COMMISSION REGULATION (EEC) No 2800/86

of 9 September 1986

imposing a provisional anti-dumping duty on imports of certain deep freezers originating in the USSR, accepting the undertakings in connection with the investigation of imports of certain deep freezers originating in Yugoslavia or in the German Democratic Republic and terminating the investigation, and terminating the proceeding concerning imports of certain deep freezers

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 Articles 9, 10 and 11 thereof,

Following consultations within the Advisory Committee as provided for by that Regulation,

Whereas :

A. Procedure

(1) In September 1985 a complaint was lodged with the Commission that certain deep freezers originating in the German Democratic Republic, the USSR or Yugoslavia were being imported at dumped prices, thus causing injury to a Community industry. The complaint was lodged by the Conseil européen de la construction électrodomestique (CECED) on behalf of manufacturers accounting for practically all Community production of the deep freezers concerned.

(2) The complaint included evidence of dumping and of material injury resulting for the Community industry. This evidence was considered sufficient to justify the initiation of a proceeding and the Commission therefore announced, by a notice in the *Official Journal of the European Communities* (2), the initiation of an anti-dumping proceeding concerning imports of certain deep freezers originating in the German Democratic Republic, the USSR of Yugoslavia. The Commission began its investigation.

The products concerned are domestic electrical deep freezers intended for freezing and preserving fresh foodstuffs, falling within Common Customs Tariff subheading ex 84.15 C II, corresponding to NIMEXE code 84.15-32, 84.15-41 or 84.15-46.

(3) The Commission officially informed the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants of the initiation of the proceeding and gave the parties directly concerned the opportunity of making their views known in writing and of being heard orally.

Certain Community producers, certain importers, the exporter from the German Democratic Republic, Union Haushaltgeräte, and the two Yugoslav exporters known to be concerned, Loske Tovarne Hladilnikov and Gorenje made their views known in writing. At their request, the exporter from the German Democratic Republic, the two Yugoslav exporters and the four Community importers linked with the Yugoslav exporter Gorenje were heard orally.

No comments were submitted by or on behalf of Community consumers of the products in question.

The Yugoslav exporters asked to inspect the information made available to the Commission by other parties to the investigation, in so far as it was relevant to the defence of their interests, which had been used by the Commission in the investigation and was not confidential within the meaning of Article 8 of Regulation (EEC) No 2176/84, and this request was granted.

(4) The Commission gathered and checked all the information it deemed necessary to determine provisionally the existence of dumping and injury and carried out inspections at the premises of the following companies :

Community producers

— Germany

AEG AG
Bosch-Siemens Hausgeräte GmbH
Liebherr Hausgeräte GmbH

— Denmark

Brødrene Gram A/S
Maskinfabrikken Derby A/S
Electrolux Danmark A/S

— France

Thomson Electroménager SA

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No C 319, 11. 12. 1985, p. 3.

— Italy

Industrie Riunite Eurodomestici SpA
Zanussi Elettrodomestici SpA
Ocean SpA

— United Kingdom

LEC Refrigeration plc

Yugoslav exporters

Loske Tovarne Hladilnikov (LTH)
Gorenje

Community importers

— Germany

Gorenje Vertriebs GmbH

— Belgium

Asogem SA
EWA SA
Artsel SA
Zanker SA

— Denmark

Gorenje Skandinavien A/S

— France

Garelly SA
Générale Sidex SA

— Italy

Gorenje Korting SpA

— Netherlands

Kalorik BV
Peja Import BV

The Commission asked for and obtained detailed written information concerning the injury and its causes from manufacturers accounting for more than 70 % of Community production of the products concerned, from the exporters in the German Democratic Republic and Yugoslavia, and from most of the importers. The information thus gathered was checked by the Commission to the extent necessary.

In spite of several reminders, the USSR exporter, Technointorg, refused to respond to the Commission's requests for information and the preliminary conclusions concerning it were established on the basis of information supplied by Community importers.

(5) The period decided upon by the Commission for investigating the existence of any dumping was 1 January 1985 to 30 November 1985.

B. Definition of the Product

(6) The products alleged to have been dumped are the following types of domestic electrical deep freezers :

(i) chest type, not more than 600 litres (NIMEXE code 84.15-32), hereinafter referred to as 'chest freezers', and

(ii) upright type (NIMEXE codes 84.15-41 and 46), hereinafter referred to as 'upright freezers'.

The investigation showed that these products do not constitute 'like products' within the meaning of the anti-dumping rules.

The two types of deep freezer do indeed serve the same purpose, i.e. freezing fresh products and preserving frozen foods.

However, upright freezers have the external appearance of a refrigerator with one or two front-opening doors. Inside they have shelves or sliding drawers for easy access. Their presentation and finish, which is generally better than on chest freezers, and their compact, standardized dimensions enable them to be fitted in a kitchen.

Chest freezers, on the other hand, are generally placed in a cellar or garage, since access is by the lid and they take up more room. They are, moreover, more suitable for storing bulky food products, and access to foods stored at the bottom of the freezer is less convenient.

In their sales policies manufacturers draw a clear distinction between the two types of deep freezer, which therefore have different characteristics, of which the purchaser is aware and which are such as to influence his choice.

For the purpose of examining any dumping, the trend of imports, prices and the effects of imports on the Community industry, the two types of deep freezer were therefore treated as different products.

C. Normal value

(7) As regards imports from Yugoslavia, the normal value was established on the basis of the comparable prices actually paid or payable in the ordinary course of trade for the like product intended for consumption in Yugoslavia. It was calculated on the basis of a weighted monthly average.

The two Yugoslav exporters initially claimed that sales on the Yugoslav market did not take place in the ordinary course of trade and were not an appropriate basis on which to establish normal value. They claimed that prices were artificially inflated because they were subject to price controls imposed by the Yugoslav authorities. No information was supplied to support this claim, and the exporters later withdrew it.

In any case, and without prejudice to the facts of this particular case, the Commission does not consider that the term 'in the ordinary course of trade' presupposes conditions of perfect competition. Even where competition is limited by the existence of a cartel, a monopoly or a system of minimum prices, the selling price may be considered to be in the ordinary course of trade provided that it is generally available to all real or potential customers and that it covers all costs of production.

(8) In order to establish whether the imports from the German Democratic Republic and the USSR were sold at dumping prices, the Commission had to take account of the fact that these countries do not have a market economy and it therefore had to draw its conclusions concerning these countries on the basis of the normal value for a country with a market economy. The complainant suggested using the Spanish domestic market as reference, but the East German exporter and an importer linked to the Soviet exporter objected because they considered the prices on this market to be artificially inflated. The Commission considered the prices on the Yugoslav domestic market to be an appropriate and not unreasonable basis for comparison, and none of the parties objected to this choice.

D. Export prices

(9) With regard to the Yugoslav exporter LTH and the German Democratic Republic exporter, Union Haushaltgeräte, the Commission used the prices actually paid or payable an export to the Community.

(10) Sales by the Soviet exporter, which failed to cooperate with the investigation, and by the Yugoslav exporter, Gorenje, are made to subsidiaries within the Community. After making certain checks, the Commission considered that the prices between these associated parties could not be used for reference. Export prices were therefore constructed on the basis of the prices at which the imported products were first resold to an independent buyer, duly adjusted to take account of all costs incurred between importation and resale, including customs duty, and of a profit margin of 5 %, which was considered reasonable on the basis of a comparison with the profit margins of independent importers of the products concerned.

Gorenje's French subsidiary claimed that a profit margin of 5 % was excessive in the light of the profit which it actually made. The Commission considered that the profit made by this company could not be taken into consideration because it resulted from transactions between associated parties. In any case, in calculting Gorenje's export prices, the Commission applied the provisions of Article 2 (8) (b) of Regulation (EEC) No 2176/84, which provides for certain allowances, in particular for a reasonable profit margin. For the reasons given above, the Commission considers that a profit margin of 5 % is reasonable.

E. Comparison

(11) In comparing normal value with export prices for each of the similar products, the Commission took account of differences affecting price comparability and made appropriate allowances where the interested parties proved that such a request was justified. Allowances were made for certain differences in the physical characteristics of the products, credit and guarantee conditions, commissions, salaries paid to sales staff, transport, insurance, handling and loading and associated costs.

In the case of Yugoslavia, an allowance was also made for the refund, on export to the Community, of import charges borne by products physically incorporated into the deep freezers when destined for sale on the Yugoslav market.

All comparisons were made at ex-factory level.

The Yugoslav exporters requested seven further allowances.

(12) The first request concerned an allowance for differences in research and development and advertising costs. However, the exporters were unable to prove that these costs were directly linked to the sales in question on the Yugoslav domestic market; the Commission therefore considered these costs to be general expenses for which no allowance is generally made.

Community, rules restrict the factors to be taken into account when comparing prices to certain relevant factors, which are listed in Article 2 (9) and (10) of Regulation (EEC) No 2176/84, and which include physical characteristics, quantities, conditions and terms of sale, date and level of trade. In the case in question, the only heading under which general expenses could be examined is 'conditions and terms of sale'. In this context, however, allowances are restricted to differences which bear a direct relationship to the sales under consideration.

The Commission is of the opinion that this relationship must be functional, i.e. that these costs must be incurred because a sale takes place and must be essential for fulfilling the conditions and terms of sale established. Under Community rules, this is not generally the case for differences in overheads and general expenses.

(13) The second request concerned an allowance for the cost of financing stocks intended for the domestic market. The Commission considered these costs to be general expenses, for which no allowance is generally made for the reasons given at 12 above.

The Yugoslav exporters were unable to prove that the level of stocks in question was needed in order to satisfy the particular conditions of sales contracts on the Yugoslav market.

(14) The third request concerned an allowance for the fact that the materials and components purchased in Yugoslavia for the manufacture of deep freezers for the Yugoslav market are substantially more expensive than those purchased on the European market for the manufacture of deep freezers for export. The exporters maintained that the fact that exported deep freezers contained a higher proportion of imported components and materials than those sold on the Yugoslav market in itself proved that the physical characteristics were different.

However, the investigation showed that the use of materials and components of different origins did not result in differences in the physical characteristics of the deep freezers of which a purchaser would be aware and which were such as to influence his choice, nor in other differences affecting price comparability for which allowances needed to be made pursuant to Article 2 (10) of Regulation (EEC) No 2176/84.

In this request, the exporters claimed that the list of factors affecting price comparability contained in Article 2 (9) of the abovementioned Regulation was not exhaustive and that Article 2 (10) merely laid down guidelines for determining these allowances.

The Commission does not agree with this interpretation and considers Article 2 (9) and (10) to be exhaustive. This is clear not only from the wording of Article 2 (9), but also from the reference in Article 2 (10) solely to 'the factors mentioned in paragraph 9'. As regards the differences in the cost of the materials and components used in the manufacture of the deep freezers, these do not come under any of the categories of factors mentioned in Article 2 (9) and (10). These provisions do not refer to factors affecting the comparability of costs which may be influenced by the particular situation prevailing on the exporter's domestic market and enable him to engage in dumping, but to factors affecting price comparability which is a determining element in the purchaser's choice. Since Article 2 (10) does not therefore apply to this case, the question of the precise scope of the guidelines for its implementation no longer arises.

(15) The fourth request concerned an allowance for an export premium available under an export promotion programme organized by the Slovenia Chamber of Commerce. The exporters supplied evidence of the amounts received under this programme during the period covered by the investigation. They claimed that this programme was designed to compensate for the difference between the amount of import charges actually paid and that of the refund received upon export of the products in question, mentioned at 11 above.

The allowance was refused, because it was not proved that this programme actually constituted a refund of the import charges referred to in Article 2 (10) (d) of Regulation (EEC) No 2176/84 and defined in the notes contained in the Annex to that Regulation.

(16) The fifth request concerned an allowance for inflation between the date of sale and date of payment, which would have the effect of reducing the real level of domestic selling prices.

The Commission observed that due allowance had been made for conditions of payment which, in a market economy, are influenced by the rate of inflation on the market in question, and that no other allowance was provided for in the relevant provisions of the Community rules.

(17) The sixth request concerned an allowance for the fact that the official exchange rate for the Yugoslav dinar could not be used for the comparison of prices, because it did not correspond to the real value of that currency.

The Commission observed that companies operating in Yugoslavia used the official exchange rate for the conversion of transactions carried out in foreign currency. The Commission therefore used the official Yugoslav dinar exchange rate for the comparison of prices.

(18) The seventh request concerned an allowance for the preferential rates for financing the working capital for production intended for export.

The Commission considers these to be general expenses for which no allowance can be made for the reasons given at 12 above.

F. Margins

(19) The above preliminary examination of the facts revealed the existence of dumping by all the exporters concerned, the margin of dumping being equal to the amount by which the normal value as established exceeded the price on import into the Community. These margins varied according to the exporter, the importing Member State and the model of deep freezer concerned. The weighted average dumping margins represented the following percentages of the free-at-Community-frontier price, not cleared through customs :

	Upright freezers	Chest freezers
Gorenje	76 %	86 %
LTH	no exports to the Community	101 %
Union Haushaltgeräte	169 %	no exports to the Community
Technointorg	204 %	no exports to the Communiy

G. Injury

(20) With regard to the injury caused to the Community industry by the dumped imports, the Commission gathered the following evidence during its investigation.

Chest freezers

(21) The checks carried out by the Commission showed that the imports in question, all of which originated in Yugoslavia, increased from 37 345 units in 1981 to 39 196 in 1985, during which period their market share rose from 2,5 % to 2,7 %. Examination of the prices of the imports in question revealed price undercutting by comparison with like products manufactured by Community producers which varied according to the exporter and the importing Member State concerned ; for the majority of imports, average undercutting was 7 %.

Community production of chest freezers fell from 1 257 000 units in 1981 to 1 120 000 units in 1985. Over the same period the Community industry reduced its production capacity from 1,9 million units to 1,5 million units. The rate of capacity utilization thus increased from 68 % in 1981 to 77 % in 1985. In volume terms, sales in the Community were relatively stable at approximately 1 million units. Over the same period, consumption also remained stable at approximately 1,5 million units, with the result that the market share held by the Community industry remained virtually unchanged (66,4 % in 1981 and 67,3 % in 1985). The information gathered by the Commission revealed a deterioration in the financial results of Community producers, which recorded profit margins which were considered insufficient, or even losses.

(22) The Commission examined the other factors which could have caused injury to the Community industry. The share of the Community market taken by imports originating in third countries other than the imports concerned by the investigation increased their share from 7,9 % in 1981 to 13,7 % in 1985. The Commission also possesses information which reveals fierce competition between certain Community producers, which has the effect of maintaining prices at relatively low levels. The dumped imports have remained stable in terms of both volume and market share, and the price undercutting established between their prices and those of like products produced by the Community industry is relatively low.

The Commission therefore believes, on the basis of the available information, that although the dumped imports have caused injury to the Community industry, this injury cannot by itself be considered substantial.

Upright freezers

(23) The checks carried out by the Commission showed that the imports in question, originating in Yugoslavia, the German Democratic Republic or the USSR, tripled between 1981 and 1985, increasing from 39 546 units to 123 200 units. Their share of the Community market increased from 2,5 % in 1981 to 7,6 % in 1985. On those markets where these imports are concentrated, the market share increased from 6,6 % to 16 % in France, from 8,4 % to 24,0 % in Belgium and from 3,5 % to 8,5 % in the United Kingdom. Examination of the prices of the imports in question revealed substantial price undercutting by comparison with the prices of like products manufactured by the

Community industry, which varied according to the exporter, the importing Member State and the model of freezer concerned; the average price undercutting recorded fluctuated as follows:

— Gorenje from 7 % to 25 %,
— Union Haushaltgeräte from 28 % to 50 %,
— Technointorg from 40 % to 50 %.

Moreover, the Community industry claimed that its prices already reflected the depressive effect of the imports in question.

The information checked by the Commission showed that Community production of upright freezers fell from 1 343 000 units in 1981 to 1 264 000 units in 1985; production capacity remained practically unchanged at 1,9 million units and the rate of capacity utilization therefore fell from 69,7 % in 1981 to 66,6 % in 1985. Sales in the Community fell from 1 186 000 units in 1981 to 1 120 000 units in 1985. Thus, while consumption remained virtually unchanged at 1,6 million units, the market share held by the Community industry fell from 74,3 % in 1981 to 68,9 % in 1985; on those markets where imports are concentrated, the market share fell over the same period from 74,0 % to 56,7 % in France, and from 50,6 % to 44,4 % in Belgium, and in the United Kingdom, where consumption increased by 35 %, the market share remained stable at 47 %. The information gathered by the Commission revealed a deterioration in the financial results of the Community producers: most recorded profit margins which were considered insufficient, or even losses.

(24) In order to establish the impact of dumped imports on the Community industry, the Commission considered the overall effect of all dumped imports from all the exporters concerned. The two exporting companies which cooperated with the investigation claimed that the impact of their respective exports to the Community should be examined separately, and that because of their low respective shares of the Community market, they did not cause material injury.

In considering whether cumulation was appropriate in each case, the Commission took account of the comparability of the products imported in terms of physical characteristics, import volumes, the increase in those volumes by comparison with a reference period, the low price level of the products exported by all the exporters in question and the extent to which each imported product competed in the Community with the like product of the Community industry. On the basis of its analysis, the Commission believed that the dumped imports from the companies in question could be considered to contribute in a similar manner to the material injury caused to the Community industry, and that those imports took place under such conditions that if the Commission were to treat one exporter separately it would be discriminating against the others. The Commission therefore concluded that, in order to establish the level of injury caused to the Community industry, it was appropriate to consider the overall effect of all dumped imports from all the companies concerned.

(25) The Yugoslav exporter claimed that differences in technical standards and prices meant that the Community deep freezer market was not a single market, but consisted of a series of national markets which should be considered separately in order to establish the existence of a possible injury.

The Commission established that since the conditions provided for in the second indent of the first subparagraph of Article 4 (5) of Regulation (EEC) No 2176/84 were not fulfilled, the Community could not be divided into two or more competitive markets. Assessment of a possible injury must therefore be made by comparison with total Community production as defined in the introductory phase first paragraph of the said paragraphs. The Commission obviously took account within the Community market of the specific characteristics of the national markets, in particular in order to establish the price undercutting of the imports in question by comparison with the prices of like products manufactured by the Community industry.

(26) The Yugoslav exporter also claimed that its products had a poor brand image among distributors and consumers and that after-sales service was less efficient than for Community products. It therefore considered that for equal quality its products should be sold at lower prices than Community products.

In establishing price undercutting, the Commission compared like products, in particular as regards volume, appearance and equipment, but it did not attempt to establish the impact of consumer preference, which is often a matter of subjective judgment and would be difficult to quantify. Moreover, no concrete proof was supplied as to the precise impact of a possible consumer preference on the price that the consumer would be willing to pay.

(27) The Commission examined the other factors which could also, individually or in combination, cause injury to the Community industry.

With regard to the French market, which is one of those on which the imports in question are concentrated, the Yugoslav exporter raised the question of the effect of price controls enforced by the French authorities. The Commission established that during the period covered by the investigation the industrial prices of deep freezers in France were indeed subject to price controls which were basically intended to restrict price increases. Nevertheless, and irrespective of the possible effect of such price controls, the Commission established significant price undercutting between the prices of dumped imports and those of products manufactured by the Community industry.

The Commission established that the domestic electrical appliances sector in general, and the deep-freezer sector in particular, had been affected by the economic recession, market saturation and the low rate of replacement purchases. It was, however, established that market stagnation affected the Community industry more than the dumped imports, which tripled from 1981 to 1985.

(28) The Commission established that the share of the Community market taken by imports originating in third countries not covered by the investigation remained relatively stable at approximately 7 % between 1981 and 1985. Moreover, although the production capacity of the Community industry remained unchanged from 1981 to 1985, the rate of capacity utilization fell. The possibility that competition between Community producers had some effect on the level of market prices is not excluded. Nevertheless, the levels of price undercutting established between the prices of the dumped imports and those of like products manufactured by the Community industry are substantial.

In conclusion, the substantial increase in dumped imports and the extremely low prices of these products in the Community led the Commission to establish that the dumped imports, considered separately, caused material injury to the Community industry concerned.

H. Community Interests

(29) The Yugoslav authorities and exporters claimed that it would not be in the interests of the Community to adopt protective measures. They referred to the trade links between Yugoslavia and the Community, and in particular to the fact that the exporters in question themselves purchased substantial quantities of materials and components originating in the Community, and that any fall in the level of Yugoslav exports of deep freezers to the Community would result in a direct and immediate fall in Community exports to Yugoslavia.

In general, the imposition of protective measures pursuant to the relevant provisions is not intended to eliminate the imported product from the Community market, but to eliminate the negative effects of the unfair pricing policy practised by third-country exporters. Moreover, and with regard to the case in hand, the Commission has received no information from any Community producer of the materials and components in question suggesting that it shares the opinion of the Yugoslav authorities and exporters.

(30) The Commission received no observation from consumers. However, it examined the effect protective measures would have on consumers and concluded that, given the average life of a deep freezer and the level of such measures mentioned at 33 and 34 below, the effect of those measures should not be excessive.

(31) The Commission took account of the difficulties mentioned earlier affecting the Community industry and of the probable aggravation of those difficulties if no measure were taken in this case. Under these circumstances, the Commission concluded that the interest of the Community required measures to be taken.

(32) The Commission therefore concluded that, in order to prevent further injury being caused during the proceeding, it was appropriate to impose a provisional anti-dumping duty on imports of certain deep freezers originating in the Soviet Union.

I. Rate of Duty

(33) Having regard to the extent of the injury caused, the rate of duty should be lower than the dumping margins provisionally established but sufficient to remove the injury caused. Having taken account of the selling price needed to provide efficient Community producers with a reasonable profit margin and of the selling prices in the Community of dumped imports, the Commission estimated the rate of duty needed to remove the injury at 33 % of the net free-at-Community-frontier price, not cleared through customs.

J. Undertakings

(34) The only Yugoslav exporter of upright freezers, Gorenje, and the East German exporter, Union Haushaltgeräte, were informed of the main conclusions of the preliminary investigation; they submitted their comments and subsequently gave price undertakings.

Those undertakings have the effect of raising prices by an amount which in no case exceeds the dumping margins established but which is sufficient to remove the injury caused to the Community industry, since the price of imports is thereby raised to the level of selling price at which efficient Community producers can make a reasonable profit. It is, moreover, possible to ensure that those undertakings are actually kept. Under these circumstances, the undertakings made are considered acceptable and the investigation can be terminated without imposing anti-dumping duty.

This solution met with no objection within the Advisory Committee.

K. Termination

(35) With regard to chest freezers, and taking into account the conclusions concerning injury set out at 22 above, the Commission considered that it was appropriate to terminate the proceeding without adopting protective measures.

(36) The complainant was informed of the main facts and consideration on the basis of which the Commission intended to terminate the proceeding without adopting protective measures.

The complainant objected, arguing that imports of chest freezers from Yugoslavia had the effect of bringing market prices down to abnormally low levels and that the adoption of measures for upright freezers only would probably lead to an increase in the pressure of imports of chest freezers.

The Commission pointed out that the conclusions for each product should be established separately. With regard to chest freezers, and taking account of the factors set out at 21 and 22 above, the Commission believed that, even if the dumped imports had caused injury to the Community industry, that injury could not by itself be considered material, and that it was therefore appropriate to terminate the proceeding without adopting protective measures.

This solution met with no objection within the Advisory Committee.

L. Time Limit

(37) Following the imposition of the provisional anti-dumping duty, a period should be fixed within which the interested parties may make their views known and apply to be heard orally by the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of deep freezers falling within subheading ex 84.15 C II of the Common Customs Tariff, corresponding to NIMEXE code 84.15-41 or 84.15-46, originating in the USSR.

2. The amount of that duty shall be equal to 33 % of the net free-at-Community-frontier price, not cleared through customs.

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

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

Article 2

The undertakings given by Gorenje (Velenje, Yugoslavia), and by Union Haushaltgeräte (Berlin, German Democratic Republic) in connection with the anti-dumping proceeding concerning imports of deep freezers falling within subheading ex 84.15 C II of the Common Customs Tariff, corresponding to NIMEXE code 84.15-41 or 84.15-46, originating in Yugoslavia or the German Democratic Republic, are hereby accepted.

Article 3

The investigation conducted in connection with the proceeding referred to in Article 2 is hereby terminated.

Article 4

The proceeding is terminated with regard to imports of deep freezers falling within subheading ex 84.15 C II of the Common Customs Tariff, corresponding to NIMEXE code 84.15-32.

Article 5

Without prejudice to the provisions of Article 7 (4) (b) and (c) of Regulation (EEC) No 2176/84, the parties concerned may make known their point of view and apply to be heard orally by the Commission within a period of one month from the entry into force of this Regulation.

Article 6

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

Without prejudice to the provisions of Articles 11, 12 and 14 of Regulation (EEC) No 2176/84, Article 1 of this Regulation shall apply for a period of four months or until the Council adopts definitive measures before the end of that period.

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

Done at Brussels, 9 September 1986.

For the Commission

Willy DE CLERCQ

Member of the Commission