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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1781/93

of 30 June 1993

imposing a definitive countervailing duty on imports of ball bearings with a greatest external diameter not exceeding 30 mm, originating in Thailand but exported to the Community from another country, and definitively collecting the provisional duty

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 12 thereof,

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

Whereas :

A. Provisional measures

(1) In March 1993, the Commission, by Regulation (EEC) No 527/93 [2], imposed a provisional countervailing duty of 13,4 % on imports of ball bearings with a greatest external diameter not exceeding 30 mm, originating in Thailand but exported to the Community from another third country.

(2) This duty was imposed following a review commenced in July 1992 [3] of Commission Decision 90/266/EEC [4] accepting an undertaking offered by the Royal Thai Government in connection with the countervailing duty proceeding concerning imports of the abovementioned ball bearings. No countervailing duty was imposed at the time of adoption of that Decision. The review investigation has revealed that a duty is necessary in order to prevent indirect imports avoiding the export tax levied by the Royal Thai Government and to safeguard the effectiveness of the undertaking.

B. Subsequent procedure

(3) Following the imposition of the provisional countervailing duty, the interested parties who so requested were granted an opportunity to be heard by the Commission and to make known their views on the findings.

(4) Upon request, parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive duty and the definitive collection of amounts secured by way of the provisional duty. They were also granted a period within which to make representations subsequent to the disclosure.

The oral and written comments submitted by the parties were taken into consideration.

B. Recalculation of subsidy amount

(5) The provisional duty of 13,4 % was based on the original rate of export tax of Baht 1,76 per piece, expressed cif at the Community frontier as determined in Decision 90/266/EEC.

(6) The Commission has, when reviewing this Decision, now recalculated the amount of subsidy granted to the exporters in Thailand during the year immediately prior to the opening of the review. It has concluded that the subsidy now amounts to Baht 0,91 per piece. The Royal Thai Government has accordingly modified the rate of the export tax on ball bearings exported directly to the Community.

D. Injury and Community interest

(7) No evidence was supplied with regard to injury or Community interest. The Council therefore confirms the conclusions of the Commission in Decision 90/266/EEC concerning these matters.

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No L 56, 9. 3. 1993, p. 24.
[3] OJ No C 182, 18. 7. 1992, p. 6.
[4] OJ No L 152, 16. 6. 1990, p. 59.

E. Definitive duty

(8) The Commission concludes that it is necessary to impose a countervailing duty on indirect imports in order to preserve the effectiveness of the undertaking and to prevent such imports causing injury to the Community industry as established in Decision 90/266/EEC. The Council confirms this conclusion. In order to take account of future price changes due to exchange rate fluctuations, it is appropriate to express the duty on an *ad valorem* basis. The duty so calculated amounts to 6,7 %.

F. Collection of provisional duties

(9) In view of the fact that indirect exports are subsidized and contribute to the injury suffered by the Community industry, the Council considers it necessary that the amounts collected by way of provisional duty should be definitively collected up to the amount of the duty definitively imposed.

G. Collection of anti-dumping and countervailing duties

(10) Council Regulation (EEC) No 2934/90 [1] imposed an anti-dumping duty of 6,7 % on imports of ball bearings with a greatest external diameter not exceeding 30 mm originating in Thailand. The collection of this anti-dumping duty on all imports of Thai origin remains unaffected by this Regulation.

As explained in Commission Regulation (EEC) No 1631/90 [2] (recitals 47 to 53) confirmed by Regulation (EEC) No 2934/90 (recitals 19 and 20), the imposition of both anti-dumping and countervailing duties is possible in this case.

Therefore the countervailing duty should be collected in addition to the anti-dumping duty. The combined amount of anti-dumping and countervailing duty to be collected in this case is, therefore, 13,4 % (6,7 % anti-dumping duty plus 6,7 % countervailing duty).

The basis for calculating the amount of both anti-dumping and countervailing duty should be the same net, free-at-Community-frontier price,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitve countervailing duty is hereby imposed on imports of ball bearings with a greatest external diameter not exceeding 30 mm, falling within CN code 8482 10 10, which originate in Thailand but are exported to the Community from another country.

(Originating in Thailand and exported from another country: Taric additional code 8723;

originating in Thailand and exported from Thailand: Taric additional code 8724.)

2. The countervailing duty expressed as a percentage of the net, free-at-Community-frontier, price of the product, shall be 6,7 %.

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

Article 2

The amounts collected or secured by way of provisional countervailing duty pursuant to Regulation (EEC) No 527/93 shall be collected at the rate of duty definitively imposed. Secured amounts which are not covered by the rate of duty definitively imposed shall be released.

Article 3

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, 30 June 1993.

For the Council

The President

S. BERGSTEIN

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[1] OJ No L 281, 12. 10. 1990, p. 1.
[2] OJ No L 152, 16. 6. 1990, p. 24.