COUNCIL REGULATION (EEC) No 1761/87

of 22 June 1987

amending Regulation (EEC) No 2176/84 on protection against dumped or subsidized imports from countries not members of the European Economic Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission (1),

Whereas experience gained from the implementation of Regulation (EEC) No 2176/84 (2) has shown that assembly in the Community of products whose importation in a finished state is subject to anti-dumping duty may give rise to certain difficulties;

Whereas in particular:

— where assembly or production is carried out by a party which is related or associated to any of the manufacturers whose exports of the like product are subject to an anti-dumping duty, and

— where the value of the parts or materials used in the assembly or production operation and originating in the country of origin of the product subject to an anti-dumping duty exceeds the value of all other parts or materials used,

such assembly or production is considered likely to lead to circumvention of the anti-dumping duty;

Whereas, in order to prevent circumvention, it is necessary to provide for the collection of an anti-dumping duty on products thus assembled or produced;

Whereas it is necessary to lay down the procedures and conditions for the collection of duty in such circumstances;

Whereas the amount of anti-dumping duty collected should be limited to that necessary to prevent circumvention,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph is hereby added to Article 13 of Regulation (EEC) No 2176/84:

'10 (a) Definitive anti-dumping duties may be imposed, by way of derogation from the second sentence of paragraph 4 (a), on products that are introduced into the commerce of the Community after having been assembled or produced in the Community provided that:

— assembly or production is carried out by a party which is related or associated to any of the manufacturers whose exports of the like product are subject to a definitive anti-dumping duty,

— the assembly or production operation was started or substantially increased after the opening of the anti-dumping investigation,

— the value of parts or materials used in the assembly or production operation and originating in the country of exportation of the product subject to the anti-dumping duty exceeds the value of all other parts or materials used by at least 50 %.

In applying this provision, account shall be taken of the circmstances of each case, and, *inter alia,* of the variable costs incurred in the assembly or production operation and of the research and development carried out and the technology applied within the Community.

In that event the Council shall, at the same time, decide that parts or materials suitable for use in the assembly or production of such products and originating in the country of exportation of the product subject to the anti-dumping duty can only be considered to be in free circulation in so far as they will not be used in an assembly or production operation as specified in the first subparagraph.

(b) Products thus assembled or produced shall be declared to the competent authorities before leaving the assembly or production plant for their introduction into the commerce of the Community. For the purposes of levying an anti-dumping duty, this declaration shall be considered to be equivalent to the declaration referred to in Article 2 of Directive 79/695/EEC.

(c) The rate of the anti-dumping duty shall be that applicable to the manufacturer in the country of origin of the like product subject to an anti-dumping duty to which the party in the Community carrying out the assembly or production is related or associated. The amount of duty collected shall be proportional to that resulting from the application of the

(1) OJ No C 67, 14. 3. 1987, p. 20.
(2) OJ No L 201, 30. 7. 1984, p. 1.

rate of the anti-dumping duty applicable to the exporter of the complete product on the cif value of the parts or materials imported; it shall not exceed that required to prevent circumvention of the anti-dumping duty;

(d) The provisions of this Regulation concerning investigation, procedure, and undertakings apply to all questions arising under this paragraph.

Article 2

This Regulation shall enter into force on the 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 Luxembourg, 22 June 1987.

For the Council

The President

L. TINDEMANS