COMMISSION

COMMISSION DECISION

of 31 January 1986

terminating the anti-dumping proceeding concerning imports of hammers originating in the People's Republic of China

(86/20/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 9 thereof,

After consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Procedure

1. In 1984 the Commission received a complaint lodged by the European Tool Committee (CEO) on behalf of producers of hammers whose collective output constituted the majority of Community production of the product in question. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of ball peen, claw, machinist and sledge hammers of base metal falling within Common Customs Tariff heading No ex 82.04, corresponding to Nimexe Code ex 82.04-50, originating in the People's Republic of China, and commenced an investigation.

2. The Commission officially so advised the exporters and importers known to be concerned and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

3. The Commission, for the purpose of obtaining all the information it deemed to be necessary, sent questionnaires to 19 German, French and UK firms on whose behalf the complaint was made, in order to allow each firm to demonstrate the injury caused to it by imports of hammers from the People's Republic of China.

4. Replies were received from only nine firms, of which only five supplied the information requested in the questionnaire ; two sent their replies incomplete and two replied that they did not regard themselves as having been injured by imports of the products in question from the People's Republic of China.

5. Despite subsequent requests from the Commission to CEO for a more complete response from its members no further replies were received from the other 10 producers. The Commission carried out a detailed analysis of those firms whose replies were received. None of the producers requested to be heard by the Commission. One importer requested and was granted a hearing.

6. The Commission verified the information received to the extent it deemed necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following EEC producers :

   — Hermann Bremer KG, Wuppertal, Germany,
   — Burgon & Ball Ltd, Sheffield, United Kingdom,
   — Goldenberg SA, Saverne, France,
   — Outillage MOB, Le Chambon Feugerolles, France,
   — Carl Dan. Peddinhaus GMBH & Co. KG, Ennepetal, Germany,
   — Joh. Herm Picard, Wuppertal, Germany,
   — Spear & Jackson (Tools) Ltd, West Midlands, UK,
   — Stanley Tools Ltd, Sheffield, UK,
   — WM Whitehouse & Co. (Tools) Ltd, West Midlands, UK.

[1] OJ No L 201, 30. 7. 1984, p. 1.
[2] OJ No C 96, 17. 4. 1985, p. 3.

The complainant requested and received all information available to the Commission to the extent that such information was relevant to the complainant's interest, had been used by the Commission during the investigation and had a decisive influence on its findings.

The information disclosed was not regarded by the Commission as confidential within the meaning of Article 8 of Regulation (EEC) No 2176/84.

B. Injury

7. With regard to the allegation that imports of hammers from the country concerned caused injury to the Community producers of this product, the investigation showed that imports to the Community from the People's Republic of China increased from 3 501 tonnes in 1980 to 4 344 tonnes in 1982 but fell to 4 028 tonnes in 1983, to 3 685 tonnes in 1984 and to 1 184 tonnes during the first half of 1985. This reduction represented a fall in market share from about 40 % in 1982 to 16 % in the first half of 1985.

8. The information received from the complainant firms who cooperated in the investigation showed that their production increased form 2 167 tonnes in 1980 to 2 404 tonnes in 1984. With regard to the allegation that capacity utilization had decreased because of the imports in question, it was found that there was a steady decline up to 1983 followed by an upward trend in 1984 and the first half of 1985. No concrete information could be obtained, even from the companies that cooperated in this proceeding, concerning sales in the Community and sales outside the Community. Nevertheless, considering that the volume of stocks did not change substantially between 1980 and 1984 and that total exports to third countries remained stable, it can be concluded that the market share of Community producers in the Community increased by approximately 5 % between 1980 and 1984.

9. Although the development of prices throughout the Community prior to and during the reference period shows relatively small increases, the Commission considers that, in general, the available evidence on quantities imported from both the country concerned and from other countries, the pricing of those imports and the pricing of the products of Community producers show that the fact that prices did not increase more rapidly cannot be conclusively attributed to the imports in question. The Commission did, however, find isolated regional instances of price depression which could be attributed to certain of the imports in question but the injurious effect of these imports on prices was restricted both in time and to the immediate areas of the port of entry and, taking account of the quantities concerned, could not be considered material on a Community basis. In addition, in their sales of hammers in the Community during the reference period, all but one of the complainant firms that cooperated achieved profitability, and in some cases at a relatively high level in the light of the general economic situation.

10. Thus the Commission, in taking account of the evidence available, is of the opinion that, to the extent to which the complainant firms that cooperated may have sustained injury during the reference period which could be conclusively attributed to the imports in question, the injury cannot be described as material. In addition, despite repeated requests, a substantial number of complainant firms failed to cooperate by providing the necessary data on injury, thereby significantly impeding the investigation. The Commission concluded from this attitude that it was unlikely that any injury which these firms might have sustained was material.

C. Dumping

11. In view of the above findings with respect to injury the Commission considered it unnecessary to investigate the allegation of dumping with regard to the imports in question, since anti-dumping measures may be taken only where examination shows that there has been dumping during the period under investigation, that material injury has been caused thereby and that the interests of the Community call for such measures.

In these circumstances it is considered appropriate that the proceeding be terminated without the imposition of protective measures.

No objection to this course was raised in the Advisory Commitee,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping investigation concerning imports of hammers originating in the People's Republic of China is hereby terminated.

Done at Brussels, 31 January 1986.

For the Commission

Willy DE CLERCQ

Member of the Commission