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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1882/82

of 12 July 1982

imposing a definitive anti-dumping duty on mechanical wrist-watches originating in 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), and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee set up under Article 6 of Regulation (EEC) No 3017/79,

Whereas, by Regulation (EEC) No 84/82 (2), the Commission imposed a provisional anti-dumping duty on mechanical wrist-watches originating in the USSR of 9·9 % for watches without gold-plating or with gold-plating of a thickness of up to and including five microns and of 23·6 % for watches with gold-plating of a thickness exceeding five microns; whereas, by Regulation (EEC) No 1072/82 (3), the Council extended this provisional duty for a period not exceeding two months;

Whereas, following the imposition of the provisional duty, the principal complainant, Timex Corporation of Dundee, and the principal importer concerned, Time Products Ltd of London, both made written submissions to the Commission making known their views concerning the duty; whereas both parties also requested, and were granted, opportunities to be heard orally by the Commission;

Whereas Time Products also requested to be informed of certain facts and essential considerations on the basis of which it was intended to recommend definitive action; whereas this request was granted;

Whereas, as regards the determination of the dumping margin, none of the information which the Commission has received since the imposition of the provisional anti-dumping duty has caused it to alter its view that Hong Kong is an 'appropriate and not unreasonable' basis for determining the normal value of the products in question; whereas the Commission has, for the imposition of the provisional duty, established normal value by calculating, for each main type of watch originating in the USSR and exported to the Community, the constructed value of the like product manufactured in Hong Kong;

Whereas, however, both the principal interested parties submitted new evidence concerning the details of such a calculation; whereas on the one hand Time Products argued in particular that they should be updated to take account of the most recent developments concerning the price of components in Hong Kong and of the price of gold; whereas Timex on the other hand considered that the Commission had used an unreasonably low price for some of the components figuring in its constructed values;

Whereas, taking into account the new evidence, together with the evidence already available to it, the Commission has revised its calculation of normal value; whereas in this context, it has taken particular account of the changes in the price of gold and in exchange rates; whereas none of the new evidence received was such as to convince the Commission that the price taken for components in Hong Kong needed to be revised;

Whereas, as regards the level of export prices, no new evidence has been submitted, and the Commission has consequently established the export price in the same manner as for the preliminary findings, namely on the basis of actual prices charged by the USSR exporter for export to the United Kingdom;

Whereas Time Products have submitted a letter from the USSR exporter confirming his previous claim that gold-plated watches exported by the exporter are five microns gold-plated only; whereas the Commission

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 11, 16. 1. 1982, p. 14.
(3) OJ No L 125, 7. 5. 1982, p. 1.

considers, however, that this unsubstantiated letter does not amount to sufficient evidence, particularly since its own inspections have revealed that watches plated to 10 microns were being sold on the UK market during the period under investigation ; whereas the Commission has consequently assumed, for the purposes of its final finding, that watches plated to both thicknesses may still be imported ;

Whereas, in making its final determination of dumping and in consideration of the request by Time Products to use the latest data available, the Commission has compared the normal value with the price for export to the United Kingdom over the whole calendar year 1981, rather than for the first six months only, as was the case for the preliminary finding, this being the latest period for which reasonably complete and verified data are available to the Commission ;

Whereas this comparison shows dumping margins varying from zero to 51 % of the export price ; whereas, on the assumption that those watches which are gold-plated carry a thickness of five microns, the weighted average dumping margin for all watches is equal to 12·6 % of the export price ; whereas, on the assumption that gold-plated watches carry 10 microns, the weighted average dumping margin for gold-plated watches alone is equal to 26·4 % of the export price ;

Whereas, as regards the injury caused to the Community industry, more detailed and updated evidence is now available to the Commission concerning the level of imports, and the shares held by the various interested parties, in the UK market, which continued in 1981 to account for almost all the sales of USSR wristwatches in the Community ;

Whereas none of the new evidence affects the considerations put forward in Regulation (EEC) No 84/82 and which led to concentrating attention on the situation of Timex Corporation in determining the effect of the dumped imports on the Community industry ;

Whereas, although UK imports of USSR mechanical watches fell from 1·82 million pieces in 1980 to an estimated 408 000 in 1981, this principally reflects, according to the evidence available to the Commission, the high level of stocks held by the importers at the end of 1980 ;

Whereas the Commission's revised estimates of UK consumption of mechanical watches show that demand fell by 13 % between 1978 and 1980 ; whereas over this period the market share held by Timex Corporation, the sole UK producer, fell from 31 to 23 %, while that of Time Products rose from 12 to 15 % ; whereas for 1981, when it is generally agreed that demand fell very sharply, the Commission is not able, on the information available, to make a reliable estimate of consumption ; whereas, however, the evidence available shows that Timex's UK sales of mechanical watches were 41 % lower than in 1980, while Time Products' UK sales of USSR mechanical watches were only 10 % lower ;

As regards the other considerations concerning the injury caused to the Community industry by the dumped imports on which the Commission based its decision to impose a provisional anti-dumping duty, no new evidence has been made available to the Commission ;

Whereas the Commission has therefore confirmed the conclusion reached in Regulation (EEC) No 84/82 that Timex has been unable either to maintain its market position, or to pass on fully the increases in its costs of production, in the face of the pressure on its prices being exercised by Time Products in its attempt to sell the increased quantity of USSR watches which it imported in 1980 ;

Whereas, as regards the injury caused by other factors which, individually or in combination, are also affecting Timex Corporation, the Commission now considers that demand for mechanical watches has in fact fallen since 1978 ; whereas, however, as noted above, this decline in demand has affected Timex far more seriously than Time Products ; whereas the Commission attributes this to the fact that Time Products has been offering lower prices for the dumped USSR watches purchased by it than those charged by Timex ;

Whereas, in their most recent written submission to the Commission, Time Products cite sales of a certain French mechanical watch at lower prices than the comparable Timex watch ; whereas, however, the Commission notes that total 1981 UK imports of French mechanical watches with this type of movement were less than a quarter of Time Products' 1981 sales of USSR mechanical watches, such that sales of the particular French watch in question can hardly have been a significant cause of injury to Timex ; moreover, the Commission also notes that the Timex watch cited as comparable in fact has a number of additional features compared with the French watch ;

Whereas, therefore, in the Commission's view, the facts as finally determined show that the injury being caused by dumped imports of mechanical watches originating in the USSR, taken in isolation from that caused by other factors, has to be considered as material ;

Whereas in these circumstances the protection of the Community's interests calls for the imposition of a definitive anti-dumping duty on imports of mechanical wrist-watches originating in the USSR ;

Whereas, taking into account the extent of injury caused to Timex by the dumped imports, the amount of the definitive anti-dumping duty should be equal to the dumping margin definitively established,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on mechanical wrist-watches falling within heading No ex 91.01 of the Common Customs Tariff, corresponding to NIMEXE codes ex 91.01-37 and 57, originating in the USSR.

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

(a) for watches without gold-plating or with gold-plating of a thickness up to and including five microns : 12·6 % of the value free-at-Community-frontier, duty unpaid ;

(b) for watches with a gold-plating of a thickness exceeding five microns : 26·4 % of the value free-at-Community-frontier, duty unpaid.

3. Anti-dumping duty shall not be levied at the lower rate unless the importer furnishes adequate documentary or other proof that the consignment in question falls within the category defined in point (a) of paragraph 2.

4. The provisions in force with regard to customs duties shall apply to the duty covered by this Article.

Article 2

The amounts secured by way of provisional duty under Regulation (EEC) No 84/82 shall be definitively collected.

Article 3

This Regulation shall enter into force on the third 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, 12 July 1982.

For the Council

The President

I. NØRGAARD