II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 2 April 1997

terminating the anti-dumping proceeding concerning imports of ball bearings with a greatest external diameter not exceeding 30 mm originating in Japan

(97/287/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], as amended by Council Regulation (EC) No 2331/96 [2], and in particular Article 9 and Article 11 (2), (3), and (7) thereof,

Following consultations within the Advisory Committee,

Whereas:

A. PROCEDURE

(1) In July 1984, the Council, by Regulation (EEC) No 2089/84 [3], imposed a definitive anti-dumping duty on imports of ball bearings with a greatest external diameter not exceeding 30 mm (hereinafter referred to as 'SBBs') originating in Japan and Singapore. By notice of 18 June 1988, the Commission initiated a review of the measures in force with regard to imports from Japan [4] which led to the Council amending the anti-dumping duty in force by Regulation (EEC) No 2685/90 [5].

(2) On 1 October 1994, the Federation of European Bearing Manufacturers' Associations (Febma) lodged on behalf on Community producers allegedly representing a major proportion of the total Community production of SBBs a request for an interim review of the anti-dumping measures imposed by Regulation (EEC) No 2685/90.

(3) The request asserted that the anti-dumping measures in force were not or were no longer sufficient to counteract the dumping which was causing injury since both the dumping and the injury resulting therefrom were alleged to have increased.

(4) Considering that there was sufficient evidence to warrant the initiation of an interim review under Article 11 (3) of Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community [6], the Commission published on 23 March 1995 [7] a notice of initiation of an interim review of the anti-dumping measures concerning imports of SBBs originating in Japan.

(5) The Commission officially advised the Community producers, the importers and the Japanese producers known to be concerned, as well as the representatives of Japan, of the opening of the investigation and gave the parties concerned the opportunity to make known their views in writing and to request a hearing.

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 317, 6. 12. 1996, p. 1.
[3] OJ No L 193, 21. 7. 1984, p. 1.
[4] OJ No C 159, 18. 6. 1988, p. 2.
[5] OJ No L 256, 20. 9. 1990, p. 1.
[6] OJ No L 349, 31. 12. 1994, p. 1, replaced by Regulation (EC) No 384/96.
[7] OJ No C 71, 23. 3. 1995, p. 4.

(6) The Commission sought and verified all information it deemed to be necessary for the purpose of its determination.

(7) The investigation period applied in the present proceeding was from 1 January 1994 to 31 December 1994. For the analysis of the trends of the factors analysed for the purposes of establishing whether the Community industry had suffered injury caused by the imports in question, the period from 1 January 1991 to 31 December 1994 was used.

(8) For the analysis of injury and in order to ensure comparability of the data collected for the period mentioned in Recital 7, data pertaining to the Community of Fifteen was applied even for the period prior to the enlargement of the Community to include Sweden, Finland and Austria.

(9) The investigation exceeded the normal period because of the complexity of the assessment of the injury and causality aspects of the proceeding, which were mainly caused by the high number and degree of diversity of the types within the product investigated.

(10) The Community industry, on behalf of which the request for an interim review was lodged, consists of the following producers:

— SKF France SA (France),

— SKF Industrie SpA (Italy),

— ROL Rolamentos Portugueses SARL (Portugal),

— GRW Gebr. Reinfurt GmbH & Co. KG (Germany), and

— INA Kugellager Schaeffler KG (Germany).

(11) During the investigation period, the following companies exported SBBs from Japan to the Community and cooperated with the Commission in the review investigation:

— Sapporo Precision Ltd,

— NTN Corporation Ltd,

— Nankai Seiko Co., Ltd,

— Nachi-Fujikoshi Corp.,

— Koyo Seiko Co., Ltd,

— NSK Ltd,

— Inoue Jikuuke Kogyo Ltd,

— Izumoto Seiko Co., Ltd,

— Tottori Yamakei Bearing Seisakusho Ltd,

— Nakai Bearings Co., Ltd,

— Fujino Iron Works Ltd, and

— NSK Micro Precision Ltd.

(12) The following unrelated importer co-operated with the Commission in the present investigation: ISO Import Standard Office (France).

(13) In addition, numerous end-users submitted their comments which were taken into account to the extent that they were substantiated by supporting evidence.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(14) The product covered by the proceeding is single-row deep-groove radial ball bearings with a greatest external diameter not exceeding 30 mm falling within CN code 8482 10 10. The principal application for SBB is as intermediary products used in the assembly of consumer and capital goods or for replacement purposes.

(15) In Japan and in the Community, SBBs are mainly sold to two categories of customers, namely industrial users and distributors.

(16) It was found that SBBs produced in Japan, sold domestically and exported to the Community and SBBs produced by the Community producers are alike in their physical characteristics and uses. They were therefore considered a like product in accordance with Article 1 (4) of Regulation (EC) No 384/96.

C. DEFINITION OF THE COMMUNITY INDUSTRY

(17) As for the purposes of Regulation (EEC) No 2685/90 (see recital 32), the Japanese owned companies producing in the Community are not considered part of the Community industry within the meaning of Article 4 (1) (a) of Regulation (EC) No 384/96. This approach was considered justified as the companies are related to exporters from Japan of the product under investigation. The companies sell all their production to sales subsidiaries located in the Community which are also related to exporters from Japan and which are also involved in selling imported SBBs originating in Japan. It is considered that in those circumstances the producing companies located in the Community might therefore benefit from any unfair business practices. In such circumstances, the producers were considered to be behaving not as normal Community producers, but rather as a complementary source of supply for exporters accused of practising dumping.

(18) One of the Community producers mentioned above in recital 10 did not submit a response to the Commission's questionnaire within the deadline set by the Commission. In view of its non-cooperation, the company in question was excluded from the Community industry as determined by the complaint and thus from the Commission's injury

determination in connection with the present investigation. For the remainder of this analysis, the term Community industry refers to the cooperating Community producers which supported the complaint, whose collective output of SBBs constitutes a major proportion of total Community production within the meaning of Article 4 (1) of Regulation (EC) No 384/96.

D. INJURY

Consumption

(19) Between 1991 and 1994, the consumption of SBBs in the Community of Fifteen increased from around 390 million pieces to around 536 million pieces, i.e. by around 38 %. The expansion of the market is the result of the influence of the general business cycle on the SBBs market during which the size of the SBBs market varies according to the general level of activity on the part of the users of SBBs.

Volume and market share of imports

(20) Between 1991 and the investigation period, imports of SBBs originating in Japan decreased from 808 tonnes to 618 tonnes, i.e. by 23,5 %. The sales in the Community of SBBs originating in Japan, measured in pieces, decreased from 19,6 million pieces to 18,7 million pieces, i.e. by 4,5 % in the same period.

(21) In line with this decrease and contrary to the allegations by the Community industry, the market share of the imports under consideration has decreased steadily since 1991. Their market share has decreased from 5,1 % in 1991 to 3,5 % in 1994.

Prices of imports

(22) The prices charged for certain types by a representative selection of the Japanese producers that had submitted data on sales prices were compared with the prices charged for identical types by the Community producers, by category of customer in four Member States (Germany, the United Kingdom, France and Italy). Given their overall size and in line with past investigations concerning ball or roller bearings, these markets were considered representative for the situation in the entire Community. Based on this analysis, it was found that there is a certain amount of undercutting by Japanese imports as was determined in Regulation (EEC) No 2685/90 (see recitals 35 and 36). However, it was not considered appropriate to draw any conclusions from this analysis due to the fact that the Japanese companies involved sell too small a number of types which are identical or directly comparable to those manufactured by the Community producers in sufficient quantities for a comparison with Community producers to be meaningful. In those circumstances, as in Regulation (EEC) No 2685/90, no individual margins for price undercutting have been established for each company involved.

The situation of the Community industry

Sales and market shares

(23) The sales of SBBs manufactured in the Community by the Community industry increased from 81,6 million pieces to 103,1 million pieces between 1991 and the investigation period, i.e. by 26,2 %. The market share of the Community industry decreased in the same period from 21,1 % to 19,2 %.

Prices

(24) The Community industry has claimed that the undercutting or lower price offers on the part of the Japanese exporters have had the effect of imposing pressure on prices which forced the Community SBB producers to follow the prices downwards in order to defend their market shares at great financial cost. According to the Community industry, this undercutting prevented it from obtaining price increases during 1994 which was a period of upturn after a period of recession.

(25) The evolution of prices between 1991 and the end of the investigation period (1994) in the Community of the SBBs sold by the Community producers was analysed in detail for each category of customer in Germany, the United Kingdom, France and Italy in respect of types the turnover of which represented 50 % of their total turnover in the Community. On that basis, it was found that between 1991 and 1994, prices decreased on average (sales to all categories of customers) by 3,9 %. Between 1993 and 1994, however, prices increased by 1,4 %. On a customer category basis, for sales to large industrial manufacturers, which represent a majority of total turnover of the Community producers, prices decreased between 1991 and 1994 by 4,2 % and increased between 1993 and 1994 by 1,7 %. For sales to distributors, there was a price decrease of 3,1 % between 1991 and 1994 and of 0,4 % between 1993 and 1994.

(26) Since the Community industry's sales volumes increased, thus reducing its production cost, the relatively stable prices benefited the Community industry. In any way, it is considered that the very limited price undercutting did not exert material downward price pressure on the Community industry. That is supported by the fact that the Commission found that the weighted average price of SBBs of Japanese origin sold in the Community increased notably during the period under investigation for the determination of injury.

Profitability

(27) According to the Community industry, the price undercutting and the resulting evolution of prices had significant effects on its financial results. However, an analysis of the data submitted by the Community producers in connection with the present review shows that, on the contrary, the profitability specifically relating to the product under investigation, net of any extraordinary income or cost item, rose from a profit of 1 % in 1991 to a 13 % profit in 1994, showing a significant recovery in that year.

Production, capacity and capacity utilization

(28) Between 1991 and 1994, the production of the Community industry increased from 93 million pieces to 135 million pieces, i.e. by 45 %. In the same period, the capacity of the Community industry, expressed in tonnes, increased slightly by 0,5 % and capacity utilization, also expressed in tonnes, increased from 74,9 % to 85,8 %.

Employment

(29) Between 1991 and the investigation period, employment in the Community industry decreased from 1 418 to 1 177 employees, i.e. by 17 %. It should be noted that during the investigation it appeared that significant restructuring efforts had been undertaken by most of the Community producers during the period under consideration in order to increase productivity in general. In view of public statements made by major Community producers, it is considered that restructuring was necessary to overcome structural deficiencies and to increase productivity in the long term. A comparison of the development of capacity, capacity utilization and production shows that this was accomplished — a fact which is reflected in the improved profitability.

Conclusion on injury

(30) An analysis of the above-mentioned injury factors such as the Community industry's profitability, production, capacity, capacity utilization and sales shows a positive trend for those factors whilst employment shows a negative trend. As to profitability, the results of the Community industry meet, or in some instances even exceed, internal targets set by certain major Community producers. This leads to the conclusion that the Community industry did not experience economic or financial difficulties.

E. CAUSALITY

(31) The Community industry has argued that the imports from Japan have had an injurious impact on its results, which would allegedly have been better if it had not been forced to align its prices downwards in order to meet the competition from the prices of the Japanese exporters.

(32) In accordance with the provisions of Regulation (EC) No 384/96, the Commission therefore investigated whether the volumes and prices of the imports concerned were responsible for the situation of the Community industry and had an impact thereon to a degree which enables it to be classified as material within the meaning of Article 3 (6) of Regulation (EC) No 384/96. In this investigation, care was taken to ensure that any impact on the Community industry caused by other factors was not attributed to the imports concerned.

(33) In this regard, firstly, the detailed analysis of the prices applied by the Community producers over the period under consideration, as outlined above, demonstrates that the imports in question did not have any material effects on the prices applied by the Community producers, nor therefore on their financial results or on any of the other factors listed above.

(34) Second, it should be recalled that imports from Japan have decreased both in absolute terms and in terms of market share during the period under investigation. It is acknowledged that the market share of the Community industry also decreased, but the decrease in the market share of the Japanese imports was steeper in percentage terms than that of the Community industry. It therefore seems reasonable to conclude that, contrary to the allegations of the Community industry, it did not lose any market share to Japanese imports.

(35) Third, the entire period of investigation was characterised by significant imports from countries other than Japan, the market share of such imports increasing from 51,65 % in 1991 to 63,68 % in 1994.

(36) Fourth, the share of Japanese companies producing in the Community and affiliated to the exporters concerned by the present proceeding was significant throughout the period, decreasing from 12,2 % in 1991 to 10,2 % in 1994.

(37) Fifth, the Community industry has argued that, weakened by past dumping, it was unable, in a period of economic upturn, to meet the demand of its customers and that, in order to invest in new capacity, it would require a substantial higher return on sales than what was registered during the investigation. However, the Commission is of the

opinion that it is normal business behaviour to reduce costs, particularly when the industry is in an economic recession. On the other hand, in a booming market, it may also be normal to increase capacity and to finance this by normal financial resources. This capacity restriction should therefore not be attributed to the imports in question.

(38) Finally, regarding the decrease in employment, it should be noted that during the investigation it appeared that significant restructuring efforts had been undertaken to increase productivity in general by most of the Community producers during the period under consideration. In view of public statements made by major Community producers, it is considered that the restructuring was necessary to overcome structural deficiencies and to increase productivity in the long term. A comparison of the development of capacity, capacity utilization and production shows that this was accomplished — a fact which is reflected in the improved profitability.

Conclusion on causation

(39) Given the above findings, it is concluded that the imports in question did not, in isolation, have a material impact on the situation of the Community industry and the allegations in the Community industry's request for an interim review that the measures in force were insufficient to offset increased injury are therefore rejected. The fact that the Community industry did not have even better results may rather be attributable to other third country imports and Japanese production in the Community.

F. CIRCUMSTANCES SET OUT IN ARTICLE 11 (2) OF REGULATION (EC) No 384/96

(40) The five-year period provided for in the first subparagraph of Article 11 (2) of Regulation (EC) No 384/96 expired in September 1995. By virtue of Article 11 (7) of Regulation (EC) No 384/96, the present interim review should therefore also cover the circumstances set out in Article 11 (2) of that Regulation. The first subparagraph of Article 11 (2) of Regulation (EC) No 384/96 provides that a definitive anti-dumping measure is to expire five years from its imposition or five years from the date of the conclusion of the most recent review which covered both dumping and injury unless it is determined that the expiry would be likely to lead to a continuation or recurrence of dumping and injury. The second subparagraph of Article 11 (2) states that such a likelihood may, for example, be indicated by evidence that the removal of the injury is partly or solely due to the existence of measures or evidence that the circumstances of the exporters, or market conditions, are such that they would indicate the likelihood of further injurious dumping.

(41) As was demonstrated above, the facts established show that the measures under review reduced the injurious impact of the imports in question below a material degree within the meaning of Article 3 (6) of Regulation (EC) No 384/96.

(42) The Community industry has submitted that if the measure currently in force expires it is likely that material injury caused by the imports in question would recur. The Community industry bases its arguments on the following considerations: first, imports from Japan increased, in absolute terms, after the investigation period and were further depressing or suppressing prices. In spite of the data submitted by the Community industry, it cannot be concluded on the basis of the facts available that any increased import volumes will affect the trend in the development of market shares and prices of the Community industry to a material extent. Second, it claims that the imports in question will have a continuing detrimental impact irrespective of their relatively low market share and the significant market shares of the Japanese producers located in the Community. In this respect, it should be recalled that, first, the market share of Japanese imports is decreasing, second, imports from countries other than Japan are increasing and, third, Japanese production facilities located in the Community have a significant and stable market share.

(43) In view of those economic trends and the above conclusion that the impact of Japanese imports on the situation of the Community industry during the period under investigation was not material and that the Community industry has recovered from past dumping, the Commission considers that it is not likely that the expiry of the anti-dumping measures currently in force would create a situation in which a materially injurious impact of these imports would recur.

(44) As to the circumstances of the exporters, official statistics demonstrate that production capacity for bearings in Japan remained stable from 1990 to 1994 and subsequently increased in connection with the recovery of demand world-wide, thus supporting the above conclusion.

(45) With regard to the market conditions it should be reiterated that the situation for the Community industry during 1994 showed a significant recovery in the market for SBBs. That led to increased profitability. That development was sustained and further improved after the investigation period as illustrated by general results of the major Community producers published for 1995. It is not likely that the situation will change as a result of the expiry of the current measures.

G. DUMPING

(46) In view of the above conclusion, the Commission did not consider it necessary to analyse whether the imports in question were dumped, and if so, whether or not the dumping margin had increased since this would not have any relevance to the above analysis and would consequently not alter the conclusions reached.

H. CONCLUSION

(47) In view of those findings, it is considered that the result of the interim review of the anti-dumping measures in force with respect to imports of SBBs originating in Japan is that the anti-dumping proceeding regarding those imports should be terminated in accordance with Article 9 of Regulation (EC) No 384/96 and that the anti-dumping measures presently in force should consequently expire in accordance with Article 11 (2) of Regulation (EC) No 384/96.

(48) The Commission informed the interested parties, including the Community industry, of its findings. After being informed by the Commission of the above facts, findings and conclusions, representatives of the Community industry made further representations, both in writing and orally, concerning the impact of the Japanese imports in question on the Community industry. The Commission considered those representations, but concluded that they could not reverse its conclusions as mentioned above. Certain Member States raised objections to this course of action within the Advisory Committee. In accordance with Article 9 (2) of Regulation (EC) No 384/96 the Commission submitted to the Council a report on the result of the consultation, together with a proposal that the interim review be terminated and the measures in force allowed to expire. Since the Council, acting by qualified majority, did not decide otherwise within one month, the proceeding is deemed terminated,

HAS DECIDED AS FOLLOWS:

Article 1

The anti-dumping proceeding concerning imports of ball bearings with a greatest external diameter not exceeding 30 mm falling within CN code No 8482 10 10 originating in Japan is hereby terminated with the result that the anti-dumping measures in force concerning such imports shall expire.

Article 2

This Decision shall apply as from the day following that of its publication in the *Official Journal of the European Communities.*

Done at Brussels, 2 April 1997.

For the Commission

Leon BRITTAN

Vice-President