COMMISSION REGULATION (EEC) No 3669/84

of 21 December 1984

imposing a provisional anti-dumping duty on imports of certain ball bearings and tapered roller bearings originating in Japan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 11 thereof,

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

Whereas :

A. Procedure

(1) In March 1984, the Commission received a request for review of Commission Decision 81/406/EEC (2) to accept undertakings in connection with the anti-dumping proceedings concerning imports of ball and tapered roller bearings originating in Japan and to terminate these proceedings. The request, which was lodged by the Federation of European Bearing Manufacturers' Associations (FEBMA) on behalf of Community producers of ball bearings with greatest external diameter of more than 30 mm and tapered roller bearings whose collective output constitutes the majority of Community production of the products in question, alleged dumping of like products originating in Japan and material injury resulting therefrom.

(2) On the basis of this request and the information gathered during the monitoring of the abovementioned undertakings, the Commission decided that review was warranted and that sufficient evidence was presented to justify the re-opening of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (3), the re-opening of an anti-dumping investigation concerning imports into the Community of all bearings with greatest external diameter of more than 30 mm and tapered roller bearings, falling within heading No ex 84.62 of the Common Customs Tariff corresponding to NIMEXE codes 84.62-09 and 84.62-17, originating in Japan and commenced an investigation.

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

(4) All known producers, exporters and importers made their views known in writing and the complainants and certain exporters and importers concerned requested and were granted a hearing.

(5) No submissions were made by Community purchasers of the bearings under investigation with the exception of one purchaser who requested the exclusion of one specific type of bearing from any anti-dumping finding. This submission was received, however, long after the time limit in the notice of investigation had expired and it has not been possible, therefore, to take it into account.

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

EEC producers :

FAG Kugelfischer Georg Schäfer KGaA, Schweinfurt, Germany,

SKE Kugellagerfabriken GmbH, Schweinfurt, Germany,

Georg Müller Nürnberg GmbH (GMN), Nürnberg, Germany,

Société Nouvelle de Roulements (SNR), Annecy, France,

SKF Compagnie d'Applications Mécaniques, Clamart, France,

Timken, Colmar, France,

RHP Bearings Limited, Newark, United Kingdom,

SKF (UK) Ltd, Luton, United Kingdom,

Timken, Duston, United Kingdom ;

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 152, 11. 6. 1981, p. 44.
(3) OJ No C 101, 13. 4. 1984, p. 11.

Non-EEC producers/exporters:

Koyo Seiko Co. Ltd, Osaka, Japan,

Nachi-Fujikoshi Corp., Tokyo, Japan,

Nippon Seiko KK (NSK), Tokyo, Japan,

NTN Toyo Bearing Co. Ltd, Osaka, Japan;

EEC importers:

Deutsche Koyo Wälzlager Verkaufgesellschaft mbH, Hamburg, Germany,

Koyo (UK) Ltd, Leeds, United Kingdom,

Koyo France, Argenteuil, France,

Europa-Koyo BV, Nieuwpoort, The Netherlands,

Nachi Germany GmbH, Neuss, Germany,

Nachi Fujikoshi (Europe) GmbH, Neuss, Germany,

Nachi (UK) Ltd, Birmingham, United Kingdom,

NSK Kugellager GmbH, Ratingen, Germany,

NSK Bearings Europe Ltd, Edgware, United Kingdom,

NSK France SA, Clichy, France,

NSK Nederland BV, Amstelveen, The Netherlands,

NTN Wälzlager (Europa) GmbH, Erkrath, Germany,

NTN Bearings — GKN Ltd, Walsall, United Kingdom,

NTN France SA, Schweighouse-sur-Moder, France,

NTN Danmark A/S, Copenhagen, Denmark,

ISO Import Standard Office, Paris, France.

(7) The Commission requested and received detailed written submissions from the complainant Community producers, exporters and importers and verified the information therein to the extent considered necessary.

(8) The investigation of dumping covered the period 1 October 1983 to 31 March 1984.

B. Normal value

(9) For the purpose of establishing normal value for Koyo Seiko, Nachi-Fujikoshi and NTN Toyo Bearing, the Commission selected a representative sample of single-row deep-groove ball bearings and tapered roller bearings. This sample consisted of those bearings, the sales of which in the Community represented the largest aggregate values and together accounted for at least 75 % of each producer's sales of these bearings in the Community during the investigation period. Normal value was provisionally established for this sample on the basis of the weighted average price paid for like types by domestic purchasers for whom the Commission was satisfied that they were not related to the Japanese producers in question. In those cases, where the producer/exporter sold both directly to these pruchasers and through wholly-owned or controlled sales companies, the combined weighted average of sales prices to unrelated purchasers was taken. Where the producer/exporter did not sell a type identical to the type exported on the domestic market, normal value was established for the most similar type sold on the domestic market. In the course of its investigation, the Commission noted that significant price differences occur between high and low volume sales on the Japanese market and that frequently the volume of sales to individual Japanese customers by far exceeds the volume of sales to individual customers in the Community. The Commission will examine this point before definitively determining normal values.

C. Export price

(10) With regard to exports by Nachi-Fujikoshi Corp. to ISO Import Standard Office in France, export prices were determined on the basis of the prices actually paid or payable for the products sold.

(11) In all other cases where exports were made to subsidiary companies in the Community, export prices were constructed on the basis of the prices at which the imported product was first resold to an independent buyer, suitable adjusted to take account of all costs incurred between importation and resale including customs duty, and of a profit margin of 6 %. This profit margin was considered reasonable in the light of the profit margins of independent importers of the product concerned and of other similar industrial products.

D. Comparison

(12) Normal value determined as described under paragraph 9 above was compared at the ex-factory level with export prices on a transaction-by-transaction basis, exports at identical prices being grouped together, taking account, where appropriate, of differences affecting price comparability; this was the case for conditions and terms of sale where claims of a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated.

The reason for the Commission's utilization of a transaction-by-transaction method when comparing normal value and export prices is that only

by adopting this method can the compensatory effects of export sales made at prices above normal value be eliminated. Export prices above normal value are irrelevant to the question of the extent to which export sales below normal value have occurred and, therefore, to the real extent to which dumping has taken place. Council Regulation (EEC) No 1681/79 (1), which modified the then existing legislation made this clear by laying down that the dumping margin was the amount by which the normal value exceeded the export price, thus ruling out the concept of a 'negative' dumping margin. This principle was implicit in subsequent Community legislation in this field. The transaction-by-transaction method has been, therefore, consistent Commission practice except where the averaging of export prices had no effect on the overall outcome of the proceedings. The Commission is aware that this method differs from the method underlying the price undertakings accepted by it in 1981. The Commission considers, however, that the use of a certain methodology for the purposes of a price undertaking does not exclude the adoption of a different methodology at a later stage if such different methodology is considered in the light of additional information to be more appropriate to the market conditions concerned.

E. Dumping margins

(13) The above preliminary examination of the facts shows that there is dumping in respect of exports by Koyo Seiko, Nachi Fujikoshi and NTN Toyo Bearing, the margin of dumping being equal to the weighted average of the amounts by which the normal values exceed the prices for export to the Community.

(14) The weighted average dumping margins were as follows :

	Ball bearings	*Tapered roller bearings*
Koyo Seiko :	6,88 %,	5,79 % ;
Nachi Fujikoshi :	19,00 %,	31,34 % ;
NTN Toyo Bearing :	2,01 %,	2,16 %.

(15) The verification carried out at the premises of one of the Japanese producers/exporters, namely Nippon Seiko KK, showed that the information submitted by this company in reply to the Commission's questionnaire concerning domestic prices in Japan was incorrect. In addition, certain accounting information was not made available in time for verification. Subsequently, this company submitted new information which could not be verified, however, before the preliminary determination. It was necessary, therefore, to base the determination of dumping with regard to NSK on the facts available. In this connection, the Commission considered that the results of its investigation provided the most accurate basis for determining the level of dumping and that it would constitute a bonus for non-cooperation to assume that the dumping margin for Nippon Seiko KK was any lower than the highest dumping margins found in each Community market investigated. It is considered, therefore, appropriate to attribute these dumping margins to this company duly weighted in accordance with its turnover in each Community market concerned.

F. Injury

(16) The Commission has also carried out a preliminary examination of whether injury has been caused by the dumped imports by looking at factors like volume and prices of these imports and their impact on the Community industry concerned.

(17) Until 1983, the available Community statistics on imports and exports of ball bearings do not differentiate between those bearings with a greatest external diameter of not more than 30 mm (miniature bearings) and those exceeding 30 mm. For this reason the quantitative assessment of the market developments in respect of ball bearings had to be based on all ball bearings. The Commission considered, however, that in view of the low unit-weight of miniature ball bearings the impact of these bearings on the overall picture is so small that the element of inexactitude introduced into the quantitative assessment is insignificant.

(18) In respect of the volume of the imports under consideration the evidence available to the Commission shows that imports into the Community of ball bearings from Japan increased from 8 477 tonnes in 1981 to 9 473 tonnes in 1983. During the same period, imports into the Community of tapered roller bearings from Japan remained relatively stable ; they amounted to 2 746 tonnes in 1981 and to 2 760 tonnes in 1983. In respect of tapered roller bearings, there was a significant increase of imports during the first half of 1984 into France, the Federal Republic of Germany and the United Kingdom, the three Member States mainly concerned. While imports into these three countries of tapered roller bearings originating in Japan amounted in 2 399 tonnes in 1983, they increased to 1 673 tonnes in the first half of 1984. The share of the Community market held by

(1) OJ No L 196, 2. 8. 1979, p. 1.

imports of ball bearings from Japan increased from 9,5 % in 1981 to 10,7 % in 1983, and there was a particularly strong increase in the Federal Republic of Germany from 13,1 % in 1981 to 15,9 % in 1983 and in the United Kingdom from 7,6 % to 9,9 % during the same period. The share of the Community market held by imports of tapered roller bearings from Japan increased from 5,5 % in 1981 to 6,3 % in 1983 and a particularly marked increase in the Federal Republic of Germany where Japanese products accounted for 9 % of the market in the first half of 1984 compared to 5,5 % in 1981.

(19) The Commission also examined whether the sale in the Community of these bearings from Japan were made at prices below the prices charged by Community producers. For this purpose and for a representative sample of ball and tapered roller bearings accounting for approximately 20 % of the sales in the Community of the Japanese bearings under consideration during the investigation period, it compared the weighted average prices charged by the main Community producers in France, Germany and the United Kingdom, the three Member States where most Japanese bearings are sold, with the weighted average prices charged by the EEC subsidiaries of the Japanese manufacturers on resale of like bearings within the same national markets. 80 % of the comparisons showed undercutting of Community producers' prices by Japanese prices. In respect of ball bearings, the weighted average margins of undercutting were 35,6 % in the UK, 35,2 % in Germany and 16,1 % in France. For tapered roller bearings the margins were 16 % in the UK, 12,1 % in Germany and 14,6 % in France.

(20) With regard to the impact of the dumped imports on the Community industry concerned, the evidence available to the Commission shows that production of ball bearings in the Community fell from 88 929 tonnes in 1981 to 76 309 tonnes in 1983. Community production of tapered roller bearings fell from 60 111 tonnes to 51 310 tonnes during the same period. Capacity utilization of practically all major Community producers decreased significantly between 1980 or 1981 and 1983, in some cases by more than 25 %. An increase of capacity utilization could be observed with certain Community producers, however, in the first half of 1984.

(21) While Community producers sales of ball bearings in the Community fell slightly from 58 210 tonnes in 1981 to 58 173 tonnes in 1983, their corresponding sales of tapered roller bearings declined from 41 064 tonnes to 35 973 tonnes. During the same period the market share held by Community producers in the Community increased from 64,9 % to 65,5 % in respect of ball bearings and from 82,0 % to 82,7 % in respect of tapered roller bearings.

(22) The evidence available to the Commission shows that there is serious price suppression in the Community concerning ball and tapered roller bearings. Prices obtained by Community producers either are no longer sufficient to cover full cost of production or allow for inadequate profit margins only. In many cases, Community producers found it difficult, if not impossible, to negotiate even minimal price increases with their principal customers who often used the lower price level offered by Japanese suppliers as an argument not to agree to any significant increase. In order to avoid further reduction of capacity utilization which would have resulted in further increases of their costs, Community producers had to align on a generally very low and insufficient price level. Consequently all major Community producers either incurred very substantial losses or experienced seriously depressed margins during the period 1981 to 1983. Where the beginning of an improvement could be perceived in 1984, this has been achieved at the expense of strict rationalization efforts and because of increased output following an increase in demand which had the effect of reducing unit costs. No significant improvement of price levels could be observed, however.

(23) The Commission also considered whether injury has been caused by other factors such as imports from other third countries or development in demand. It has been established, however, that imports of ball bearings from third countries other than Japan have fallen from 22 949 tonnes in 1981 to 21 170 tonnes in 1983 and that imports of tapered roller bearings from these countries fell from 6 285 tonnes to 4 808 tonnes during the same period. Consequently, the market shares held by these countries fell from 25,6 % to 23,8 % and from 12,5 % to 11,0 % respectively. As to development in demand, it could be established that consumption of ball bearings in the Community, fell slightly from 89 636 tonnes in 1981 to 88 816 tonnes in 1983. But while Community producers' sales fell during that period, Japanese exporters increased their sales of ball bearings. With respect to tapered roller bearings, demand in the Community dropped significantly from 50 113 tonnes in 1981 to 43 541 tonnes in 1983. Notwithstanding the decline in demand for tapered roller bearings, however, 1983 imports of tapered roller bearings

from Japan were at 1981 levels while sales of Community producers had declined by more than 12 %.

It has, therefore, been determined that in the sector of ball bearings as well as in the sector of tapered roller bearings, the imports from Japan have improved their position in relation to Community production.

(24) All these factors and in particular the price suppression caused by systematic undercutting of Community producers' prices by Japanese exports have led the Commission preliminarily to determine that dumped imports of ball bearings with greatest external diameter of more than 30 mm and of tapered roller bearings originating in Japan have caused material injury to the Community industry concerned.

G. Community interest

(25) After having considered the dumping and the injury provisionally established, and in view of the absence of any reactions by or on behalf of Community customers of the products concerned within the specified time limits, the Commission has come to the conclusion that it is in the Community's interest that action is taken and that the acceptance of the undertakings should be withdrawn.

H. Rate of duty

(26) Having regard to the extent of injury caused, the rates of anti-dumping duty should correspond to the margins of dumping provisionally established.

(27) 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

Decision 81/406/EEC accepting undertakings given by Koyo Seiko Co Ltd, Nachi-Fujikoshi Corp., Nippon Seiko KK and NTN Toyo Bearing Co Ltd, is hereby repealed in so far as ball bearings with greatest external diameter of more than 30 mm and tapered roller bearings are concerned.

Article 2

1. A provisional anti-dumping duty is hereby imposed on imports of ball bearings with greatest external diameter of more than 30 mm and of tapered roller bearings falling within heading No ex 84.62 of the Common Customs Tariff, corresponding to NIMEXE codes 84.62-09 and 84.62-17, originating in Japan and manufactured or exported by Koyo Seiko Co Ltd, Nachi-Fujikoshi Corporation (Nachi), Nippon Seiko KK (NSK) or NTN Toyo Bearing Co. Ltd.

2. The rate of the anti-dumping duty shall be as set out below expressed as a percentage of the price per piece net, free-at-Community-frontier, before duty.

Manufacturers/exporters	*Rate of anti-dumping duty*	
	Ball bearings	*Tapered roller bearings*
Koyo Seiko Co. Ltd :	6,88 %,	5,79 % ;
Nachi-Fujikoshi Corporation (Nachi) :	19,00 %,	31,34 % ;
Nippon Seiko KK (NSK) :	16,26 %,	23,60 % ;
NTN Toyo Bearing Co. Ltd :	2,01 %,	2,16 %.

3. The provisions in force concerning customs duties shall apply.

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 3

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2176/84 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 4

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 2176/84, it shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 21 December 1984.

For the Commission

Wilhelm. HAFERKAMP

Vice-President