II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 1 March 1983

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of ferro-silicon originating in Iceland, Norway, Sweden, Venezuela and Yugoslavia and terminating that proceeding

(83/93/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 European Economic Community (1), as amended by Regulation (EEC) No 1580/82 (2), and in particular Article 10 thereof,

After consultations within the Advisory Committee provided for under the above Regulation,

Whereas the Commission received a complaint lodged by, among others, the 'Chambre Syndicale de l'Electro-métallurgie et de l'Electrochimie' and 'Assoferleghe' on behalf of European producers of ferro-silicon, including French and Italian producers, whose collective output constitutes the majority of Community production of the product in question ; whereas the complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding ; whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the initiation of an anti-dumping proceeding concerning imports into the Community of ferro-silicon falling within subheading 73.02 C of the Common Customs Tariff (corresponding to NIMEXE code 73.02-30 and originating in Venezuela and Yugoslavia and commenced an investigation ;

Whereas on 30 July 1982 a complementary complaint concerning imports of the same product originating in Iceland, Norway and Sweden was received, the content of which was also deemed sufficient to justify the initiation of a proceeding ; whereas the Commission accordingly, by a notice published in the *Official Journal of the European Communities* (4), announced the extension of the anti-dumping proceeding to include imports originating in the above three countries ;

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 request an oral hearing ;

Whereas all exporters and Community producers and most importers have made their views known in writing ; whereas all exporters and some importers have requested and been granted oral hearings ;

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 144, 8. 6. 1982, p. 2.
(4) OJ No C 250, 24. 9. 1982, p. 2.

Whereas submissions were made on behalf of Community consumers of ferro-silicon ;

Whereas the Commission requested and received detailed written submissions from complainant Community producers, exporters and importers ; whereas this information was verified by the Commission to the extent considered necessary ;

Whereas the Commission investigation of dumping covered a period of 12 months within the period from June 1981 to August 1982 ;

Whereas in the case of two Yugoslav exporters, Elektrobosna and Tovarna Dusika Ruse, who provided sufficient evidence, the normal value was provisionally determined on the basis of the comparable price actually paid in the ordinary course of trade for ferro-silicon intended for consumption in Yugoslavia ;

Whereas the Swedish producer, Vargön Alloys AB, also stated that its domestic sales were made in the ordinary course of trade but did not give any information on such sales ; whereas normal value was therefore based on the best evidence available which in this case was information supplied to the Commission on the export price to Sweden of another producer of ferro-silicon ;

Whereas, in seeking to determine the normal value for Orkla Metal A/S & Co., A/S Fesil & Co., Tinfos Jernverk A/S, Elkem A/S, Norway, Icelandic Alloys Ltd, Iceland, and CVG-Fesilven, Venezuela, the Commission had to take account of the fact that there were no sales of the like product on the domestic market or that sales of the like product on the domestic market did not permit a proper comparison because of the small quantities involved ; whereas the Commission determined therefore that the normal value for these companies should be established on the basis of the constructed value ; whereas the constructed value was computed by taking for each company its total cost of materials and manufacture, including overheads, and adding a profit margin of 3 %, considered to be reasonable in the light of the industry's past profitability performance ;

Whereas, however, given the fact that A/S Fesil & Co. is an exporter who delivered to the EEC ferro-silicon manufactured during the investigation period by five Norwegian producers, the constructed value in this particular case was based on the weighted average costs of materials and manufacture, of those producers, including overheads, to which were added the operating costs of A/S Fesil & Co, as well as a reasonable profit margin of 3 % ;

Whereas the preliminary investigation to determine the existence of dumping has shown that the prices of ferro-silicon marketed by the Yugoslav producer Jugohrom on its domestic market had, during the investigation period and in respect of substantial quantities, been, on average, lower than all costs both fixed and variable normally incurred in the course of production ; whereas in this case the normal value was therefore determined on the basis of the constructed value, being the total costs of materials and manufacture including overheads plus a reasonable profit margin of 3 % ;

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

Whereas, however, where exports were made to subsidiary companies in the Community, export prices were constructed on the basis of the prices at which the imported product was first resold to an independent buyer, suitably adjusted to take account of all costs incurred between importation and resale, including customs duty where appropriate, and of a profit margin of 3 %, considered reasonable in the light of average profit margins of independent importers of the product concerned ;

Whereas, in comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability such as differences in physical characteristics of ferro-silicon or conditions and terms of sale ;

Whereas all comparisons were made at ex-works level ;

Whereas the above preliminary examination of the facts shows the existence of dumping in respect of imports from all the exporters investigated, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community ;

Whereas these margins vary according to the exporter and the importing Member State concerned ; whereas the weighted average margin expressed as a percentage of cif Community border export price varies according to each exporter between 4,4 % and 53,7 % ;

Whereas, with regard to the injury caused by the dumped imports from Iceland, Norway, Sweden, Venezuela and Yugoslavia, the evidence available to the Commission shows that total imports into the Community (excluding the United Kingdom for which import statistics are confidential) increased from 217 503 tonnes in 1979 to about 267 000 tonnes in 1982 ; whereas, consequently, the total market share

held by the five exporting countries in the EEC has increased from 34,8 % to 44,8 % in the same period ; whereas both the actual volume and the market share held by imports from each of the five exporting countries involved in this proceeding have also increased ;

Whereas the weighted average resale prices of these imports have in many instances undercut the prices of the Community producers during the investigation period ; whereas, furthermore, the resale prices of these imports were at all times during the period lower than those required to cover the costs of Community producers and provide a reasonable profit ;

Whereas the consequent impact on the Community ferro-silicon industry, has taken the form of a decrease in production, falling from 307 000 tonnes in 1979 to 218 000 tonnes in 1982, a decrease in the level of capacity utilization, falling from 76,8 % to 55,9 %, a decrease in its market share, falling from 44,2 % to 29,2 %, a process of price depression and severe losses ;

Whereas the Commission has considered whether injury has been caused by other factors such as the stagnation of demand ; whereas consumption in the Community declined by 16 % between 1979 and 1982 ; whereas, however, it has been established that this decline affected the Community production more than it affected the dumped imports which increased during the same period by 23 % in absolute terms and 47 % in terms of market share ; whereas this substantial increase in dumped imports and the prices at which they are offered for sale in the Community led the Commission to determine that the effects of the dumped imports of ferro-silicon originating in Iceland, Norway, Sweden, Venezuela and Yugoslavia, taken in isolation, have to be considered as constituting material injury to the Community industry concerned ;

Whereas the exporters concerned were informed of the main findings of the preliminary investigation and commented on them ; whereas undertakings were subsequently offered by Icelandic Alloys Ltd, Iceland, by Elkem A/S, Orkla Metal A/S & Co., Tinfos Jernverk A/S and A/S Fesil & Co., Norway, by Vargön Alloys AB, Sweden, by CVG-Fesilven, Venezuela, and Elektrobosna, Jugohrom and Tovarna Dusika Ruse, Yugoslavia, concerning their exports of ferro-silicon to the Community ;

Whereas the effect of the said undertakings will be to increase import prices to the level which the Commission, having compared the Community producers' weighted average prices and costs with the individual importers' costs and special marketing conditions, considered necessary to eliminate injury and, in most cases, the dumping margin ;

Whereas the Commission has, therefore, determined that it is not now necessary to take protective action in respect of imports of ferro-silicon originating in Iceland, Norway, Sweden, Venezuela and Yugoslavia ;

Whereas, in these circumstances, the undertakings offered are considered acceptable and the proceeding may, therefore, be terminated without imposition of anti-dumping duties ;

Whereas no objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS :

Article 1

The Commission hereby accepts the undertakings given by Icelandic Alloys Ltd, Iceland, by Elkem A/S, Orkla Metal A/S & Co., Tinfos Jernverk A/S and A/S Fesil & Co., Norway, by Vargön Alloys AB, Sweden, by CVG-Fesilven, Venezuela, and by Elektrobosna, Jugohrom and Tovarna Dusika Ruse, Yugoslavia, in connection with the anti-dumping proceeding concerning ferro-silicon falling within subheading 73.02 C of the Common Customs Tariff (corresponding to NIMEXE code 73.02-30 and originating in Iceland, Norway, Sweden, Venezuela and Yugoslavia.

Article 2

The anti-dumping proceeding concerning imports of ferro-silicon originating in Iceland, Norway, Sweden, Venezuela and Yugoslavia is hereby terminated.

Done at Brussels, 1 March 1983.

For the Commission

Étienne DAVIGNON

Vice-President