COMMISSION DECISION

of 4 February 1991

terminating the review and confirming expiry of the anti-dumping measures applying to imports into the Community of self-propelled hydraulic excavators, track-laying or wheeled, of a total operating weight exceeding six tonnes but not exceeding 35 tonnes, equipped with a single bucket mounted on a boom capable of pivoting through 360°, or intended to be so equipped, originating in Japan

(91/59/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 4 (5) thereof,

After consultations within the Advisory Committee as provided for by Regulation (EEC) No 2423/88,

Whereas :

A. PRODUCT

(1) The products concerned are self-propelled hydraulic excavators, track-laying or wheeled, of a total operating weight exceeding six tonnes but not exceeding 35 tonnes, equipped with a single bucket mounted on a boom capable of pivoting through 360°, or intended to be so equipped, originating in Japan, falling within CN code ex 8429 52 00.

B. PROCEDURE

(2) In March 1990 the Commission received a complaint lodged under Article 15 of Regulation (EEC) No 2423/88 by the Federation of Manufacturers of Construction Equipment and Cranes on behalf of hydraulic excavator producers whose collective output was alleged to constitute the majority of Community production of the products in question. The complaint contained evidence of continued dumping by Japanese producers despite the provisions of Council Regulation (EEC) No 1877/85 [2]. The complaint also alleged threat of injury if the measures were allowed to lapse. This was considered sufficient to justify the initiation of a review proceeding and the Commission announced, by a notice published in the *Official Journal of the European Communities* [3], the initiation of an anti-dumping review concerning imports into the Community of the products in question. In conformity with Article 15 of Regulation (EEC) No 2423/88, the measures remained in force pending the outcome of the review.

(3) The Commission officially notified the exporters and importers known to be concerned, the representatives of the exporting country and the Community producers. The parties were given the opportunity to make their views known in writing and/or request a hearing.

(4) The Commission commenced the investigation including transmission of questionnaires to the parties involved seeking the information necessary for the assessment of dumping and injury. A very high proportion of the Community producers failed to reply to the questionnaires despite the fact that the original deadline for reply was extended by the Commission.

(5) In calculating the proportion of the Community industry which replied to the questionnaires, the Commission found that their combined production did not constitute a major proportion of the total Community production as set out in the complaint. As a result, the Commission is unable to establish whether expiry of the measure would lead again to injury or threat of injury.

C. TERMINATION OF REVIEW PROCEEDING

(6) In view of the circumstances set out above, the Commission considers that the review proceeding should be terminated forthwith.

(7) No objections to this course of action were raised in the Advisory Committee.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No L 176, 6. 7. 1985, p. 1.
[3] OJ No C 206, 18. 8. 1990, p. 5.

(8) The Federation of Manufacturers of Construction Equipment and Cranes was informed of the Commission's reasons for terminating the proceeding

HAS DECIDED AS FOLLOWS:

Article 1

The review proceeding concerning imports of hydraulic excavators, track-laying or wheeled, of a total operating weight exceeding six tonnes but not exceeding 35 tonnes, equipped with a single bucket mounted on a boom capable of pivoting through 360°, or intended to be so equipped, originating in Japan and falling within CN code ex 8429 52 00, is hereby terminated.

Article 2

This Decision shall take effect on the day following its publication in the *Official Journal of the European Communities.*

Done at Brussels, 4 February 1991.

For the Commission

Frans ANDRIESSEN

Vice-President