

Whereas the evidence available to the Commission shows that the number of persons employed by Community piano producers, other than those in Germany, is expected to be 23 % lower in 1981 than in 1979 ; whereas, moreover, at least one major Community producer has been obliged considerably to curtail the number of hours worked in 1981 ;

Whereas the share of the market for low-priced beginner's pianos held by Community producers has, according to the Commission's best estimates, fallen from 39·5 % in 1978 to 30·7 % in 1980 ;

Whereas the evidence available to the Commission shows that Community producers competing in this market have been unable to raise their selling prices sufficiently to cover increases in production costs, with the result that their profitability has been severely eroded since 1979 ;

Whereas the Commission has considered the injury caused by other factors which, individually or in combination, are also affecting the Community industry ; whereas it has examined in particular the level of consumption of pianos in the Community, the prices and level of non-dumped imports, and the problems which may have been faced by UK producers as a result of the rise in the value of the pound sterling ;

Whereas the evidence available to the Commission shows that total consumption of pianos in the Community rose from approximately 102 000 pieces in 1978 to approximately 126 000 pieces in 1980 ; whereas a similar trend was visible for low-priced beginner's pianos, the Commission's best estimate showing an increase from approximately 64 000 pieces in 1978 to approximately 72 500 pieces in 1980 ;

Whereas total imports of non-dumped pianos rose from 32 646 pieces in 1978 to 51 379 pieces in 1980 ; whereas it is estimated that the share of the market for low-priced beginner's pianos held by non-dumped imports rose from 21·1 % (13 500 pieces) in 1978 to 26·4 % (19 140 pieces) in 1980 ; whereas this is considerably less than the share held by dumped pianos ; whereas the Commission consequently considers that the impact on the market of non-dumped pianos has likewise been considerably smaller than that of dumped pianos ;

Whereas it has been suggested by some interested parties that the difficulties faced by the UK producers have been principally the result of the rise in the value of the pound sterling, and of related economic factors ; whereas, however, UK exports of pianos to third countries increased from 4 561 pieces in 1979 to 4 618 pieces in 1980, at a time when total Community exports of pianos were declining ; whereas the Commission consequently takes the view that the rise in the value of the pound sterling cannot have been a significant factor causing injury to the UK industry in respect of its export sales, either to third countries or within the Community ;

Whereas, therefore, the impact of non-dumped imports on the market for low-priced beginner's pianos is in the Commission's view the only significant other factor causing injury to the Community industry; whereas, however, the Commission takes the preliminary view that, despite this, dumped imports from Czechoslovakia, the German Democratic Republic, Poland and the USSR have, by the increase in their already substantial market share, and by the increased level of price undercutting, been a cause of material injury to Community production;

Whereas in these circumstances, and in order to prevent injury being caused during the investigation, the Commission is of the view that the interests of the Community require immediate intervention consisting in the imposition of a provisional anti-dumping duty on imports of upright pianos originating in Czechoslovakia, the German Democratic Republic, Poland and the USSR at a rate which, having regard to the extent of injury caused, should be equal to the margin of dumping provisionally established;

Whereas, after being informed of the results of the Commission's investigation, the exporters in Czechoslovakia, the German Democratic Republic and Poland voluntarily undertook to increase their prices to a level which the Commission considers adequate to eliminate the dumping margin provisionally established, or the injurious effects thereof; whereas, however, during the consultations within the Advisory Committee concerning the acceptability of these undertakings, certain delegations objected to the termination of the proceeding on the basis of acceptance of these undertakings;

Whereas the Commission has consequently submitted a proposal to the Council to terminate the proceeding on the basis of the acceptance of the undertakings offered, in respect of pianos originating in those three countries,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of upright pianos originating in Czechoslovakia, the German Democratic Republic, Poland and the USSR is hereby terminated in respect of such goods originating in Czechoslovakia, the German Democratic Republic and Poland on the basis of the acceptance of price undertakings offered to the Commission by the exporters concerned, namely Musicexport, Prague, Demusa, Berlin (East) and Ars Polona, Warsaw.

Done at Brussels, 14 April 1982.

For the Council

The President

P. de KEERSMAEKER