COMMISSION DECISION

of 6 October 1989

accepting undertakings and terminating the investigation under Article 13 (10) of Regulation (EEC) No 2423/88 concerning certain serial-impact dot-matrix printers assembled in the Community

(89/543/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 13 (10) thereof,

After consultations within the Advisory Committee as provided for under the abovementioned Regulation,

Whereas :

A. Procedure

(1) In November 1988, the Commission received a complaint lodged by the Committee of European Printer Manufacturers (Euro Print) on behalf of the procedures of serial-impact dot-matrix printers (SIDM printers) whose collective output represents a major proportion of Community production of the product in question.

The complaint contained sufficient evidence of the fact that, following the opening of the investigation concerning SIDM printers originating in Japan [2], which led to the adoption of Council Regulation (EEC) No 3651/88 [3] imposing a definitive anti-dumping duty on imports of these products, a number of companies were assembling SIDM printers in the Community under the conditions referred to in Article 13 (10) of Regulation (EEC) No 2423/88.

Accordingly, after consultation, the Commission announced by a notice published in the *Official Journal of the European Communities* [4], the initiation of the investigation under the said Article 13 (10) concerning SIDM printers assembled in the Community by companies related to or associated with the following Japanese manufacturers whose exports were subject to a definitive anti-dumping duty :

- Brother Industries Ltd,
- Citizen Watch Co. Ltd,
- Fujitsu Ltd,
- Juki Corporation,
- Matsushita Electric Co.,
- NEC Corporation,
- OKI Electric Industry Co. Ltd,
- Seiko Epson Corporation,
- Seikosha Co. Ltd,
- Star Micronics Co. Ltd,
- Tokyo Electric Company.

(2) The Commission so advised the companies concerned, the representatives of Japan and the complainants, and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(3) All the companies concerned and the complainants made their views known in writing and requested and were granted hearings by the Commission.

(4) Following the opening of the investigation, it was established that no SIDM printers were assembled or produced in the Community by or on behalf of Juki Corporation.

(5) No submissions were made by purchases of SIDM printers assembled in the Community. The Commission sought and verified all information it deemed necessary for the purpose of the assessment of the character of the alleged assembly operations and carried out investigations at the premises of the following companies :

- Brother Industries Ltd (United Kingdom),
- Citizen Manufacturers Ltd (United Kingdom),
- Epson Telford Ltd (United Kingdom),
- Epson Engineering SA (France),
- Fujitsu España SA (Spain),
- Matsushita Electronic Industrial Co. Ltd (United Kingdom),
- NEC Technologies Ltd (United Kingdom),
- OKI Electronic Industry Ltd (United Kingdom),
- Seikosha (Europe) GmbH (Germany),
- Star Micronics Manufacturing Ltd (United Kingdom),
- TEC Elektronik GmbH (Germany).

(6) Furthermore, the Commission carried out an investigation at the premises of some suppliers of components to some of the companies involved.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No C 111, 25. 4. 1987, p. 2.
[3] OJ No L 317, 24. 11. 1988, p. 33.
[4] OJ No C 327, 20. 12. 1988, p. 8.

(7) The period of investigation was from 1 July to 31 December 1988.

B. Relationship or association with exporter

(8) All companies referred to in the fifth recital were found to be related to or associated with the Japanese manufacturers whose exports of SIDM printers were subject to the definitive anti-dumping duty imposed by Regulation (EEC) No 3651/88. In fact these companies were found to be wholly or partially owned subsidiaries of the Japanese manufacturers mentioned above.

C. Production

(9) The Commission established that the assembly or production operations carried out by all the companies listed in the fifth recital had started or substantially increased after the opening of the anti-dumping investigation.

(10) One of the companies declared that a part of the SIDM printers produced during the reference period had been manufactured by components imported from Japan after the initiation of the original anti-dumping investigation but before the introduction of the anti-dumping duty. It claimed that these printers should not be taken into account in the overall amount of the printers manufactured during the reference period.

(11) The Commission does not accept this view, since Article 13 (10) refers specifically to products assembled or produced in the Community and to the parts and materials used therein. Consequently, the overall amount of the SIDM printers actually produced or assembled during the reference period was taken into account.

D. Parts

(12) The parts were identified according to the provisions of Article 13 (10) of Regulation (EEC) No 2423/88. It was requested by some companies that the printed circuit board (PCB) be considered as a composite item and consequently its value broken down into the values of its individual constituent parts. Other companies submitted that the PCB should be considered as a single part and accordingly its value be determined as a whole. The Commission, after detailed examination, deemed it appropriate, in line with previous practice, to consider the PCB, given the nature of its structure, as a single part.

(13) As in previous cases, the value of the parts in question was generally determined on the basis of the companies' purchase prices of these parts when delivered to the factories in the Community. The relevant value is that of the parts and materials as they are used in the assembly operations, i.e. on an into factory basis. In one case, it was established that the value supplied to the Commission for some parts imported from Japan corresponded to the parent company's purchase prices in the Japanese market, adjusted to include the costs of transport and the customs duties paid. This method of calculating the value of the Japanese parts cannot be accepted since it does not reflect a reasonable profit and selling expenses for the selling company and therefore appears to be influenced by the relationship between the seller (parent company) and the buyer (subsidiary company). Consequently an adjustment was made to take account of such elements.

(14) The origin of the parts was taken into account according to the provisions of Council Regulation (EEC) No 802/68 [1], as last amended by Regulation (EEC) No 1769/89 [2].

(15) It was also requested by several companies that the costs of production of certain items incurred by them in the Community be included in the value of Community parts. Where such items constituted parts or materials within the meaning of Article 13 (10) (a) of Regulation (EEC) No 2423/88 and where such parts had acquired an origin other than Japanese in conformity with Regulation (EEC) No 802/68, the inclusion of such costs in the value of non-Japanese parts was considered appropriate.

(16) For the following companies :

— Brother,
— Citizen,
— Fujitsu,
— Matsushita,
— OKI,
— Seikosha,
— TEC,

the weighted average value of Japanese parts or materials for all models produced by them was found to be respectively such as not to exceed the value of all other parts or materials used by at least 50 %.

Accordingly the anti-dumping duty cannot be extended to the SIDM printers assembled in the Community by those companies.

(17) For the other companies investigated the weighted average value of Japanese parts for all models produced was found as follows :

— Epson France : 67 %,
— Epson UK : 73 %,
— NEC : 68 %,
— Star : 98 %.

[1] OJ No L 148, 28. 6. 1968, p. 1.
[2] OJ No L 174, 22. 6. 1989, p. 11.

E. Other circumstances

(18) Consideration was given to other relevant circumstances with regard to the assembly operations referred to above, in accordance with Article 13 (10) (a) of Regulation (EEC) No 2423/88.

(19) As regards these aspects, the amount of research and development technology applied within the Community was, however, generally minimal and related merely to assembly.

F. Conclusions

(20) In view of the foregoing, it is concluded that the anti-dumping duty should be extended to certain SIDM printers assembled in the Community and the Commission has proposed, and the Council adopted, a Regulation appropriately extending the anti-dumping duty.

G. Undertakings

(21) The companies against which protective measures are considered necessary have been informed of the essential facts and considerations on the basis of which the present measures have been proposed. Certain of these companies offered undertakings referring, in particular to the adjustment by the end of the reference period, of a certain proportion of parts not originating in Japan. In the light of the undertakings offered by Epson France and Epson UK and of the results of the verification the Commission is satisfied that the changes in the sourcing of parts and materials of these companies' assembly or production operation in the Community are sufficient for the undertakings to be accepted,

HAS DECIDED AS FOLLOWS:

Article 1

The proceeding under Article 13 (10) of Regulation (EEC) No 2423/88 concerning serial-impact dot-matrix printers incorporating a print system by needles, falling within CN code ex 8471 92 90 is hereby terminated without the imposition of protective measures, with regard to Brother Industries Ltd, Citizen Manufacturers Ltd, Fujitsu Espana SA, Matsushita Electronic Industrial Co. Ltd, OKI Electronic Industry Ltd, Seikosha (Europe) GmbH and TEC Elektronik GmbH.

Article 2

1. The undertakings offered by Epson Engineering SA and Epson Telford Ltd concerning the product described in Article 1 and put on the Community market after having been assembled in the Community by them are hereby accepted.

2. The investigation under Article 13 (10) of Regulation (EEC) No 2423/88 concerning the product indicated in paragraph 1 is hereby terminated with regard to Epson Engineering SA and Epson Telford Ltd.

Done at Brussels, 6 October 1989.

For the Commission

Frans ANDRIESSEN

Vice-President