COMMISSION REGULATION (EEC) No 3271/83

of 18 November 1983

imposing a provisional countervailing duty on imports of tube and pipe fittings of malleable cast iron originating in Spain

THE COMMISSION 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 11 thereof,

After consultations within the Advisory Committee as provided for by the above Regulation,

Whereas :

A. Procedure

(1) On 9 May 1983 the Italian authorities alleged to the Commission that imports of tube and pipe fittings of malleable cast iron originating in Spain were being subsidized and were thereby causing injury to a Community industry. The allegation contained evidence of subsidization and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the initiation of an anti-subsidy proceeding concerning imports into the Community of tube and pipe fittings of malleable cast iron falling within Common Customs Tariff heading No ex 73.20, corresponding to NIMEXE code 73.20-30 and originating in Spain, and commenced an investigation.

(2) The Commission officially so advised the exporters and importers known to be concerned and the representatives of the exporting country and gave the parties directly concerned and the Spanish Government the opportunity to make known their views in writing and to request a hearing.

(3) All of the known exporters and some Community producers made their views known in writing. All these exporters have requested and have been granted a hearing ; this hearing was also attended by representatives of the Spanish Government.

(4) No submissions were made on behalf of Community purchasers of the product in question.

(5) The Commission sought and verified all information it deemed to be necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following firms :

— UFAMSA, Vitoria, Spain,

— ATUSA SA, Salvatierra, Spain,

— ELMA SAL, Mondragon, Spain

— AMAT S. Coop., Mondragon, Spain,

— Acciaierie e Ferriere Lombarde Falck SpA, Milan, Italy.

The Commission also received detailed information from the Ministry of the Economy and Trade in Madrid.

The subsidy investigation covered the period from January to December 1982.

B. Subsidy

(6) According to the information received by the Commission from the Spanish Government and from the exporters, Spain applies a cascade turnover tax (Impuesto sobre Tráfico de Empresas y Recargo Provincial, BOE No 314 of 31 December 1982) which is levied on each sale of any raw material used for the production of tube fittings through its various stages of production. Consequently, the producers of tube and pipe fittings of malleable cast iron in Spain absorb in their production costs the cumulated incidence of this turnover tax.

(7) On export of the finished tube and pipe fittings, the Spanish exporters receive a tax rebate currently equal to 11,5 % of the export price, which, according to the Spanish authorities is destined to offset the indirect taxes levied on the finished product and on all prior transactions of the raw materials involved in its production.

(1) OJ No L 339, 31. 12. 1979, p. 1.
(2) OJ No L 178, 22. 6. 1982, p. 9.
(3) OJ No C 142, 31. 5. 1983, p. 3.

(8) After examining the application of the Spanish system of indirect taxation to tube and pipe fittings and the input structure of the Spanish producers concerned for this product, the Commission has provisionally concluded that the total of all prior stage cumulative indirect taxes levied on goods that are physically incorporated in the exported tube fittings amount to 2,6 % so that 8,9 % of the export rebate has to be regarded as an export subsidy. The increase in the turnover tax rates decided by the Spanish Government with effect from 1 January 1983 onwards has been taken into account by the Commission for the purpose of these calculations.

C. Injury

(9) With regard to the injury caused by the subsidized imports, the evidence available to the Commission shows that imports into the Community from Spain of tube and pipe fittings of malleable cast iron increased from 3 000 tonnes in 1981 to 5 956 tonnes in 1982 with a consequent increase in market share held by the exporting country from 5,4 to 11,7 % in the same period. The impact of the subsidized imports was particularly strong on the Italian market where they increased their share from 4,1 to 20 %. The weighted average prices of these imports undercut the prices of the Community producers during the investigation period by up to 30 % and, depending on the Community market concerned, were lower than those required to cover the costs of Community producers and provide a reasonable profit.

(10) The information submitted to the Commission by the Italian Governmment shows that the result for the Community industry has been loss of market share, reduction of output and consequent reduction in capacity utilization. The low-priced imports have further led to price suppression in the Community, preventing Community producers from introducing price increases necessary to cover rising costs. Thus the Community industry has suffered from reduced profits or has incurred losses. The deterioration of the financial situation of the Community industry has caused several plant closures and the remaining producers were forced to lay off some of their personnel and to implement short-time working.

(11) The Commission has considered whether injury has been caused by other factors such as the volume and prices of other imports or contraction in demand. Although consumption in the Community has declined it has been established that this decline has affected the Community production as well as imports from other non-member countries, while the subsidized imports from Spain have continued to increase. Under these conditions the substantial increase in subsidized imports and the prices at which they are offered for sale in the Community led the Commission to the preliminary determination that the effects of the subsidized imports of tube and pipe fittings of malleable cast iron originating in Spain taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

D. Community interest

(12) In view of the particularly serious difficulties facing the Community industry the Commission has come to the conclusion that it is in the Community's interests that action be taken. In order to prevent further injury being caused during the remainder of the proceeding, this action should take the form of a provisional countervailing duty.

E. Undertakings

(13) The Spanish exporters concerned have been informed of the main findings of the preliminary investigation, commented on them and offered undertakings concerning their exports of tube and pipe fittings of malleable cast iron originating in Spain.

(14) The Commission, after consultation within the Advisory Committee, considered that these undertakings would not eliminate the injurious effects of the subsidy and were therefore not acceptable.

F. Rate of duty

(15) In order to determine the amount of such duty, the Commission considered the provisionally determined amount of the subsidy and the injury caused. Taking into account the scale of price undercutting practised by the Spanish exporters the Commission has concluded that the rate of the duty required should not be less than the amount of the export subsidy.

(16) A period should be fixed within which the parties concerned may make their views known and request an oral hearing.

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional countervailing duty is hereby imposed on imports of tube and pipe fittings of malleable cast iron falling within Common Customs Tariff heading No ex 73.20, corresponding to NIMEXE code 73.20-30, originating in Spain.

2. The amount of the duty shall be 8,9 % of the price per tonne net, free-at-Community-frontier, before duty.

3. The provisions in force concerning customs duties shall apply for the application of the duty.

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 3017/79, the parties concerned may make known their views and apply to be heard orally by the Commission within one month of the entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 3017/79, it shall apply until the adoption by the Council of definitive measures, and in any event for a maximum period of four months.

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

Done at Brussels, 18 November 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President