II

(Acts whose publication is not obligatory).

COMMISSION

COMMISSION DECISION

of 18 March 1986

terminating the anti-dumping proceeding concerning imports of stainless steel household cooking ware originating in South Korea

(86/86/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 February 1985 the Commission received a complaint made on behalf of Community producers of stainless steel household cooking ware representing a major proportion 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 casseroles, saucepans, frying pans with or without cover, of stainless steel, falling within Common Customs Tariff subheading ex 73.38 B II, corresponding to NIMEXE code ex 73.38-47, originating in South Korea, and commenced an investigation.

2. The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting country 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 necessary, sent questionnaires to 14 firms, on whose behalf the complaint was made, in order to allow each firm to demonstrate the injury caused to it, thereby substantiating the allegations made in the complaint, to three South Korean exporters and to 16 importers of the products into the Community.

4. One South Korean exporter and three importers replied to the Commission's questionnaire. In addition, complete replies were received from only seven Community producers, none of them from the producers in Germany, the market in which South Korean imports were concentrated.

5. It should be noted that four of the producers who cooperated declared that they did not regard themselves as having been injured by the imports in question. Despite subsequent requests from the Commission to the complainant, no furhter replies were received from the remaining producers. The Commission carried out a detailed analysis of those firms whose replies were received. None of the producers or importers requested to be heard by the Commission. The South Korean exporter requested and was granted a hearing.

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No C 126, 23. 5. 1985, p. 23.

No submissions were made by or on behalf of Community purchasers of the products in question.

6. The Commission verified the information received in so far as it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following:

(a) *EEC producers*

— Werkhuizen Demeyere NV, Deurne/Antwerpen, Belgium,

— Berk Beccon BV, Kampen, Netherlands,

— L. Lagostina, Omegna (Novara), Italy,

— Cuisinox SA, Aigueperse, France,

— Sitram inox, Saint-Benoit-du-Sault, France,

— The Prestige Group plc, London, United Kingdom.

(b) *EEC importer*

Reppel NV, Bocholt, Belgium

(c) *South Korean Producer/Exporter*

Namil Metal Co., Seoul, South Korea

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

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

The investigation of dumping covered the period from 1 April 1984 to 31 March 1985.

B. Normal value

7. In seeking to determine the normal value for Namil Metal Co., the South Korean exporter who cooperated, the Commission had to take account of the fact that there were no sales of the like product on the domestic market. The Commission determined, therefore, that the normal value for this company should be established on the basis of its constructed value.

8. The constructed value was determined by adding cost of production and a reasonable margin of profit. The cost of production was computed on the basis of all costs, in the ordinary course of trade, both fixed and variable, in the country of origin, of materials and manufacture, plus an amount for selling, administrative and other general expenses. A profit margin of 3 %, considered to be reasonable, was added to these costs in the light of the exporting country industry's performance during a representative profitable period. This determination was not contested by the exporter.

C. Export price

9. With regard to exports by the South Korean exporter to independent importers in the Community, export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community. No sales were made to subsidiary companies in the Community.

D. Comparison

10. In comparing normal value with export prices the Commission granted allowances for commissions, transport and insurance where claims in these areas could be satisfacotrily demonstrated. All comparisons were made at ex-works level.

E. Margins

11. The above preliminary examination of the facts shows the existence of dumping in respect of stainless steel household cooking ware produced and exported by Namil Metal Co., of South Korea, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community. Normal value (constructed value) was set against export dumping prices on a transaction by transaction basis, the weighted average margin being 16,85 %.

F. Injury

12. With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from mSouth Korea of stainless steel household cooking ware increased from 456 tonnes in 1981 to 5 490 tonnes in 1983, fell slightly in 1984 to 5 419 tonnes and to 1 481 tonnes during the first quarter of 1985. However, between 1981 and the first quarter 1985, with the exception of the Federal Republic of Germany, where there was a steady increase of the imports in question each year, in all other Community countries there is a steady decrease. Thus, imports in the remaining Community countries fell from 3 345 tonnes in 1983 to 2 724 tonnes in 1984 and to 304 tonnes during the first quarter 1985.

On the other hand, in the Federal Republic of Germany, the Member State from which no producer replied to the Commission's questionnaire, imports increased from 2 145 tonnes in 1983 to 2 695 tonnes in 1984 and to 1 177 tonnes during the first quarter of 1985, but none of the other Community producers claimed that its sales on the German market were affected by the South Korean imports. The market share in the Community held by South Korean imports increased from 1,1 %, in 1981 to 12,9 % in 1983 but fell to 12,2 % in 1984.

13. The information received from the Community producers who cooperated in the investigation shows that their production increased from 6 549 tonnes in 1981 to 6 914 tonnes in 1983, fell to 5 923 tonnes in 1984 and increased to 1 748 tonnes during the first quarter of 1985. Capacity utilization decreased from 89 % in 1981 to 74 % in 1984 and in the first quarter 1985 mainly due to additional capacity built by certain of the Community producers.

14. Sales of the Community producers in the Community increased from 5 494 tonnes in 1981 to 5 734 tonnes in 1983 but fell to 4 585 tonnes in 1984 and to 1 299 tonnes during the first quarter 1985, with a consequent decrease in market share from 12,4 % in 1981 to 9,4 % in 1984. Exports to third countries increased from 1 226 tonnes in 1981 to 1 590 tonnes in 1984 and to 494 tonnes during the first quarter of 1985.

15. Although, in general, 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 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 stainless steel household cooking ware during the reference period, all of the Community producers who cooperated with the Commission achieved profitability, in some cases at a level which could be considered relatively high in the light of the general economic situation.

16. Despite repeated requests, a substantial number of firms, on whose behalf the complaint was made, and among them all the firms from the Federal Republic of Germany, the market in which the South Korean imports were concentrated, 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. The Community producers who cooperated in the investigation represent 16 % of Community production. Four of these Community producers who cooperated declared that they did not regard themselves as having been injured by the imports in question. The Commission therefore considers that the injury which may have been sustained by the remaining producers who cooperated during the reference period and which could be conclusively attributed to the imports in question, cannot be qualified as material.

17. In view of the above findings with respect to injury, it is considered appropriate that the proceeding be terminated without the imposition of protective measures.

18. The complainant was informed of the essential facts and considerations on the basis of which it was intended to recommend the termination of the proceeding without any protective measures being taken, and did not object.

    No objection to this course was raised in the Advisory Committee.

HAS ADOPTED THIS DECISION:

Sole Article

The anti-dumping proceeding concerning imports of stainless steel household cooking ware originating in South Korea is hereby terminated.

Done at Brussels, 18 March 1986.

For the Commission

Willy De CLERCQ

Member of the Commission