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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1778/77

of 26 July 1977

concerning the application of the anti-dumping duty on ball bearings and tapered roller bearings, originating in Japan

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to Council Regulation (EEC) No 459/68 of 5 April 1968 on protection against dumping or the granting of bounties or subsidies by countries which are not members of the European Economic Community (1), as last amended by Regulation (EEC) No 1411/77 (2), and in particular Article 17 thereof,

Having regard to the proposal made by the Commission after hearing the opinions expressed in the Advisory Committee set up under Regulation (EEC) No 459/68,

Whereas the Commission has received a complaint submitted in the name of the Community roller bearing industry setting out evidence as to the existence of the dumping of like products originating in Japan, as well as material injury resulting therefrom ;

Whereas, since the information received indicated that the complaint was admissible and that defensive measures against dumping might be necessary, the Commission officially notified the representatives of the exporting country and the importers and exporters known to be concerned, published in the *Official Journal of the European Communities* of 13 November 1976 a notice of the initiation of an inquiry concerning imports of ball bearings, tapered roller bearings and parts thereof, originating in Japan (3) and commenced an examination of the matter in conjunction with the Member States ;

Whereas, since preliminary examination of the matter showed that there was dumping and since there was sufficient evidence of injury and the interests of the Community called for immediate intervention, the Commission, by Regulation (EEC) No 261/77 (4), imposed a provisional anti-dumping duty on ball bearings, tapered roller bearings and parts thereof, originating in Japan, which was extended by Regulation (EEC) No 944/77 (5) ;

Whereas, in the course of the examination of the matter, completed after the imposition of the provisional anti-dumping duty, the Commission gave interested parties the opportunity to make known their views in writing, heard the interested parties and gave to the parties directly concerned the opportunity orally to develop their views and to meet and to present opposing views and rebuttal arguments and carried out on-the-spot investigations in the major Japanese firms and in their subsidiaries in the Community ;

Whereas, because of the multiplicity of types of the products concerned, this examination was based on a certain number of types representative of the price-structure of the products concerned ;

Whereas the normal value of the products concerned was established on the basis of the actual domestic prices of those products in Japan ;

Whereas, because of the association between the Japanese exporters and the majority of the importers in Europe, the export prices were constructed on the basis of the prices at which the imported products were first resold to an independent buyer, due allowance being made for costs and profits between importation and resale ;

Whereas the price comparisons were made at the ex-factory level, and in respect of sales made at the same time, due allowance having been made, on their merits, for differences affecting price comparability and in particular for selling, credit, commission, advertising, transport, packing and ancillary costs and for

(1) OJ No L 93, 17. 4. 1968, p. 1.
(2) OJ No L 160, 30. 6. 1977, p. 4.
(3) OJ No C 268, 13. 11. 1976, p. 2.
(4) OJ No L 34, 5. 2. 1977, p. 60.
(5) OJ No L 112, 4. 5. 1977, p. 1.

differences in the conditions and terms of sale and in taxation ;

Whereas this examination of the matter shows that dumping has taken place, the margin of which varies considerably from transaction to transaction but, on the average, exceeds 15 % in the major part of the Community ;

Whereas, with regard to the existing injury to the industry concerned, the evidence available to the Commission shows that imports into the Community of the products concerned originating in Japan have considerably increased, since, from a level of approximately 5 500 tonnes in 1968 they increased to 15 600 tonnes in 1974 and 19 000 tonnes in 1975, this increase having continued in 1976 in most of the regions principally concerned ;

Whereas, moreover, these products are offered for sale on the Community market at prices which generally undercut the prices prevailing among Community producers of like products, and exercise a depressive effect on them ;

Whereas, as a result of this, the imports concerned have been able to acquire an average market share in the markets most particularly affected, that is, in the Federal Republic of Germany, in France and the United Kingdom, of 15 % for ball bearings and of 5 % for tapered roller bearings ; whereas the market share is considerably higher in one of the markets, where it represents 22 and 8 % respectively ; whereas for certain types, on which the Japanese market strategy is concentrated, this market share is considerably higher ;

Whereas this development has taken place to the detriment of the Community industry which is in a difficult situation, characterized by a reduction of approximately 10 % in production from 1974 to the first half of 1976 in the regions most affected, where the major part of the Community industry is established, by redundancies and short-time working for the staff of the undertakings concerned, and by a reduction in profits or the appearance of losses for the companies concerned ;

Whereas, therefore, the facts as finally established show that material injury has been caused to the Community industry and that, due consideration having been given to all factors which, taken together, affect the situation of this industry, the dumped imports are demonstrably the principal cause of such injury ;

Whereas, in the circumstances, the interests of the Community render necessary the imposition of a definitive anti-dumping duty of 15 % on imports of ball bearings and tapered roller bearings of Japanese origin and for the definitive collection of the amounts secured by way of provisional duty in respect of the four major Japanese producers up to the rate mentioned above ;

Whereas, however, the four major Japanese producers have given undertakings to the Commission to revise their future prices ;

Whereas, in these circumstances, application of the definitive anti-dumping duty can be suspended ;

Whereas, however, it is necessary that the Commission closely monitor the observance of the undertakings and take immediate action if there is any violation or evasion or if the undertakings are withdrawn,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty of 15 % is hereby imposed on the following goods, falling within heading No ex 84.62 of the Common Customs Tariff, originating in Japan, on the basis of the value declared in conformity with Regulation (EEC) No 375/69 [1] :

— ball bearings (NIMEXE code 84.62-11),
— tapered roller bearings (NIMEXE code 84.62-17).

The provisions in force for the collection of customs duties shall apply for the collection of this duty.

2. The application of this duty is hereby suspended without prejudice to Article 2 hereof.

Article 2

1. The Commission shall, in collaboration with the Member States, closely monitor the observance of the undertakings given by the major Japanese roller bearings producers to revise their prices and shall keep a close watch on import trends and developments on the Community market.

2. If the Commission finds that these undertakings are being evaded, are not being observed or have been withdrawn, it shall forthwith, after consulting the Member States within the Advisory Committee provided for in Article 12 of Regulation (EEC) No 459/68, convened within a period of five days, terminate the suspension of the application of the duty imposed under Article 1 hereof.

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[1] OJ No L 52, 3. 3. 1969, p. 1.

Article 3

The amounts secured by way of provisional duty under the provisions of Regulation (EEC) No 261/77 extended by Regulation (EEC) No 944/77, in respect of products manufactured and exported by the following producers, shall be definitively collected to the extent that they do not exceed the rate of duty fixed in this Regulation :

Koyo Seiko Company Limited ; Nachi Fujikoshi Corporation ; NTN Toyo Bearing Company Limited ; Nippon Seiko K.K.

Article 4

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 July 1977.

For the Council

The President

H. SIMONET