COMMISSION REGULATION (EEC) No 1994/92

of 14 July 1992

imposing a provisional anti-dumping duty on imports into the Community of outer rings of 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 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 7 thereof,

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

Whereas :

A. PROCEDURE

(1) In September 1990, the Commission received a written complaint lodged by the Federation of European Bearing Manufacturers' Associations (Febma). The output of the members of this Federation allegedly represented a major proportion of the Community production of the product in question.

(2) The complaint contained evidence of dumping of outer rings of tapered roller bearings originating in Japan and of material injury resulting therefrom. This evidence was considered sufficient to justify the initiation of a proceeding.

(3) The Commission accordingly announced by means of a notice published in the *Official Journal of the European Communities* (2) the initiation of an anti-dumping proceeding concerning outer rings of tapered roller bearings originating in Japan, falling within combined nomenclature (CN) code ex 8482 99 00 and commenced an investigation.

(4) The Commission officially advised all Community producers, importers and Japanese manufacturers known to be concerned, the representatives of the exporting country, and the complainants. All parties directly concerned were given the opportunity to make their views known in writing and to request a hearing.

(5) 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 :

(a) Community producers/related sales companies :

— France :

— SKF France SA, Clamart,

— Timken France, Colmar ;

— Germany :

— FAG Kugelfischer Georg Schäfer KGaA, Schweinfurt,

— SKF GmbH, Schweinfurt ;

— United Kingdom :

— British Timken, Duston,

— SKF (UK) Ltd, Luton ;

(b) producers in Japan :

— Koyo Seiko Co. Ltd, Osaka,

— NTN Corporation, Osaka ;

(c) related importers in the Community :

— France :

— Koyo France SA, Argenteuil,

— NTN France SA, Schweighouse-sur-Moder ;

— Germany :

— Deutsche Koyo Wälzlager Verkaufs GmbH, Hamburg,

— NTN Wälzlager (Europa) GmbH, Erkrath ;

— United Kingdom :

— Koyo (UK) Ltd, Milton Keynes,

— NTN (UK) Ltd, Lichfield.

(6) The investigation concerning dumping covered the period 1 January to 31 December 1990 (the 'investigation period').

B. PRODUCT UNDER CONSIDERATION LIKE PRODUCT

(7) The products concerned in this proceeding are the outer rings of tapered roller bearings. In the bearing industry they are commonly called 'TRB cups' and are hereinafter referred to in this Regulation as such.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 2, 4. 1. 1991, p. 8.

(8) TRB cups on their own have no function, but are one of the components which comprise complete tapered roller bearings, (i.e. together with inner rings, rollers and roller retainers).

(9) TRB cups sold on the Japanese market are alike in all respects to the products exported to the Community and which are the subject of this proceeding. In addition, TRB cups produced by the Community manufacturers are alike to the products under consideration.

C. DUMPING

1. General

(10) In view of the many different TRB cup models which exist, all dumping calculations were based on the top selling models to the Community of both the Japanese companies concerned. These models represented at least 80 % of the total number of pieces exported by these companies to the Community. In monetary terms, they constitute more than 75 % of each company's exports of TRB cups.

(11) Customers for TRB cups in Japan and the Community fall into two distinct categories (and sales channels), namely industrial manufacturers who incorporate TRB cups into their own products and distributors who supply TRB cups for replacement purposes.

(12) During the investigation it was found that domestic sales by the Japanese producers were almost exclusively made to industrial manufacturers. Accordingly, the Commission's calculations concerning dumping concern only these sales.

2. Normal value

(13) Normal value was established on the basis of the weighted average net domestic sales price (i.e. net of all rebates, discounts, sales taxes, etc.) to the first independent customer in Japan for each type of TRB cup taken into consideration if:

— the weighted average net domestic sales price for that type (loss making transactions accounting for a small proportion of all transactions) exceeded the cost of production including selling, general and other administrative expenses (SGA), and

— the volume of domestic sales was equivalent to at least 5 % of the export volume to the Community of the type in question.

(14) When the domestic sales of a particular type were less than 5 % of the quantity exported to the Community, a model alleged to be comparable to the model exported was examined. It was found, however, that although the models put forward by the manufacturers as comparable were always technically similar in terms of dimensions and tolerances etc., they were not always made of the same quality materials, nor was the finish the same. In view of these differences, which were reflected in the large variations in price often found between such models, the Commission considered that such models could not be regarded as sufficiently comparable for appropriate adjustments for differences in physical characteristics to be made.

(15) In such cases the cost of production of the exported model plus SGA together with the profit realized by the manufacturer on its profitable sales of the like product on the domestic market, which were considered representative on an overall basis, has been taken as the basis for calculating normal value in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88.

(16) Normal value was similarly constructed where the exported model concerned had a domestic weighted net sales price below its cost of production plus SGA. In such a case, the cost of production plus SGA plus the profit realized by the manufacturer on its profitable sales of the like product on the domestic market has been taken as the basis for calculating normal value in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88.

3. Export price

(17) For sales made by the Japanese producers to their subsidiaries in the Community, export prices of the TRB cup models taken into consideration were constructed on a transaction-by-transaction basis using resale prices to the first independent buyer in France, Germany or the United Kingdom, adjusted to take account of all costs incurred between importation and resale, together with a reasonable profit on the turnover of the subsidiary. In this case, based on the Commission's estimate of the profitability of the trade sector concerned, a profit margin of 6 % was considered reasonable.

(18) It was considered appropriate to base the calculation of export prices only on sales to independent industrial manufacturing customers in France, Germany or the United Kingdom, as together these three markets accounted for approximately 90 % of all Japanese resales in the Community.

(19) Export sales made directly to independent customers in the Community were found to be negligible when compared to the overall export volume of the companies concerned and consequently were not taken into consideration.

4. Comparison

(20) Comparison of export prices and normal value was made only for identical TRB cup models, i.e. those whose specification and precision level was the same.

(21) Adjustments to take account of directly related selling expenses on the Japanese domestic market were also made. However, no allowance was given if such expenses could not satisfactorily be shown to relate directly to the sales in question.

(22) As far as the differences, if any, between the physical characteristics of TRB cups sold in Japan and those sold to the Community are concerned, the Commission considered that such differences had no effect for the purpose of price comparison.

(23) On a transaction-by-transaction basis at ex-factory level, export prices for each TRB cup model were compared to the normal value for that model.

5. Dumping margins

(24) The dumping margin for both Japanese companies was calculated as being the total amount by which normal values exceeded export values for all the types selected.

(25) As a percentage of the total cif export value of all types taken into consideration, the margins of dumping established are as follows:

— Koyo Seiko Co. Ltd 12,4 %,

— NTN Corporation 6,0 %.

(26) For those producers that neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping margin for these companies was determined on the basis of the facts available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88. Given that the cooperating companies comprise substantially all exports of TRB cups to the Community, it is considered appropriate to base the dumping margin for these other companies on the higher of the dumping margins found, i.e.: 12,4 %.

D. INJURY

1. General remarks

(27) As the combined nomenclature heading under which TRB cups are classified covers more than just these products, accurate officially compiled statistics are not available. The Commission's injury investigation data are therefore, by necessity, based on data provided by the cooperating Community producers and Japanese manufacturers.

(28) In addition, as only two Japanese manufacturers are concerned, for reasons of confidentiality it has been necessary to use indices in some of the data given in this Regulation.

(29) The companies lodging the complaint account for approximately 80 % of the total Community output of TRB cups.

(30) For the purpose of this section of the Regulation, it should also be noted that most of the data relates to the French, German and United Kingdom markets as together they account for the majority of Community sales of TRB cups manufactured in the Community and also those resold by the Japanese manufacturers in the Community. The information concerning estimated market volume, however, refers to all Community markets.

2. Volume of Community market and market share of dumped imports

(31) As regards market volume, estimated consumption of TRB cups in the Community dropped by 11,5 % between 1988 and the investigation period.

(32) Estimated dumped imports of TRB cups of Japanese origin rose significantly, however, by 24 % between 1988 and the investigation period. This development represents an increase in the market share held by such imports from 11,2 % in 1988 to 14,3 % during the investigation period.

3. Price undercutting

(33) With regard to price undercutting, it was found that during the investigation period, dumped cups imported from Japan and resold on the Community market on average undercut the prices of the Community producers' models at the same level of trade by the following percentages:

— Koyo Seiko Co. Ltd 9,4 %,

— NTN Corporation 6,1 %.

4. Situation of the Community industry

(a) *Production, capacity, utilization rate and stocks*

(34) When analysing the relevant economic factors, the Commission found that the performance of the Community producers had been variable. Overall figures for the Community industry are, however, given below.

(35) Production volume of the Community producers was as follows:

1988	Index = 100
1989	114
1990	109.

(36) The production capacity of the Community producers was as follows:

1988	Index = 100
1989	109
1990	120.

(37) Capacity utilization dropped as follows:

1988	94,9 %
1989	96,2 %
1990	89,1 %.

(38) Community producers' stocks of TRB cups increased by approximately 13 % between 1988 and the reference period.

(b) *Sales, market share and profits*

(39) The Community producers' sales (pieces) of TRB cups on the French, German and United Kingdom markets declined as follows:

1988	Index = 100
1989	96
1990	85.

(40) With regard to the values of such sales, these also dropped:

1988	Index = 100
1989	103
1990	95.

(41) The market share of the Community producers also declined between 1988 and the investigation period:

1988	88,8 %
1989	87,4 %
1990	85,7 %.

(42) The Commission has calculated that TRB cups sold in France, Germany and the United Kingdom facing direct competition from dumped models in the sample were making a loss of 14,2 % during the investigation period. When looking however at the profitability of all types of the like product sold by Community producers in the same markets, the loss is 2,3 %. Thus, the level of loss sustained by the Community industry can be seen to be a result of the level of exposure of its products to dumped competition.

5. Conclusion

(43) Given these poor financial results and in view of the decline in sales and market share of the Community producers, the Commission considers that the Community industry has suffered material injury.

E. CAUSATION OF INJURY

1. Effects of dumped imports

(44) As there are no perceptible quality differences between the goods under investigation produced in either the Community or Japan the competition between Community producers and Japanese manufacturers is based mainly on prices.

Information provided to the Commission concerning major industrial customers shows that these companies keep their supply options open and buy from a cross-section of both Community and Japanese sources. In this transparent market situation the prices of the dumped Japanese products have had a price suppressing effect.

(45) The undercutting established in this investigation and the particular exposure of certain Community produced models to the dumped imports has had a detrimental effect on this sector of the Community bearing industry. It should, however, also be noted that in certain other areas of bearing production where Japanese companies are not alleged to be dumping (i.e. cylindrical, spherical, needle bearings, etc.), Community manufacturers producing these type of products are trading more profitably.

(46) As has already been mentioned, the loss made by the Community producers on their sales of TRB cups which are identical in type to the dumped Japanese types is significantly greater than the loss made overall.

2. Other possible causes of injury

(47) With regard to the effects of TRB cups originating in other third countries, from information supplied to the Commission it appeared that such imports were in small quantities and mainly from companies related to the Community producers (e.g.

parent companies or subsidiary companies). The Commission therefore considers that imports from third countries other than Japan have had little or no effect on the lack of profitability of the Community producers.

(48) While the drop in consumption may have had some negative effect on the Community producers, this does not explain the higher levels of loss incurred on sales of TRB cups facing competition from dumped imports nor the increased market share of the Japanese producers.

(49) After taking account of the above factors, the Commission concludes that the injury sustained by the Community industry, taken in isolation from all other factors, is material and that a causal link has been established between the injury suffered and the dumped imports from Japan.

F. COMMUNITY INTEREST

(50) In general, it is in the Community interest for there to be fair and workable competition and the purpose of measures in this case is to ensure a situation of fair competition. In considering the Community interest, the Commission has taken account of the interests of the Community bearing industry, the users of bearings and the final consumer of the end product.

(51) As far as the industrial purchasers are concerned, it can be argued that some benefit could be derived from them being able to buy dumped, low-priced TRB cups. For the final consumers, however, any such benefit would be minimal, since the goods in question normally account for only a small proportion of the final price of most finished products. Even though the effect on the price of the final product to the consumer would be negligible, the benefit provided by anti-dumping measures to the TRB cup producers is considerable.

(52) Leaving the Community industry without protection against unfair competition will cause a continued deterioration of its situation. The Commission has therefore concluded that, on balance, the interest of the Community clearly lies in granting protection to its bearing industry against unfair imports and proposes the introduction of anti-dumping measures.

G. PROVISIONAL DUTY

(53) In order to eliminate the injury suffered by the Community producers it is necessary to remove the undercutting as described in recital 33. In addition, these producers would need to be placed in a position where they could achieve price rises and so enable them to eliminate losses and to realize adequate returns on sales.

(54) With regard to profit shortfall and lowest return on sales, the Community industry considered a net profit before tax of 15 % to be the necessary minimum. Being an established industry, however, and in view of the profit level achieved historically, this is considered not to be a reasonable profit margin.

(55) The Commission is of the opinion that after taking into account the need to finance additional investments in manufacturing facilities and research and development, a pre-tax profit rate of 8 % should be used as the basis for assessing profit shortfall in this case.

(56) The profit shortfall of the Community producers for TRB cups sold in the Community is therefore 10,3 %.

With regard to the calculation of the duty necessary to remove the injury suffered by the Community industry, the Commission took into account both profit shortfall and the individual level of price undercutting of the Japanese producers.

(57) The injury margins established on this basis are higher than the dumping margins established, therefore the anti-dumping duty to be imposed should correspond to the margin of dumping established for each company.

Accordingly, the following provisional rates of anti-dumping duty should apply:

— Koyo Seiko Co. Ltd 12,4 %,

— NTN Corporation 6,0 %.

(58) The anti-dumping duty rate for outer rings of tapered roller bearings originating in Japan and manufactured by companies not listed in recital 57 should be fixed on the basis of the facts available. Given that the imports of the two companies concerned account for a high proportion of all imports into the Community of TRB cups originating in Japan, the Commission considers that the result of its investigation forms the most appropriate basis. Thus, the level of duty to be applied against all other Japanese manufacturers is 12,4 %.

(59) A period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of outer rings of tapered roller bearings originating in Japan and falling within CN code ex 8482 99 00 (Taric codes 8482 99 00*11 and 8482 99 00*91).

2. The rate of duty, applicable to the net free-at-Community frontier price before duty shall be 12,4 % (Taric additional code 8669) except when produced by NTN Corporation, Tokyo (Taric additional code 8668), when it shall be 6,0 %.

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 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation 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, 14 July 1992.

For the Commission

Frans ANDRIESSEN

Vice-President