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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2236/82

of 11 August 1982

imposing a definitive anti-dumping duty on upright pianos 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], as amended by Regulation (EEC) No 1580/82 [2], 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 the Commission, by Regulation (EEC) No 871/82 [3], imposed a provisional anti-dumping duty of 476 ECU per piano on upright pianos originating in the USSR;

Whereas, following the imposition of the provisional anti-dumping duty, the Commission received a written submission from Razno & Company Limited, a company whose interest in this case was previously unknown to the Commission, stating that it was a past, and potential future, importer of USSR pianos and making known its views concerning the duty; whereas Razno requested, and was granted, an opportunity to be heard orally by the Commission; whereas the Commission also received a written submission from the plaintiff;

Whereas Razno also asked to be informed of certain essential facts and 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, Razno has submitted comments on both the normal value and the export price;

Whereas Razno does not dispute the choice of Finland as the basis for calculating the normal value of pianos originating in the USSR; whereas, however, it contends that such pianos are of considerably inferior quality to Finnish pianos and that the allowance made for this by the Commission in its preliminary determination of the dumping margin, on the basis of the evidence then available to it, should be revised to take account of new evidence from Razno included with the information supplied by it to the Commissions; whereas this new evidence covers, in particular, the defective condition of pianos originating in the USSR on arrival at the importers' premises and the cost to the importers of making good the defects in question; whereas the Commission has taken due account of this new evidence and has revised its calculation of the normal value accordingly;

Whereas Razno has produced evidence that the export price of pianos originating in the USSR has risen twice since September 1981, the latest period taken into account by the Commission in its preliminary determination of the dumping margin; whereas the Commission has accepted this evidence and has established a revised export price;

Whereas a comparison between the most recent export price and the revised normal value shows a dumping margin of 284 ECU per piano, which is equivalent to 41·8 % of the free-at-Community-frontier price;

Whereas no fresh evidence regarding the injury to Community industry has been submitted to the Commission since the imposition of the provisional duty;

[1] OJ No L 339, 31. 12. 1979, p. 1.
[2] OJ No L 178, 22. 6. 1982, p. 9.
[3] OJ No L 101, 16. 4. 1982, p. 30.

Whereas the Commission has, nevertheless, considered it appropriate to re-examine the situation as regards price undercutting, following the abovementioned export price increases ; whereas despite the increase in the USSR export price, the import price into the Community of pianos originating in the USSR, free delivered distributor's warehouse and including duty is 48 % below the minimum price which a Community producer must charge to make a normal profit ; whereas even allowing for the costs which the distributor has to incur in preparing such pianos for sale, the export price of the latter would need to be increased by a further 69 % to eliminate effective price undercutting ;

Whereas, therefore, in the Commission's view, the facts as finally determined show that the injury caused by dumped imports of upright pianos originating in the USSR, irrespective of that caused by other factors, has to be considered as material ;

Whereas the Council, by Regulation (EEC) No 596/82 [1], introduced certain measures designed, in the interests of the Community, to reduce imports from the USSR ; whereas, however, that Regulation applies until only 31 December 1982 and does not prevent the release for free circulation of products imported under contracts entered into before 17 March 1982 ; whereas the effect of Regulation (EEC) No 596/82 on the injury to Community industry caused by imports of dumped pianos originating in the USSR will thus be limited in both time and scope ; whereas, moreover, there will be no direct effect on the level of the price undercutting which the present investigation has shown to exist ; whereas, consequently the measures taken under Regulation (EEC) No 596/82 cannot be regarded as a substitute or palliative for definitive measures covering all imports of pianos originating in the USSR taken pursuant to Regulation (EEC) No 3017/79 ; whereas, finally, the purpose of Regulation (EEC) No 596/82 was to reduce imports from the USSR independently of the effect of other Community import measures ; whereas this purpose would be defeated were allowance to be made for the effect of Regulation (EEC) No 596/82 in the normal implementation of these other Community measures ;

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

Whereas, having regard to the extent of the damage caused by dumped imports and, in particular, the level of price undercutting, 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 upright pianos falling within subheading 92.01 A I of the Common Customs Tariff (NIMEXE code 92.01-12) and originating in the USSR.

2. The definitive anti-dumping duty shall be 284 ECU per piano.

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

Article 2

The sums secured by way of provisional anti-dumping duty under Regulation (EEC) No 871/82 shall be definitively collected up to an amount of 284 ECU per piano.

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, 11 August 1982.

For the Council

The President

O. MØLLER

[1] OJ No L 72, 16. 3. 1982, p. 15.