COMMISSION REGULATION (EEC) No 3537/87

of 25 November 1987

on protective measures applicable to imports of pears in syrup originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables [1], as last amended by Regulation (EEC) No 1928/87 [2], and in particular Article 18 (2) thereof,

Whereas the marketing of pears in syrup falling within subheadings 20.06 B II a) 6 and 20.06 B II b) 6 of the Common Customs Tariff is characterized by competition from non-member countries at prices significantly below the prices at which Community products can be marketed;

Whereas exporters in certain non-member supplier countries have informed the Community that they will increase their prices during the 1987/88 marketing year; whereas these prices are at levels which will not disturb the Community market; whereas the prices applied by Chinese exporters remain significantly below those of the Community and other supplier countries and as such, could oblige non-member supplier countries to reduce their prices;

Whereas in these circumstances the Community market is exposed to serious disturbances which might endanger the objectives set out in Article 39 of the Treaty; whereas it is therefore necessary to apply protective measures in respect of the products concerned originating in the People's Republic of China;

Whereas the aim of the protective measures should be to exclude the marketing of imported products at abnormally low prices;

Whereas this objective can be achieved by introducing a minimum import price to be respected on import into the Community and by applying countervailing charges on products which do not respect that price; whereas the countervailing charges should be calculated on the basis of the prices applied by supplier countries;

Whereas the minimum import price may be undercut due to events which are not a consequence of prices applied by non-member countries, e.g. fluctuation of exchange rates; whereas that fact should be taken into consideration when countervailing charges are fixed;

Whereas account should be taken of the special situation of products which have already left the exporting country at the time this Regulation is published,

HAS ADOPTED THIS REGULATION:

Article 1

1. On import into the Community of pears in syrup falling within subheadings 20.06 B II a) 6 and 20.06 B II b) 6 of the Common Customs Tariff and originating in the People's Republic of China, the minimum import price shall be 610 ECU/tonne net weight.

2. If the minimum import price is not respected the following countervailing charges shall be applied:

(ECU/tonne net)

Import price applied		Countervailing charge
Less than	but not less than	
610	580	30
580	550	60
550	490	120
490		150

Article 2

1. The minimum import price shall be respected when the import price expressed in the currency of the importing Member State is not less than the minimum import price applicable on the day on which the entry for release for free circulation is accepted.

2. The following factors shall constitute the import price:

(a) the fob price in the country of origin;

(b) transport and insurance costs to the point of entry into the customs territory of the Community.

3. For the purposes of paragraph 2, 'fob price' means the price paid or to be paid for the quantity of products contained in a consignment including the cost of placing the consignment on board a means of transport at the place of shipment in the country of origin and other costs incurred in that country. The fob price shall not include the cost of any services to be borne by the seller from the time that the products are placed on board the means of transport.

[1] OJ No L 49, 22. 2. 1986, p. 1.
[2] OJ No L 183, 3. 7. 1987, p. 32.

4. Payment of the fob price to the seller shall be effected not later than three months after the day on which the entry for free circulation is accepted by the customs authorities.

5. Where the factors referred to in paragraph 2 are expressed in a currency other than that of the importing Member State, the provisions on the valuation of goods for customs purposes shall be applied when converting such currency into the currency of the importing Member State.

Article 3

1. The customs authorities shall, in respect of each consignment, at the time of completion of the customs import formalities for free circulation, compare the import price with the minimum import price.

2. The import price shall be declared on the entry for release for free circulation and the entry shall be accompanied by all the documents required to verify the price.

3. The competent authorities shall :

(a) if the invoice presented to the customs authorities has not been drawn up by the exporter in the country in which the products originated ;

or

(b) if the authorities are not satisfied that the price declared in the entry reflects the actual import price ;

or

(c) if payment has not been effected within the time limit provided for in Article 2 (4) ;

take the necessary measures to determine the import price, in particular by reference to the importer's resale price.

Article 4

The importer shall retain evidence of payment to the seller. That evidence and all commercial documents, in particular invoices, contracts and correspondance concerning the purchase and sale of the products shall be kept available for examination by the customs authorities for a period of three years.

Article 5

1. This Regulation shall not apply to products for which it has been proved that they have left the supplier country before the day of publication of this Regulation.

2. The parties concerned shall provide proof, to the satisfaction of the competent authorities, that the conditions set out in paragraph 1 have been complied with.

However, the competent authorities may regard the products as having left the supplier country before the day of publication of this Regulation when one of the following documents is submitted :

— in the case of transport by sea or waterway, the bill of lading showing that loading took place before that day,

— in case of transport by rail, the consignment note accepted by the railways of the expediting country before that day,

— in case of transport by road, the TIR carnet presented to the first customs office before that day,

— in case of transport by air, the air consignment note showing that the airline received the products before that day.

3. The provisions of paragraphs 1 and 2 shall apply only in so far as the entry for free circulation has been accepted by the customs authorities before 26 February 1988.

Article 6

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

It shall apply until 14 July 1988.

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

Done at Brussels, 25 November 1987.

For the Commission

Frans ANDRIESSEN

Vice-President