COUNCIL REGULATION (EEC) No 2686/90

of 17 September 1990

repealing Regulation (EEC) No 2347/87 imposing a definitive anti-dumping duty on mechanical wrist-watches originating in the USSR

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 14 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas,

A. Previous procedure

(1) By Regulation (EEC) No 1882/82 [2] the Council imposed a definitive anti-dumping duty on mechanical wrist-watches originating in the USSR.

(2) Following the imposition of that duty the complainant, Timex Corporation, Dundee, lodged an application with the Court of Justice of the European Communities pursuant to the second paragraph of Article 173 of the Treaty for partial annulment of Article 1 of Regulation (EEC) No 1882/82.

The Court, in its Judgment of 20 March 1985 in Case 264/82 [3] declared the Article in question to be void and ordered the anti-dumping duty imposed by that provision to be maintained until the competent institutions adopted the measures needed to comply with its Judgment.

(3) Following a subsequent review procedure the Council, by Regulation (EEC) No 2347/87 [4], again imposed a definitive anti-dumping duty on imports of the product concerned.

B. Review procedure

(4) In September 1989, the Commission received a request for review from the USSR exporter concerned and the largest importer of the product in the Community based on Article 14 of Regulation (EEC) No 2423/88, alleging that the major Community producer of mechanical wrist-watches and the only one which had participated in the previous review procedure, i.e. Timex Corporation, had definitively ceased production and that there was accordingly no necessity for maintaining the anti-dumping duty in force. The Commission received confirmation from the company concerned that production had definitively ceased and decided that a review proceeding was therefore warranted.

(5) Accordingly, the Commission announced, by a notice published in the *Official Journal of the European Communities* [5], the initiation of a review of anti-dumping measures concerning imports into the Community of mechanical wrist-watches falling with CN code ex 9102 21 00 and ex 9102 29 00 and originating in the USSR.

(6) The investigation covered the period from 1 February 1989 to 31 January 1990.

(7) The Commission officially advised both the exporters and the importers known to be concerned, and gave the parties concerned the opportunity to make their views known in writing and to request a hearing.

(8) The French and UK importers made their views known in writing.

One Community producer, which had not participated in the previous review proceeding, i.e. Cattin, Morteau, France, made its views known in writing.

The Verband der Deutschen Uhrenindustrie, the Chambre Française de l'horlogerie et des microtechniques and the British Clock and Watch Manufacturers' Association made their views known in writing, through the Comité permanent de l'horlogerie européenne.

(9) The Commission sought and verified all information it deemed to be necessary for the purpose of its determination and carried out an investigation at the premises of the Community producer, Cattin, Morteau, France.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No L 207, 15. 7. 1982, p. 1.
[3] *Timex* v. *Council and Commission* (1985) ECR p. 849.
[4] OJ No L 213, 4. 8. 1987, p. 5.
[5] OJ No C 24, 1. 2. 1990, p. 6.

C. Community industry

(10) The Verband der Deutschen Uhrenindustrie and the Chambre Française de l'Horlogerie et des Micro-Techniques provided general industry production statistics. Although both associations extensively informed their members, only part of this alleged production was substantiated by the Community producer mentioned above.

(11) Shortly after having made its views known in writing and after the investigation at its premises by the Commission, the Community producer informed the Commission that, due to a change in its economic situation, it was no longer in its interest to participate in the investigation.

(12) This meant that the only known Community producer had withdrawn from the investigation and the Commission therefore considered that there was no longer a Community industry for the product concerned which needed protection against dumped imports. The Council confirms this conclusion.

(13) The British Clock and Watch Manufacturers' Association raised the argument that dumped imports of the product concerned could have an influence on the marketability of all other wrist-watches, i.e., analogue and digital quartz watches.

(14) Within the framework of the present investigation, however, this argument has little or no relevance since quartz watches use a completely different movement technology in comparison with mechanical watches and cannot therefore be considered a like product within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88 to the mechanical watches imported from the USSR. A possible threat of injury in respect of quartz watches resulting from the imports in question cannot therefore be taken into account in the framework of the present proceeding.

D. Retarding the re-establishment of the industry

(15) The British Clock and Watch Manufacturers' Association argued that the repeal of the anti-dumping duty for the product concerned would cause a major problem in the event of another company wanting to start mechanical watch production. This was particularly the case since, the Association argued, mechanical watches were again in demand.

(16) Although there seems indeed to have been a revival in demand for mechanical watches in the last few years, figures provided by the Comité Permanent de l'Horlogerie Européenne, and general import statistics, show that the revival is limited to the medium and high-quality segment of the market. Given the virtual demise of the industry in the Community during a period when anti-dumping measures were in force, it seems highly unlikely that any new Community production would focus on the low-quality end of the market where the product concerned is positioned.

E. Repeal of duty

(17) In the light of the abovementioned arguments, in particular the absence of any relevant Community industry, it is concluded that this review proceeding should be concluded by the repeal of the anti-dumping duties referred to in recital (3).

No objections to the Commission's proposal were raised in the Advisory Committee.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2347/87 is hereby repealed.

Article 2

This Regulation shall enter into force on the day following that of 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 Brussels, 17 September 1990.

For the Council

The President

G. DE MICHELIS