COUNCIL REGULATION (EEC) No 3306/80

of 18 December 1980

imposing a definitive anti-dumping duty on mechanical alarm clocks (other than travel alarms) originating in the German Democratic Republic and the USSR

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1),

Having regard to the proposal submitted by the Commission after consultation with the Advisory Committee set up under Article 6 of the aforesaid Regulation,

Whereas in May 1979 the Commission received a complaint lodged by the British Clock and Watch Manufacturers Association Ltd on behalf of manufacturers accounting for a major part of the Community production of mechanical alarm clocks; whereas the complaint contained evidence of the existence of dumping in respect of like products originating in China, Czechoslovakia, the German Democratic Republic, Hong Kong and the USSR, and of substantial injury resulting therefrom;

Whereas, since the said evidence was sufficient to justify initiating a proceeding, the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (2), in the initiation of a proceeding concerning imports of mechanical alarm clocks originating in China, Czechoslovakia, the German Democratic Republic, Hong Kong and the USSR, and commenced an investigation of the matter at Community level;

Whereas, in the case of Hong Kong, no dumping was found; whereas consequently the Commission, by Decision 80/600/EEC (3), terminated the proceeding in respect of Hong Kong;

Whereas, in order to establish whether imports from China, Czechoslovakia, the German Democratic Republic and the USSR were dumped, the Commission had to take into account the fact that these countries are not market economy countries; whereas since no dumping was found for Hong Kong, it was considered appropriate and not unreasonable to use Hong Kong export prices to the Community as the basis for determining the normal value for exports to the Community from the non-market economy countries in question;

Whereas, since on this basis the preliminary examination of the matter showed that there was dumping, that there was sufficient evidence of injury and that the interests of the Community called for immediate intervention, the Commission, by Regulation (EEC) No 1579/80 (4) imposed a provisional anti-dumping duty on mechanical alarm clocks (other than travel alarms) originating in the German Democratic Republic and the USSR;

Whereas the Chinese and Czechoslovak exporters concerned had voluntarily undertaken to increase their prices to a level which the Commission considered satisfactory; whereas these undertakings were accepted by the Commission, which accordingly, in its Decision 80/600/EEC, decided to terminate the proceeding with respect to these two countries, and to exclude them from the application of the provisional duty;

Whereas in the course of the subsequent examination of the matter completed after the imposition of the provisional anti-dumping duty, the parties concerned had the opportunity to make known their views in writing, to be heard by the Commission and orally to develop their views, to inspect non-confidential information relevant to the defence of their interests and to be informed of the essential facts and considerations on the basis of which it was intended to make a final determination; whereas the exporters in the German Democratic Republic and some of the importers of USSR clocks availed themselves of these possibilities by making known their views in writing and orally;

Whereas during this time the Commission also had carried out by an outside body a technical assessment of representative samples of the clocks involved in the proceeding, in order to be better able to make appropriate allowances for differences in physical characteristics in making the final determination of dumping and injury;

Whereas, in order to allow more time for the examination of the facts, and in particular the analysis of the above technical assessment, the Commission notified the exporters concerned of its intention to propose to the Council a two-month extension of the provisional duty; whereas neither exporter raised any objection; whereas the Council consequently decided, acting on

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No C 212, 24. 8. 1979, p. 3.
(3) OJ No L 158, 25. 6. 1980, p. 18.
(4) OJ No L 158, 25. 6. 1980, p. 5.

a proposal from the Commission, by Regulation (EEC) No 2573/80 (1), to extend the provisional duty for a period of two months beginning on 20 October 1980;

Whereas, in order to arrive at a final determination of the dumping margins, the Commission used prices valid for 1980; whereas the Commission took into account in this context the information on prices and quantities supplied by the exporter of the German Democratic Republic subsequent to the abovementioned hearing;

Whereas the Commission's final calculations show that the weighted average dumping margin for alarm clocks exported by the German Democratic Republic is 1·07 EUA per clock for alarms with external bells falling within NIMEXE code 91.04-56, and 0·30 EUA per clock for other alarms; whereas for alarms exported by the USSR, the weighted average dumping margin, based on the most representative market, is 2·60 EUA per clock for alarms falling within NIMEXE codes 91.02-91 and 91.04-58, and 1·82 EUA per clock for alarms falling within NIMEXE code 91.04-56;

Whereas, however, taking into account, on the one hand, importers' resale prices, costs and profits and, on the other hand, Community producers' prices and profit margins, with the due allowance being made for differences in physical characteristics, the Commission estimates that increases of a lesser order would in some cases be sufficient to remove the injury attributable to the dumped imports, namely, in the case of alarms with external bells falling within NIMEXE code 91.04-56 exported by the German Democratic Republic, 0·53 EUA per clock, in the case of alarms exported by the USSR falling within NIMEXE codes 91.02-91 and 91.04-58, 2·00 EUA per clock, and for alarms exported by the USSR falling within NIMEXE code 91.04-56, 1·30 EUA per clock;

Whereas, with regard to the other elements affecting the determination of injury, no new information was received nor further arguments advanced which could have altered that determination;

Whereas, therefore, the facts as finally established show that, due consideration having been given to the other factors having a bearing on the situation of the industry, the imports in question are causing or threatening to cause material injury to the Community industry concerned;

Whereas, in these circumstances the protection of the Community's interests calls for the imposition of a definitive anti-dumping duty in respect of mechanical alarm clocks (other than travel alarms) originating in the German Democratic Republic and the USSR;

Whereas the amount of the definitive anti-dumping duty should be fixed at a level sufficient to eliminate the weighted average margin of dumping or, when lower, sufficient to eliminate the injury to Community producers attributable to the dumped imports;

Whereas the exporter in the German Democratic Republic has voluntarily undertaken to increase its prices from 1 January 1981 to a level which the Commission, after consultation within the Advisory Committee, considers satisfactory; whereas, however, the terms and conditions of the undertaking offered are not such as to permit adequate monitoring; whereas consequently the Commission has not accepted this undertaking;

Whereas the amounts secured by way of provisional anti-dumping duty should be definitively collected, to the extent that they do not exceed the amount of the definitive anti-dumping duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping is hereby imposed on mechanical alarm clocks (other than travel alarms) originating in the German Democratic Republic and the USSR and falling within subheadings ex 91.02 B and 91.04 B of the Common Customs Tariff, corresponding corresponding to NIMEXE codes 91.02-91, 91.04-56 and 91.04-58.

2. The amount of the definitive anti-dumping duty shall be as follows:

(a) for the German Democratic Republic:
   (i) for models with external bells falling within NIMEXE code 91.04-56: 0·53 EUA per clock;
   (ii) for other models: 0·30 EUA per clock;

(b) for the USSR:
   (i) for clocks falling within NIMEXE codes 91.02-91 and 91.04-58: 2·00 EUA per clock;
   (ii) for clocks falling within NIMEXE code 91.04-56: 1·30 EUA per clock.

3. The provisions in force with regard to customs duties shall apply to the definitive anti-dumping duty.

Article 2

The amounts secured by way of provisional duty under Regulation (EEC) No 1579/80 shall be definitively collected to the extent that they do not exceed the amount of the definitive anti-dumping duty.

Article 3

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

(1) OJ No L 265, 1. 10. 1980, p. 1.

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

Done at Brussels, 18 December 1980.

For the Council

The President

C. NEY