COMMISSION REGULATION (EEC) No 3528/82

of 23 December 1982

introducing protective measures in respect of imports into France and the United Kingdom of tableware and other articles of a kind commonly used for domestic or toilet purposes, of stoneware, and terminating the Community investigation procedure in respect of articles of common pottery

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 288/82 of 5 February 1982 on common rules for imports [1], and in particular Article 15 (1) thereof,

After consultation with the Advisory Committee set up under the said Regulation,

Whereas on 14 April 1982 the Commission was notified by the French Government that imports of tableware and other articles of a kind commonly used for domestic or toilet purposes, of stoneware or common pottery, originating in certain third countries, in particular South Korea and Taiwan, had increased and that the said articles were being imported on terms likely to cause injury to a Community industry; whereas the French authorities asked that measures to limit imports be taken as quickly as possible;

Whereas in support of its request France provided information relating to the trend of imports and the terms, including price, on which the articles in question were being imported; whereas indications of the effect of the imports on the Community industry were also provided;

Whereas that evidence was considered sufficient to justify the opening of an investigation; whereas the Commission accordingly announced in the *Official Journal of the European Communities* [2] the initiation of a Community procedure to investigate imports of tableware and other articles of a kind commonly used for domestic or toilet purposes, of common pottery [3] or stoneware [4], originating in certain third countries, and commenced its investigation;

Whereas the Commission officially so advised the importers known to be concerned;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to request an oral hearing;

Whereas many importers took the opportunity to make their views known in writing; whereas the Union européenne des associations de grossistes en céramique et verrerie and the Foreign Trade Association of German Retailers have requested and been granted oral hearings;

Whereas no submissions were made on behalf of Community purchasers of the products concerned;

Whereas, in the course of its investigation, the Commission sought and verified all information it deemed to be necessary and carried out investigations at the premises of the following:

— *Community producers*
  — Éts. Renault, Argent sur Sauldre,
  — SA des grès et poteries de Digoin, Digoin,
  — Éts. Émile Henry & Fils, Marcigny,
  — Denby Pottery, Derby,
  — Staffordshire Potteries, Stoke on Trent,
  — Gerz GmbH, Sessenbach,
  — Ceramano Keramik-Vertrieb GmbH, Ransbach, Baumbach;

— *Importers*
  — Société G.L., Saint-Laurent du Var,
  — Société Europe Import, Carros,
  — S. and I. Bond Ltd, London,
  — Éts Glunz, Hamburg;

Whereas the reference period for the price comparison was 1 January 1981 to 30 June 1982;

Whereas it emerged from the Commission's investigation that a distinction should be made between articles of common pottery and articles of stoneware;

Whereas imports into the Community of articles in common pottery increased only from 3 814 tonnes in 1977 to 4 614 tonnes in 1981, with a peak of 5 662 tonnes in 1980; whereas imports in the first half of 1982 amounted to only 1 135 tonnes, which in terms

[1] OJ No L 35, 9. 2. 1982, p. 1.
[2] OJ No C 144, 8. 6. 1982, p. 3.
[3] Subheading 69.12 A of the Common Customs Tariff (NIMEXE code 69.12-10).
[4] Subheading 69.12 B of the Common Customs Tariff (NIMEXE code 69.12-20).

of annual imports represents a considerable decline from the average yearly import level of 5 057 tonnes for the period 1979 to 1981 ;

Whereas, at the same time, the share of the Community market taken by the imports in question has remained stable (11·4 % in 1977 and 11·5 % in 1981), reaching a peak of 13·7 % in 1980 ;

Whereas the resale price of these imports in the Community has frequently undercut the prices of Community producers ;

Whereas with regard to the impact of these imports on the Community industry, the Commission's investigation showed that Community production of common pottery articles increased from 42 445 tonnes in 1977 to 46 640 tonnes in 1981, with a peak of 50 692 tonnes in 1979 ; whereas at the same time the Community producers' market share has remained stable (88·6 % in 1977 and 88·5 % in 1981) ; whereas even in France, where Community producers sustained the greatest loss of market share, they still took 81·5 % of the regional market in 1981 ;

Whereas, according to the available evidence, the injury caused by cheap imports into the Community of articles in common pottery cannot, taken in isolation, be regarded as material injury ;

Whereas the Commission has, therefore, determined that it is not now necessary to take protective action in respect of imports of the articles in question, of common pottery, originating in third countries ;

Whereas, in these circumstances, the investigation may be terminated in respect of the articles in common pottery ;

Whereas, with regard to stoneware articles, it emerged from the Commission's investigation that imports into the Community of the articles in question increased from 6 965 tonnes in 1977 to 33 769 tonnes in 1980, declining only slightly in 1981 (30 517 tonnes) and the first half of 1982 (13 540 tonnes) ; whereas that represents an average annual rate of import growth of 44·7 % for the period 1977 to 1981 and 31·2 % for the period 1977 to 1982 ; whereas the increase has continued in France, where 1982 imports are 23·7 % up on 1981 levels ;

Whereas, at the same time, the share of the Community market taken by these imports rose from 20·8 % in 1977 to 51·7 % in 1981 ; whereas the rate of import penetration differs from Member State to Member State ;

Whereas the Commission compared the Community producers' ex-works prices with the resale prices of the imports on the markets principally concerned (France, United Kingdom and the Federal Republic of Germany) at the same stage (i.e. ex-importer, over the period covered by the investigation) ;

Whereas, in view of the wide range of the articles in question on sale, the Commission, for the purposes of comparing prices, singled out certain classes of article representative of both Community production and the imports complained of ;

Whereas the Commission took into account factors affecting price comparability, such as differences in the technical specifications and quality of the articles ;

Whereas the evidence available to the Community shows that the resale price of the imports in the Community have been as much as 67 % below the prices charged by Community producers ;

Whereas, with regard to the impact of imports of stoneware articles on the Community industry, the Commission's investigation showed that Community production of such articles increased from 30 182 tonnes in 1977 to only 34 124 tonnes in 1979 and fell again in 1981 to 30 937 tonnes, while at the same time consumption in the Community increased considerably from 33 433 tonnes in 1977 to 58 974 tonnes in 1981 ;

Whereas simultaneously the Community producers' market share collapsed, declining from 79·2 % in 1977 to 46·8 % in 1980 ; whereas, in 1981, the producers were able to push their market share up again to 48·3 % only by cutting prices ;

Whereas the depression of Community producers' prices and the decline in output since 1979 have severely eroded profitability, so that most manufacturers made considerable losses in 1981 and the first quarter of 1982 ; whereas, as a result, 15 % of jobs in the Community industry were lost between 1979 and 1982 ;

Whereas, among producing Member States, France and the United Kingdom have been worst affected by these very cheap imports ; whereas, in France, imports rose sharply from 1 744 tonnes in 1977 to 7 820 tonnes in 1981 and 4 838 tonnes in the first quarter of 1982 alone, and in the United Kingdom, imports rose from 624 tonnes in 1977 to 6 774 tonnes in 1981 and 2 520 tonnes in the first six months of 1982 ; whereas

import penetration has as a result been particularly marked in France, where the market share taken by imports rose from 27 % in 1977 to 62·9 % in 1981, and in the United Kingdom, where it increased from 11·9 to 55·8 % over the same period; whereas employment in the industry consequently fell by 9·1 % in France and 25 % in the United Kingdom between 1979 and 1982;

Whereas the Commission has not found any other factors which, individually or in combination, could adversely affect Community production;

Whereas, on the strength of its findings, the Commission is persuaded that the injury to French and United Kingdom producers, taken in isolation, has to be considered as material injury;

Whereas the injury caused by the imports in question in other Community regions, however, cannot at present justify the introduction of safeguards;

Whereas, in the critical circumstances facing French and United Kingdom producers, any delay would cause irreparable injury and immediate action should therefore be taken to safeguard the interests of the Community;

Whereas the Government of the main exporting country, South Korea, and representatives of South Korean and Taiwanese exporting firms were informed of the main findings of the investigation and of the Commission's intention as a last resort to take restrictive measures;

Whereas, in the course of the consultations, South Korea indicated that its industry was prepared to negotiate a voluntary restraint undertaking with the French and United Kingdom producers;

Whereas such action would be tantamount to a deviation from the procedure conducted under Regulation (EEC) No 288/82; whereas, in this context, the appraisal of the injurious effect of imports on the Community industry as well as the choice of any defensive measures are matters which may be undertaken only by the Community authorities;

Whereas such protective measures must be compatible with the Community's international obligations; whereas, accordingly, they should apply to imports originating in third countries covered by Regulation (EEC) No 288/82, with the exception of those imports included in an agreement establishing arrangements for free trade with the Community;

Whereas such measures should be aimed at restricting imports into France and the United Kingdom to ceilings, expressed in both volume and value terms, calculated to limit injury and eliminate the threat of further injury; whereas the ceilings for France and the United Kingdom should therefore be set, in line with the established international practice, at a level corresponding to the average volume and value of imports from the countries concerned recorded in those Member States for the years 1979, 1980 and 1981,

HAS ADOPTED THIS REGULATION:

Article 1

1. The importation into France or the United Kingdom of tableware and other articles commonly used for domestic or toilet purposes, of stoneware, falling within subheading 69.12 B of the Common Customs Tariff, corresponding to NIMEXE code 69.12-20, shall be subject to the presentation of an import authorization issued as appropriate by the French or United Kingdom authoritics.

Such authorization shall be granted by the French authorities for an annual volume of 7 130 tonnes, up to an annual value of 12 260 000 ECU, and by the United Kingdom authorities for an annual volume of 4 935 tonnes, up to an annual value of 6 050 000 ECU.

2. The measures taken pursuant to paragraph 1 shall apply to imports originating in third countries covered by Regulation (EEC) No 288/82, with the exception of imports covered by an agreement establishing arrangements for free trade with the Community.

Article 2

The Community procedure for investigation of imports of tableware and other articles commonly used for domestic or toilet purposes, of common pottery or of stoneware, is hereby terminated.

Article 3

This Regulation shall enter into force on 1 January 1983 and expire on 31 December 1985, unless revised under Article 18 of Regulation (EEC) No 288/82.

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

Done at Brussels, 23 December 1982.

For the Commission

Étienne DAVIGNON

Vice-President